UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS
SECOND SESSION

VOLUME 150—PART 2

FEBRUARY 10, 2004 TO FEBRUARY 25, 2004
(PAGES 1307 TO 2539)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
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SENATE—*Tuesday, February 10, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of wisdom who reigns forever, judging the nations with righteousness and Your people by Your truth, Your steadfast love endures forever and Your faithfulness to all generations. Thank You for the gift of this new day and for the opportunities to promote good will and understanding here at home and unto the ends of the Earth.

Lord, forgive us when we have slept in the face of opportunity or refused to shoulder the responsibilities that come with the privileges of freedom. Today, deliver our Senators from any shortsighted policies and enable them to live up to their lofty vocation. May each of our lives ever glorify Your wonderful and holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the highway bill. There are several amendments pending to the legislation and it is hoped that we can consider and dispose of those amendments during today's session. Although it appears as though we have not made as much progress on the floor as most of us would like, the chairman and ranking member have been working with a number of Senators on their amendments—as we said, working through the weekend and through yesterday. Thus, work continues on that front. And, again, on behalf of the managers, I encourage Senators to come forward and offer their amendments and discuss those amendments with the managers.

Rollcall votes are possible today as we continue to look for ways to make progress on the bill. I have been talking to the chairman about the continued desire to finish the bill this week. Although last week was a challenge in the Senate, the bill has been pending since that time, and we had hoped to have considered more floor amendments under the regular order.

We have now been on the bill 7 days. Again, there has been a lot of discussion, but I do ask our colleagues to accelerate the process of the consideration of amendments. And they must be brought forward now.

I will continue with discussions with the managers to look for an appropriate avenue for completing this bill this week. I will notify all Senators as we proceed as to when rollcall votes can be expected.

I thank everybody for their attention.

Mr. REID. Mr. President, will the distinguished majority leader yield for a question?

Mr. President, I say, through you to the majority leader, one of the things we have appreciated on this side during the tenure of the Senator from Tennessee as majority leader is that you have been very good to us, with rare exception, in allowing us to offer amendments. You have given us ample time to offer relevant amendments and nonrelevant amendments prior to doing something procedurally to stop the debate.

I recognize, as does Senator INHOFE, that it is not the Republican leadership that has thrown the roadblocks up to the amendment process on this bill. We acknowledge that. There are a number of Senators, for various reasons, who have prevented this bill from moving forward.

Speaking only for this Senator, I do not hold the Republican leadership responsible for these dilatory activities. I think the majority leader, in conjunction with the minority leader, the Democratic leader, has to assess how best to proceed in the immediate future.

This, as the majority leader has said, is an important piece of legislation. As Senator LOTT said yesterday, this could be the most important piece of legislation we will handle this year. Whether that is right or not, I do not know, but I know it is a very important piece of legislation. I hope there is a way we can move forward on this bill.

Mr. FRIST. I thank the Senator.

Mr. President, in closing, I do stress the importance to leadership on both sides of the aisle—we have been in constant communication—that people have the opportunity to express themselves and to have that appropriate debate on the floor. Again, we were on the bill all last week. Yes, we had some interruptions last week with extraneous circumstances, but resilience came through and we had the opportunity with the floor open, as it will be all this week.

At the end of the day, our obligation is to have that opportunity to debate, have our ideas reflected, and then give people an opportunity to choose. That is, again, my goal over the course of the debate during this 2-week period.

With that, I would like very much to finish the bill this week and give each of our colleagues the opportunity to choose and reflect their opinions on this bill.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The legislative clerk read as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Modified committee amendment in the nature of a substitute.

Dorgan amendment No. 2267, to exempt certain agricultural producers from certain hazardous materials transportation requirements.

Gregg amendment No. 2268 (to amendment No. 2267), to provide that certain public safety officials have the right to collective bargaining.

Dorgan amendment No. 2276 (to the language proposed to be stricken by the committee amendment), to modify the penalty for nonenforcement of open container requirements.

The PRESIDENT pro tempore. Who seeks recognition?

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, we had a number of presentations made yesterday. There is a great deal of confusion as to what this bill is all about. I would like to go over a couple points.

First, I invite all Members with amendments to bring them to the floor and discuss them. We are rapidly approaching the point where we are going to be considering amendments. I am very proud of the staff, Democrats and Republicans, who staffed an office over the weekend to get information from Members who had amendments to offer.

For those who have not had a chance to become familiar with what we are doing, an injustice has been done to some of the members of the Finance Committee, particularly the chairman and the ranking member. They have worked long and hard. They have come up with something that meets the criteria originally put forward by the administration, such as not including a gas tax. It does not include going into the general fund. I do believe there are some areas where we have rectified problems with treatments that had been taken previously to the highway trust fund. Of course, I consider that something that should have been done anyway.

We are now in position to consider the bill. It is going to be a huge jobs bill. It is going to accomplish great work for the country.

A lot of people do not understand the formula aspect. One Member came down yesterday and talked about how one State is doing better under the formula. There are a lot of considerations to the formula, considerations such as the total lane miles of interstate, the vehicle miles traveled, the annual contributions to the highway trust fund attributed to commercial vehicles, the diesel fuel used on highways, relative share of total cost of repair and replacement of deficient highway bridges—I can identify with that, as in Oklahoma we have the worst bridges in the country—weighted nonattainment in maintenance areas, rate of return of donor States. That is one of the problems people have failed to understand, that we are getting all donor States up to 95 percent.

To do this, there have to be some who have been actually in a better position than they should have been by any formula because let's keep in mind that in TEA–21, 6 years ago, we had the minimum guarantee. The minimum guarantee was a political document. Let's look at who was in charge at that time. We had quite a disproportionate number of leaders from the Northeast. We had Senator Moynihan, Congressman SHUSTER over in the House who was driving the boat, Senator CHAFEE, Senator BAUCUS from Montana. As a result, there are some States that got up to a larger share than they would have achieved under any type of formula.

What they did was start with the same formula, using the factors I just outlined, and then, halfway through the process, went to the minimum guarantee. The minimum guarantee is the easy way out. All you have to do is count up 60 people, give them what they want, and you have 60 votes. That is not the right way to do it. We are doing it the right way.

I haven't seen anyone who really understands the formula, and everything that went into the last year we spent working on it, who is not supportive. They may not like how their State fared. Their State may have been in a position where they were getting more than they were entitled to for a period of time. That might be rectified by this. But we have the best intentions of going ahead. I am quite sure, in the final analysis, we will have a bill that is far greater and better and more equitable than ISTEA was—I was here during the ISTEA debate—and TEA–21 in 1998. I believe we have done a good job.

I refer again to the cooperation we have had on both sides of the aisle. We have had an opportunity to work with the leadership, and Senators JEFFORDS and REID have been great to work with. They have set partisanship aside. Historically, this has been a nonpartisan bill. It should be that way. A lot of the actions of the Environment and Public Works Committee are nonpartisan. Certainly at the top of that list is this bill. I don't think anyone would accuse us of being at all partisan in this legislation.

There are winners and losers—no question about that—when compared to TEA–21. But let's go back to see what happened in TEA–21 before we are critical of where we are today.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that the Senator from Oklahoma has to be gone from the floor this morning. We have our caucuses at 12:30. There are a number of people on our side who have requested time for morning business. I am wondering if it would be appropriate, in that we are in kind of a procedural tangle anyway, that we have time for debate only until the caucuses.

Mr. INHOFE. Mr. President, I propound that as a unanimous consent request, that we have debate only until after the conclusion of our conferences.

The PRESIDENT pro tempore. What is the request?

Mr. REID. The request is that we remain on the bill, but for debate only, until 12:30.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, the EPW Committee has been working this bill for the past 2 years. Senators INHOFE, BOND, and REID and I have been very involved in this process. From the beginning, we wanted to accomplish a few important national goals: First, improve roads and bridges; second, move freight; third, address congestion; and fourth, improve safety.

Congestion is a growing concern all across America. Each day, Americans spend more time in their cars as they pursue routine activities, such as going to work, taking the kids to school, or picking up some groceries. As our Nation's population grows, travel demands grow as well.

The number of miles traveled annually on our Nation's roads is increasing at a substantial rate.

Many roads are at or approaching their physical capacity. In many areas of the country, it is both impractical and financially infeasible to add lanes to existing roadways.

However, we can increase capacity by actively managing the transportation network.

Intelligent transportation systems provide State and local governments the data and tools necessary to undertake time saving activities like incident management, ramp metering, traveler advisory systems, and variable pricing.

Over the past 10 years, some areas of the country have begun to implement these techniques, and they have realized numerous benefits.

Areas that employ transportation management techniques enjoy improved travel times, more timely incident management, and improved communication with the traveling public.

Crafting this reauthorization bill, we recognized the importance of enhancing State and local governments' ability to manage their infrastructure now and in the future.

S. 1072 expands Surface Transportation Program eligibility to ensure that States may use Federal highway dollars to manage their network.

The bill shifts Intelligent Transportation Systems out of the research realm and into the mainstream program. States may use core highway program dollars to fund ITS projects.

S. 1072 directs the Secretary to implement a nationwide real-time travel data network. Additionally, States are directed to develop statewide incident reporting systems.

Implementation of these systems will assist travelers and provide State and local transportation agencies the information they need to manage our current infrastructure and to plan for future improvements.

Finally, S. 1072 provides resources to examine future management technologies. The research title of the bill includes provisions to develop the next generation of intelligent transportation systems and management tools.

The research title also provides resources to train the engineers who will design, build, and manage our future transportation infrastructure.

Mr. President, I think it is clear that S. 1072 addresses congestion in a proactive manner by providing policy changes and financial resources to promote the efficient use of our Nation's transportation infrastructure.

As I have said before, passage of this bill is critical. I urge my colleagues to support this effort to provide much-needed resources to our States.

I yield the floor.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE COST OF HEALTH CARE

Mr. DASCHLE. Mr. President, I will use my leader time for the day. I want to talk about health care today for a few minutes. Health expenditures in this country are at the highest levels now that they have been in our Nation's history. Not only are they at the highest levels in our history, they exceed, by some magnitude, the health expenditures in other countries.

The World Health Organization, in its most recent calculation of what we spend, lists the United States at $4,500 in total expenditures per capita; Canada, $2,058; United Kingdom, $1,774; Japan, $2,009; France, $2,335; and Sweden, $2,097. So we spend more than twice what other countries are currently spending for health care.

One would hope that if we spent twice as much, we would get twice the result. But just the opposite is true. We have the lowest life expectancy of any of the countries I have listed. Our life expectancy is 77 years. That is over 4 years less than Japan. I would hope that at least when it comes to infant mortality, we would get twice the result. But, again, it is just the opposite. We have the highest rate of child mortality of any country I have mentioned—eight deaths per thousand. In Sweden, it is three and a half per thousand. So one could only conclude from these numbers that we are not getting what we are paying for; that we are not getting a bang for the buck.

We will not have the opportunity to address infant mortality, life expectancy, and all of the other challenges we face in our health care system without making some fundamental changes in the system itself.

There are those who have argued it is now impossible for us to achieve universal insurance coverage. Some have even suggested that we would go bankrupt if we were to do that. What I find ironic is that these countries I have listed all have guaranteed health care. That has been the essence of their success, the secret to their success—this ability to cover everybody and, in so doing, reduce child mortality, increase life expectancy, and find ways in which to keep people healthy throughout their lives.

So we are paying more and not only do we have unacceptable results—at least measured by child mortality and life expectancy—we also have unacceptable levels of health coverage. Mr. President, 43.6 million Americans last year had no coverage. That is an increase of 2 million people over the year before. About 75,000—12 percent—of the people in my State have no health insurance. But statistics don't speak to the anguish that is felt by so many people in our country regarding an issue as personal as their health care.

Last summer, I spent a good deal of time on the road, dedicating virtually the entire month of August to talking with people as to how they feel about health care. The anguish, the stories of financial ruin, the extraordinary dilemmas and life-threatening circumstances that so many of these people face are still indelibly printed in my mind.

Yet there are those who say it is impossible to get everybody covered; it is impossible to get to 100 percent. It may be impossible to get to 100 percent, but I am told virtually every country I have listed—and I will list them again: Canada, Britain, Japan, France, and Sweden—virtually every industrialized country has guaranteed coverage today, near 100-percent coverage.

The Bush administration's chief architect on health issues, Health and Human Services Secretary Tommy Thompson, was quoted that he does not think that administratively or legislatively it is feasible to cover everyone. I find this a remarkable statement because we have always prided ourselves as Americans on having a can-do spirit. We have always said if we can go to the Moon, if we can set out challenges for our Nation, we will achieve them because of good leadership, and because of our values, and because of our attitude.

What does it say about our leadership, our values, and our attitude if we say we can't do what every other industrialized country has done? What does it say about our commitment? What does it say about this spirit of America about which we hear so much? We can't? Or we won't? I don't think it is impossible to ensure coverage for all Americans. I think it is imperative we do it.

The United States, as I have said, is the only industrialized country that has not. In each of these countries, one does not need to be a brain surgeon to see the connection between universal coverage and better life expectancy; universal coverage and higher rates of infant survivability, lower infant mortality. That is the key, that is the essence of our need, of our success, and of finding a way to do what we have said from the very beginning: We will always attempt to do our very best.

If we say we can't, if we think we can't, we are right. If we say we can, if we think we can, we are right. It is up to us. It is a question of our leadership, our commitment, our willingness to excite and ignite an interest and a commitment and an enthusiasm about this issue as we have done on so many other issues.

Last month, the Institute for Medicine called for universal health coverage by 2010. They think we can do it.

Bob Dole, the former Republican leader, could have spoken for all of us when he said: The bottom line is, I think we have what it takes to get it done. I think we have what it takes.

I think we have what it takes as well, but we have to demonstrate what it takes is a commitment, not an "I can't." What it takes is bipartisan support for a goal shared by millions of Americans today. Let's provide universal coverage. Let's begin to address this embarrassment for our country. Let's recognize if Britain, Canada, Japan, France, and Sweden can do it, so can we, and we can do it better. Let's accept the fact that $4,500 for every man, woman, and child with less results in infant mortality and life expectancy than other countries is unacceptable in this country. We can, and we must. I hope it starts this year.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOBS AND THE ANNUAL ECONOMIC REPORT

Ms. STABENOW. Mr. President, I wish to take a moment to comment about the report that was just released yesterday, the White House Annual Economic Report of the President, because I was stunned to see the statements regarding the economic report to the country as it relates to jobs.

I invite any member of the group who put this report together or anyone from the administration to visit us in Michigan and see literally every day now the headlines in the papers. It doesn't matter if you are in Detroit or Grand Rapids or in northern Michigan or southern Michigan; we have headlines about jobs that are leaving this country and going overseas, good-paying jobs, white-collar jobs, blue-collar jobs, service jobs, and manufacturing jobs.

When we look at the report of economic advisers and we hear them saying, "President Bush's top economist yesterday said the outsourcing of U.S. service jobs to workers overseas is good for the Nation's economy," I wonder what nation are they talking about. Whose economy are they talking about? It is certainly not good for our economy when people are losing their jobs.

Let me go on to some of the other statements that are quoted in today's Washington Post:

> Shipping jobs to low cost countries is the latest manifestation of the gains from trade.

These were not the gains from trade I was hearing about. I was hearing that we were going to actually be creating more markets to produce more goods and services that would be increasing jobs, not losing jobs.

It says:

> Just as U.S. consumers have enjoyed lower prices from foreign manufacturers, so, too, should they benefit from services being offered by overseas companies that have lower labor costs.

It is stunning to me that we would not be concerned about the outsourcing of jobs, good-wage jobs to other countries. I commend any of my colleagues to watch, as I do nightly, Lou Dobbs on CNN with the continuing critique of what is happening to our country, including service jobs.

I have friends and constituents in Michigan who have been in good-paying service jobs who are now unemployed and have lost their insurance, many of them struggling to see whether they will lose their homes as a result of having lost their job. They would not agree with this report. What we are seeing is the assumption that somehow moving out of this country to lower cost labor countries, whether it is goods or services, is ultimately better for the United States. Now think about this for a moment. They are embracing a race to the bottom that will only eliminate middle-class America.

We had a recent situation occur in Greenville, MI, a small community of 9,000 people. There are 2,700 people who work at the local refrigeration plant, manufacturing refrigerators, Electrolux. They added a third shift. They have been productive. They make money. But the company came in this fall and said even though they make money, they make a profit in Greenville, MI, and people are productive, they could make more money if they went to Mexico and paid $2.50 an hour with no health benefits.

Well, I am sure that is true. I am sure any business could make more money if they paid $2.50 an hour with no health benefits. I am sure they could make more money if they paid $1 an hour or 50 cents an hour with no health benefits. My question to the management was: Who will be able to afford to buy your refrigerator? Who will be able to afford to buy our automobiles? Who will be able to afford a middle-class standard of living in this country if this is only about a race to the bottom?

When we look at what is happening in our country today, not only in manufacturing but in the service industry, we see a race to leave the country because instead of having trade policies that encourage a middle class in Mexico, in China, in India, and other places around the world so they bring up their standard of living, so they can have good wages and buy our products, we see instead pressure on our businesses and our workers to lower our standard of living, to lower our costs, and there is a race to the bottom.

This race ultimately will cost us our way of life and our middle class. But that is how we are different and strong. That is why we are the greatest country in the world—because we have a strong middle class.

I am extremely concerned when I see these kinds of statements. In fact, also quoted in this article from the Washington Post is a statement by Franklin J. Fargo, vice president of International Economic Affairs at the National Association of Manufacturers:

> It is kind of a flip thing to say when people are losing their jobs.

I would agree with that. It is more than flip; it is outrageous to say we as a country somehow benefit by the outsourcing and the elimination of jobs.

In recent years, companies have shipped out software engineering jobs, data entry, customer service, hospital jobs, as well as manufacturing. We know when we pick up the phone—in fact, I picked up the phone one time to talk to a credit card representative and asked where they were. They said: A facility near you. Well, I knew it was not a facility near me in Michigan, where I was calling from, but it was a facility overseas.

I think often of a friend of mine who goes to my church in Lansing, MI. He is a trained engineer, a very competent individual who has lost his job. He told me he is now working for $19 an hour with no health benefits, that he is now struggling with whether he will be able to keep their home with kids in college. That is very real.

I urge those making statements that losing jobs to other countries is a good idea to talk to somebody who has in fact lost their job and may lose their home, and may not be able to send their kids to college, may not be able to buy that new car or keep the house, the cottage up north, be able to do those things that spend dollars in our economy, buy that new refrigerator. How in the world have we gotten to a point where we do not understand the basic economics of people being able to have a good wage so they can purchase goods and services and care for their families and be successful in this country? We know there are serious issues.

Looking at something else in this report, it says: Indeed, outsourcing health care jobs to lower wage countries could help control the upward spiral of health care costs. When a good or service is produced more cheaply abroad, it makes more sense to import it than to make it here.

First, as someone who has worked on health care issues and helped to lead efforts to try to move us to lower health care costs, health care prices, the idea of saying the way we are going to lower health care prices is by losing jobs rather than tackling the big issues of lowering prescription drug prices, rather than allowing Medicare to negotiate group discounts under the new Medicare bill, which we did not do because the prescription drug company wants to be able to stop us from lowering prices—instead of addressing those things that will bring costs for businesses down, the suggestion is we should export health care jobs. So maybe if all of our nurses, doctors, and health care workers were all in another country where they were making less, we would be lowering our health care costs.

I find this report and the comments in it and the public comments in the paper extraordinarily out of touch with what is happening to the people of our country and what is good for our country.

I argue instead that in fact we do need to tackle health care costs. It is a major issue for businesses, large and small. In a global economy, it is a major issue for them to be able to compete. It is a major issue for our families and workers who are being asked to pay more, take a pay cut, pay more in a premium or copays. We should tackle that by addressing what is actually causing the health care costs to go up—the lack of competition, an explosion in prescription drug pricing. If we want to lower prescription drug prices and lower health care costs, rather than having the jobs go to Canada, let us open the border and bring the prescription drugs back from Canada at a cost of 50 percent less. We could do that tomorrow if the administration would look at what is best for our families instead of what is best for the pharmaceutical lobby.

We do not have to export jobs. We can import safe prescription drugs that are actually made here, which we help to produce, that taxpayer dollars subsidize, that are then allowed to be sold in other countries around the world for half the price.

I agree, health care costs are a huge issue for our businesses, and we need to tackle it in a way that brings down prices, that maintains our quality and does not say the way we are going to cut costs is to export our jobs.

As I mentioned earlier, I also ask all of us to rethink what we are doing on trade. We must trade in a global economy, obviously. But our trade laws need to focus on incentives and on policies that will increase the standard of living in other countries, not decrease ours.

I also would ask the administration to work with us on issues to level the playing field. We know China, Japan, and others manipulate their currency. What does that mean? It means it costs us more to sell into China. Our businesses can pay up to a 40 percent tax, essentially, for selling something into China because they want us to move the plant there. It costs us more to sell to them. It costs them less to bring in goods.

If the Treasury Secretary will simply certify that this is going on, we have, then, the authority to begin to do something about it; we have legislation that will give us an opportunity to do something about it. I am proud to be a cosponsor, with Senator SCHUMER, in that effort.

There are actions we can take to level the playing field. There is no doubt in my mind that if we give American businesses and American workers a fair shot, a level playing field, we will win every time. We can compete when the rules are fair. But instead of addressing those things, we have a report coming before us that says outsourcing of U.S. jobs to overseas workers is good for our Nation's economy. With all due respect, I think they should go back to the drawing board and try this again.

I would just say one other thing. The Annual Economic Report predicted 2.6 million new payroll jobs by the end of the year. Certainly we would all greatly love to see that be the case. But last year they reported 1.7 million jobs would be created and the year before they said 3 million jobs would be created. Instead, the Nation lost 53,000 payroll jobs last year, according to the Labor Department.

Instead of proposing, and suggesting, and proclaiming millions of new jobs without the right policies to actually make it happen, I hope we will place on our agendas the loss of jobs—manufacturing jobs, service jobs, professional jobs—happening in this country, all across our Nation, and certainly in my State of Michigan, where we have paid dearly for policies that have not worked. I hope we make this our top priority and that we focus on those things that will stop the exodus from the United States and the exporting of American jobs around the world.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I say to the Senator from Michigan as she was commenting about this report about how sending jobs out of the United States is going to help with the cost of health care here in the United States, that is as ridiculous as the old medical practice, 200 years ago, of curing the patient of his disease by bleeding him.

Ms. STABENOW. That is right.

Mr. NELSON of Florida. What we need to do about the cost of health care is get to the cost of health care. The cost of health care is going up. Technology has brought us miraculous new medicines and procedures. All of that is going up. But where do you have an opportunity to bring down the cost of health care? You do it by having best business practices that allow you to have the economies of scale, ergo health insurance, the largest possible pool of people. You use the principle of insurance to work for you, which is take the health risk and spread it over the largest possible group so you bring down the per unit cost.

But we are not approaching it that way. We divide up the population in these little narrow categories and then, when that category gets sick and it gets older, what happens to the costs of that health care? It goes up to the point they cannot afford it.

Ms. STABENOW. That is right.

Mr. NELSON of Florida. Or what about what we did in the Medicare bill here, the prescription drug bill, for which the Senator from Michigan and the Senator from Florida certainly didn't vote.

Ms. STABENOW. Right.

Mr. NELSON of Florida. What it was billed as was a $400 billion bill for prescription drugs. We now find it is $525 billion over 10 years. And where did it go mostly? As a bailout to the pharmaceutical companies and as a bailout to the insurance companies.

Ms. STABENOW. That is right.

Mr. NELSON of Florida. Not in a way of providing a direct benefit. When the senior citizens in the State of Florida find out how meager this benefit is, when it kicks in in 2005, I predict senior citizens are going to be somewhat upset.

I thank the Senator from Michigan for her comments.

Ms. STABENOW. If I might ask a question of my friend from Florida, as a former insurance commissioner, he certainly understands the insurance side of this. I think, first of all, he is absolutely right. I think the two major drivers for health care now are the explosion of prescription drug prices and the fact that every time a person loses his or her insurance and that person walks into an emergency room to get care and is sicker than they otherwise would be, and so on, people with insurance end up seeing their rates go up because there is a smaller and smaller group of people who actually have insurance, and they pay more and more. Wouldn't that be the philosophy?

Mr. NELSON of Florida. That is correct. There are 40 million people in this country who do not have health insurance. But they get health care. They often get it, as the Senator suggests, at the time of the emergency. Where do they get it? They get it in the most expensive place, the emergency room. Instead of treating the sniffles, they wait until it becomes pneumonia, so the care becomes so much greater.

So you have to get that much larger a group and ensure that larger group. Do it in the private sector. That is the way it ought to be done. Let there be competition to get your most efficient health insurance product, and then give the consumers, also, a choice of plan. So if they want a Cadillac plan, they can take that. If they want a Chevrolet plan, they can take that.

But mix all of those elements into it. That is how we are going to get health insurance and health reform. But we are not going to until we get to such a crisis because there are so many players who have so much at stake and there is so much money to be made.

Ms. STABENOW. If I might ask my friend another question, wouldn't he share my amazement that, in this new economic report, the proposal is that the way we lower health care costs is to export the jobs? Export the nurses, export the doctors, radiological assistants, whoever it is—that is how we should bring down health care costs? Lose our jobs to other countries? Does that make sense?

Mr. NELSON of Florida. That is exactly the opposite of what ought to be done. What was that report the Senator cited again?

Ms. STABENOW. This report actually is the new report from the economic advisers to the President on the state of the economy and jobs, where they are saying outsourcing to other countries is, in fact, a good thing and, in fact, outsourcing health care jobs will actually bring health care costs down.

I was stunned at what I was reading. Certainly, it is not something I know the people in Michigan are going to be very happy to hear about.

Mr. NELSON of Florida. What has happened to our world today? It is almost, if one person says it is white, another person says it is black; if a person says it is up, another person says it is down. Where is common sense? Where is reconciliation? Where is consensus building? Where is bipartisanship?

Take another issue. As I continue to have this dialog with the Senator from Michigan, take another issue, take the issue of the so-called independent commission that has just been appointed to find out what went wrong with intelligence. How can a commission be independent when it is just appointed by one authority, i.e., the President, who is going to be part of the subject of the investigation of the commission? That is not independence. What we need is a commission that is truly independent, that is appointed by the Congress and the President.

Ms. STABENOW. Absolutely.

Mr. NELSON of Florida. Both parties. That is not a commentary on the people on the commission because these people seem to be—several of them are personal friends of mine—enormously accomplished people. It is the question of setting up the commission.

If I have been informed correctly, it is hard for my ears to believe what I have heard, which is that in setting up this commission to examine the intelligence that was faulty in Iraq, they are not giving this commission subpoena power.

Then how are they going to get the documents? How are they going to compel the witnesses? Is it all going to be voluntary? Our very existence is on the line in order to have adequate, timely, and accurate intelligence to protect ourselves in this era of terrorism in which we find ourselves.

Where is common sense in this country?

Mr. JEFFORDS. Will the Senator yield for a question?

Mr. NELSON of Florida. I am happy to yield to the distinguished ranking member of this committee, as we consider this transportation bill, even though we are talking about other very timely topics.

Mr. JEFFORDS. Is my understanding correct that the Senator said there will be no authority to be able to get documents or be able to subpoena information?

Mr. NELSON of Florida. This is what I was informed this morning by the leadership of this, that this commission is not going to have the ability to subpoena. If that commission that has just been announced over the weekend doesn't have the ability to subpoena people—witnesses and documents—then how can we get at the truth?

What we want to do is get at the truth. We were told there were weapons of mass destruction and we were told there were unmanned aerial vehicles, pilotless drones, and we were told there was even a potential plan to put those drones on ships off the Atlantic coast to drop those chemical and biological weapons over eastern seaboard American cities, and all of that turned out not to be true.

We were told that was the gospel truth when, in fact, as the Washington Post reported a week ago, there was a huge dispute in the intelligence community, including Air Force intelligence which knows best about unmanned aerial vehicles, and, as reported by the Post, that those UAVs did not exist to drop biological and chemical weapons.

So why were we not told that there was a dispute in the intelligence community? It was presented to us before we voted on that resolution in October of 2002 as if it were the gospel truth.

The long and short of it is the whole point of a commission is to get to the truth so we don't make these mistakes in the future. If the commission—a so-called independent commission—is not given the power to subpoena, how in the world are you going to get to the truth?

Mr. JEFFORDS. Being one of those who never believed there was a threat of any kind and a sufficient level to warrant the war, it shocks me to find out the route being set up to verify what I believed to be the truth will have no power to find the truth. This is very disturbing for me.

Mr. NELSON of Florida. The distinguished 9/11 commission composed of well-respected and very accomplished people, headed by former Governor of New Jersey Kean and so many other distinguished citizens on that panel questioning the intelligence and trying to find out what went wrong on the September 11 attack, has been frustrated over and over again by delays and a lack of willingness to come forth with the information. If they have had that experience in the last year and a half, why are we to think this next so-called independent commission is going to have any different experience? I think, since what is at stake is the security of our homeland, raw election year politics is getting in the way much to the frustration of those members of the panel and certainly to the frustration of this Senator.

Mr. JEFFORDS. I thank the Senator from Florida for enlightening me on this very disturbing news. I will do whatever I can, working with him and with others, to make sure we get the kind of resolution for finding the information which should be ours to be able to make judgments. I thank the Senator very much for his statement.

Mr. NELSON of Florida. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant journal clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE COMMUNITY ASSESSMENTS

Mr. FEINGOLD. Mr. President, I rise to comment on the controversy surrounding the intelligence community's assessments of Iraq's weapons of mass destruction programs and capabilities in the months leading up to the military action in Iraq.

It has been suggested that the intelligence community failed policymakers by presenting a picture of Iraq's WMD capacities that appears to have been far more advanced than the reality on the ground. It has been suggested that, as we have all heard, certain pieces of information were presented as certainties when, in reality, the accuracy of the information was very much in dispute among experts within the intelligence community.

I made a concerted effort to go to every briefing that was offered, and I think I largely succeeded, or maybe had entirely succeeded. I went to briefings for all Members, and I also went, of course, to the special briefings that were held for members of the Foreign Relations Committee. I am not a member of the Intelligence Committee and perhaps that committee had access to information dramatically different from what was put before the rest of us.

What I recall is that the CIA representatives who briefed us were careful and their statements were qualified. As CIA Director George Tenet recently indicated, it was made clear disagreements existed about how to interpret some pieces of information.

What I remember about the CIA is that they played it straight. I wish I could say the same about the political rhetoric that some in the administration used to characterize the content of those briefings.

Of course, I am certainly not saying the CIA is perfect or that the U.S. intelligence community is perfect. No one who reviewed the joint Intelligence Committee's report on 9/11 would make such a claim. And I am not asserting that all of the CIA's information and analysis presented in the lead-up to the Iraq war was correct. But what I am saying is, in the many briefings I attended I simply saw no evidence—no evidence—to support the accusations that the CIA was trying to spin the facts or that they were trying to lead us in one direction or another.

My sense was that they were professionals, and I remember being very grateful for their thorough and candid presentations. In fact, in those briefings, they didn't give us easy answers, and that made our decisions tougher. But the people expect us to make tough decisions.

Time and again, I came away from the briefing room concerned about the unanswered questions related to Iraq's chemical and biological weapons capacities. But I also came away each time with the conclusion that we had no evidence of any imminent threat. Indeed, Director Tenet acknowledged that the CIA never characterized Iraq's WMD programs as an imminent threat when Mr. Tenet made his remarks last week.

When the President of the United States called Iraq "a threat of unique urgency," that sure sounded a lot like imminent to many ears. When senior officials, speaking about Iraq, told us they did not want the smoking gun to be a mushroom cloud, that sure sounded like an imminent threat of nuclear attack to most Americans.

Yet just last week, CIA Director Tenet reminded the country the agency made two judgments that are too often overlooked today. They said:

> Saddam did not have a nuclear weapon and probably would have been unable to make one until 2007 to 2009.

Of course, that is a serious issue certainly but not an imminent threat.

The fact that the briefings we received did not present a picture of an imminent threat certainly did not mean there was no cause for concern or that the right course of action would have been to do nothing. Those who claim the only choices before us were rushing to war or being utterly complacent are quite simply misleading the American people.

I had long supported regime change in Iraq, and I am pleased that Saddam Hussein's regime has fallen. But the facts did not suggest that we had to invade Iraq in March of 2003. That means we could have had more time to build a solid international coalition, to combat some of the most damaging misperceptions of American motives and intentions, and more time to put in place a plan of action that would address our security interests without leaving American troops and American taxpayers holding the bag at the end of the day, bogged down in a risky occupation and mortgaging our children's future to pay for it.

Director Tenet said last week: To understand a difficult topic like Iraq takes patience and care. He is right. The same is true of understanding this debate and this controversy. That is why it is so important to discuss these issues carefully and responsibly. It is important because the stakes are so very high and because the public, especially our men and women in uniform and their families, who take tremendous risks and make tremendous sacrifices to serve this country, has every right to know what happened, what the facts were, what we got right and what we got wrong.

One of the difficulties for those of us who attend classified briefings, of course, is that we have an obligation to protect the content of those briefings. So we are limited in what we can say publicly. We are left to generalize and we run the risk of characterizing the same briefings in very different ways, leading us to debates about one person's interpretation versus another's. For this reason, an independent commission is desperately needed.

I am glad the President has agreed to establish a commission to examine our prewar intelligence. But I am concerned about the specifics of the commission's mandate. It is charged with examining the intelligence community's capacity to collect, process, analyze, produce, and disseminate information concerning the capabilities, intentions, and activities of foreign powers relating to the design, development, manufacture and acquisition, possession, proliferation, transfer, testing, potential or threatened use or use of WMD, related means of delivery, and other related threats of the 21st century. All of this, of course, is useful.

In the wake of the horror of September 11, 2001, we must make every effort to ensure that America's intelligence services are as reliable and effective and accountable as they possibly can be. As I have indicated, I believe a large part of our problem in the runup to the war in Iraq was a problem of how intelligence was used, how it was invoked, sometimes out of context, and how in some cases it was used in powerful and often frightening rhetoric aimed at painting a much more conclusive picture than the actual intelligence revealed.

Intelligence, as all data, can be manipulated. I am concerned about the appearance of a concerted effort to interpret information to justify a seemingly predetermined course of action and to too easily disregard information that could not be used for this purpose. I think such an approach serves no one. I think it actually diminishes American power. I think it risks making this country far less secure.

So we must investigate matters such as the activities of the Office of Special Plans at the Pentagon, which seems to have been charged with sifting through information to assemble only those pieces that bolstered the case for going to war.

We must also address the way that intelligence was alluded to in public settings, in ways that painted a much more decisive picture than actually existed. Obviously, not all Americans could be in the briefing room, but all Americans hear the public debate.

Those of us who receive and act on classified briefings have a vitally important responsibility to ensure that we never abuse their trust. I believe we need to make sure that in our efforts to review intelligence-gathering capacities and analysis capacities we do not fail to take a hard look at how policymakers employ intelligence in public remarks. Our words and our characterizations matter. The context that it is or is not provided matters. Even now some would insist that Iraq was a threat to America because even if Saddam Hussein did not have WMD, he had the capacity to make a weapon. But chemical or biological weapons could be produced in dual-use facilities in almost every country that has any significant domestic, pharmaceutical, or chemical manufacturing capacity.

This is a serious issue to be sure, but it does not make the case for the threat of unique urgency a good case. It does not make for a threat of unique urgency directed at the American people.

Finally, I propose that we need to take a look at how people responded and prepared for things we were warned about in briefings about Iraq, some of which then became public knowledge. Given what we all heard in the briefing room about the possibility that Iraq continued to possess biological and chemical weapons stockpiles and given the administration's clear belief that such stockpiles existed, why was there no better policy planning and execution when it came to rounding up these things?

Former chief weapons inspector David Kay has suggested that we may just all have to live with, as he called it, an unresolved ambiguity about what happened, that he traces to the failure on April 9 to establish immediate physical security in Iraq.

The looting that ensued has introduced a host of alarming unknowns into our consideration of what might have happened to the materiel that may or may not have existed in the first place and, quite frankly, any assertion that the United States would not have anticipated this looting has no credibility whatsoever. From think tanks to military planners to nongovernmental organizations, there were multiple, consistent, and high-level warnings about the risks of chaos and looting in the wake of the regime's fall.

There were plenty of questions about this issue which were never satisfactorily answered in the lead-up to war. In fact, I spent over 6 months, primarily in the Senate Foreign Relations Committee, repeatedly asking whatever administration witness I could the same important questions. For example, I remember asking Secretary Powell in 2002: Are you aware of any significant planning for securing weapons of mass destruction sites in Iraq in the event of a military invasion if the Government would be toppled and some degree of chaos were to rein for some period? Is there not a very real risk that

WMD and the means to make them will be taken out of the country or sold off to exactly the kind of nonstate actors that the United States is worried about? Do we know enough about where WMD sites are to be confident in our ability to secure them, I asked the Secretary of State?

Secretary Powell could provide no details. He simply assured me that our military planners were making this issue their highest priority. Those military planners never provided any details, either.

In the end, we are left with video footage of the unchecked looting of the country, with unanswered questions, with David Kay's unresolved ambiguity. So we have a case of inadequate follow-up on a vitally important issue presented to us by the intelligence community and that, too, is something we need to review and address in the interest of national security.

We have a lot of work to do. Some of that certainly does involve reforms of the intelligence community. I believe our biggest problems did not come in the briefing room. In the interest of our national security, in the interest of protecting the public's trust in Government, in the interest of this country's global prestige and power to persuade, we have to avoid scapegoating tactics. We have to face some hard truths about the process and the rhetoric that led this country into Iraq in March 2003.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I came to the Chamber to speak about the highway bill, and obviously we hope to be talking about that later on today, but having taken the responsibility of serving on the Intelligence Committee, I thought I might add a few comments to the discussions begun by my colleague from Wisconsin.

Let's be clear; the Senate Intelligence Committee on a bipartisan basis has launched a massive effort to determine whether our intelligence was accurate, where it had holes in it, where are our assessments and our estimates.

In intelligence, they are all estimates. The only time there is absolute confirmation that something has happened is when the World Trade Center comes down or when the Pentagon is hit. Then one knows that terrorists have planned something and have executed it.

We were dealing with an intelligence system that provided estimates throughout the 1990s and no action was taken. The intelligence service provided estimates about the danger of Osama bin Laden. We considered all kinds of actions, and then September 11 happens.

Now, the September 11 commission goes in to try to determine why we did not act on the intelligence we had. The big charge there is that something should have been done about Osama bin Laden. Well, there are now published reports on the intelligence, and I would refer my colleagues to Richard Miniter's book "Losing bin Laden." There were many instances where it was clear that Osama bin Laden was planning to attack the United States. In several instances, it appeared that in the 1990s we might have had an opportunity to deal with Osama bin Laden in one way or another and we chose not to do it. So right after September 11 we are looking backwards and saying, Why did we not act? Now my colleagues, primarily on the other side of the aisle, are saying, Why did we act in Iraq?

Let's be perfectly clear. When people start talking about imminent threat, seeming to imply that the President said there was an imminent threat, I distinctly remember the State of the Union message in which the President said: We cannot wait until there is an imminent threat. In essence, he was saying we cannot wait until we see the second airplane heading for the second tower of the World Trade Center.

Why were we suspicious of Saddam Hussein? The same reason President Clinton, Secretary Albright, Secretary Cohen, Security Council Chief Sandy Berger had? They said Saddam Hussein was a real and great threat. He was in flagrant violation of all the U.N. resolutions which followed on the ceasefire in the first gulf war.

He kicked the inspectors out in 1998. We know he was the only despot alive, the only tyrant ruling a country, who used weapons of mass destruction, and he kicked the inspectors out without ever saying what he had done with them.

Sure, there will be things we can find out about what we should have done differently in intelligence. There has already been public discussion about the lack of human intelligence resources. We may find that. We may find other things when we complete our work in the Intelligence Committee and submit a report to be fully declassified and discussed.

We need to make our intelligence system better. I think we have gone a long way. The PATRIOT Act broke down the walls between the CIA and the FBI, which legislatively prohibited them sharing information. That was a mistake. We have changed that.

Some of my colleagues say we ought to look at the use, look at what people said about that. You don't need to have a commission to do that. You have a Lexis-Nexis search to find out what people said. Are some people making charges? Yes, everybody has a right to make their comments about whether they believed the intelligence. A lot of that intelligence has been laid out in the public.

I was astounded at the degree to which Secretary Powell's discussion before the United Nations in February of 2003 went into so much of the intelligence we had at the time. That was out on the table. That was the best intelligence Secretary Powell had. Published reports indicate he went through that intelligence himself and asked questions and only used those things about which he was personally satisfied the intelligence estimates were accurate.

So, yes, use—we did use it. We did act. Saddam Hussein is no longer ruling a country, murdering hundreds of thousands, if not millions, of people. We pulled him out of a spider hole. He said he was a great ruler of the Iraqi people. He wanted to negotiate. Well, he is in jail.

You know something. Muammar Qadhafi in Libya took a look at what happened to Saddam Hussein and said: "Oh, I don't think I want to wind up like Saddam Hussein did." That is what he told Italian President Berlesconi. "I don't want to see happen to me what happened to Saddam Hussein." So he is coming clean based on the information we had gathered about his weaponry, his participation with Dr. Kahn of Pakistan. We knew he had weapons and was working on a weapons program and he came clean. I think that makes a great deal of sense.

There has been a tremendous change in the Middle East. There has been a change because Saddam Hussein no longer rules. It is a tragedy when we lose American lives. It is a tragedy when Iraqi lives are lost. But the Iraqis are slowly but steadily taking back control of their country.

Let's talk about what David Kay found. David Kay said when all the facts are known, it will appear, I believe, that Saddam Hussein was a far greater danger than our intelligence even knew. Our intelligence was not adequate before the first gulf war. We didn't know how far along he was at that time with his nuclear program. We did not know, apparently, according to Dr. Kay, how far along he was with his long-range missile program. It was a country, Dr. Kay said, which was attracting terrorists like ants to honey, to come to a country busily engaged in pursuing means of getting at the infidels. That means anybody who doesn't agree with them.

It is clear Ansar al-Islam had a ricin factory manufacturing that potent chemical, attempting to weaponize it, in northeast Iraq. It was under the direction of al Zarqawi. Ansar al-Islam is part of the brotherhood with al-Qaida.

By the way, you probably read in the New York Times about what we learned about the memo, from al Zarqawi. He was totally frustrated because he thinks the infidel, i.e., the coalition, our coalition, seems to be winning. We are making progress. We are turning Iraq back to the Iraqis and we have not cut and run. Their effort to conduct jihad is getting more and more difficult as we get more and more Iraqis engaged as police, as soldiers.

Danger still exists, but the danger that Saddam Hussein or the terrorist groups operating out of Iraq will be able to do so with impunity and continue to pursue their weapons of mass destruction programs is much less now that Saddam Hussein is in captivity.

You can talk about what the President said, what the President did, but I believe what we are seeing in the Middle East, what we have heard publicly from Dr. Kay, indicates we have taken a major step toward lessening the likelihood of terrorist attacks on the United States and toward stabilizing the Middle East so it will no longer be a hotbed and a haven for terrorists.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Missouri for his remarks. Perhaps they were intended as response to my remarks or perhaps they were general remarks, but my remarks have to do with the fact there is a perception in this country that somehow the briefings the CIA gave us with regard to Iraq were distorted or inappropriate or oversold the case for the war.

My purpose here was to indicate that is not the way I saw it. I was in those briefings. As I have indicated, I felt the CIA was very measured and careful in its presentation.

The Senator from Missouri can talk as much as he wants about whether Iraq worked or not, and what the consequences are. But there are real consequences when Members of both parties decide to tell the public the misinformation or the problems were the fault of the CIA.

I think that is dangerous for the CIA. I think it is dangerous for our country. I think it is dangerous for how we are perceived in the world.

Some of the members of the other party—including the administration, frankly—and some of the members of my own party are pointing their fingers at what we heard in the briefings. I want everyone to know that I went to the briefings. I did not hear a compelling case for the war to be conducted at that time.

Regardless of what has happened since, I would be happy to debate at any point whether it was the right thing to do and whether how we did it was the right thing to do. Regardless of all that, the point is, as one Senator who went to those briefings and did not hear the case made, I give the CIA credit for being measured and careful. And we should thank Mr. Tenet for his leadership.

I yield the floor.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I rise today to talk about a truly bad idea that has been proposed on this floor. I believe an amendment was discussed yesterday when I was not here—I didn't have an opportunity to hear it—to provide stiff sanctions on States which do not have primary seatbelt laws. The goal is to move every State up to 90 percent seatbelt use. It specifically says States would be sanctioned if they did not meet one of the following two conditions within 3 years of the enactment of this bill: Either have a primary seatbelt law which would allow law enforcement to pull over a driver if that officer sees the driver is not wearing a seatbelt without having to arrest them for any other infraction, or the State does not get up to a 90 percent seatbelt use rate.

In other words, it would require a State to achieve a 90 percent seatbelt use, and it left it up to the individual States on how to get there.

The objective of getting to 90 percent seatbelt use is a worthwhile one. As Governor of Missouri, I talked often about the need for seatbelts.

When I was young, the primary entertainment when we weren't listening to Cardinal baseball was to crawl under the fence and go out and watch the stock car races. I watched stock car races every Friday night. Sometimes I paid to get in but not often. There were horrendous wrecks every night. Yet the drivers wore harnesses and seatbelts. I saw one driver taken off. He had severe alcohol poisoning because of fuel he had taken internally. But I never saw anybody hurt.

I have been in two serious crashes in my life. Both times I had on a seatbelt. I was shaken up and scared. In the first one, the other driver was taken to the hospital unconscious. I did not find out until the next day whether he had survived.

I am a believer in seatbelt use. I have sponsored and pushed for seatbelts and for safety seats for infants. I tried to get them on airplanes. But I don't believe taking money away from the 36 States that don't have primary seatbelt laws is a way to get there.

If the State fails to meet either of the conditions—either the 90-percent seatbelt use rate or enactment of a primary seatbelt law—the State would lose 2 percent of its general highway safety funds, and the sanction increases to 4 percent for each successive year. The sanctions approach would decrease the amount of funding available to make the necessary investment in safety for their transportation system. States that do not enact a primary seatbelt law or do not achieve a 90-percent use rate will get less funding and fall behind other States in safety. That is not the way to encourage States to increase safety. That is a way to make some States fall further behind.

I know more lives can be saved with seatbelts. Good friends of mine who are troopers have said they have never unbuckled a dead driver from a seatbelt, although they have taken a lot of dead people out of cars in car accidents. I do not believe, however, the Federal Government should sanction States, trying to get people to use seatbelts. The Federal Government would force enactment of primary seatbelt laws. This approach is essentially Federal blackmail by Congress. It is telling the States we are not going to return the money you pay into the Federal highway trust fund because some of us in Washington, DC, think your State legislature and your Governor need to enact this law. Well, that is the purpose of the folks we elect at the State level to represent us in our general assemblies and to represent us in our Governors' offices.

I held the office of Governor at one point. I spent an awful lot of time looking at federally imposed mandates, many of which did not make any sense. They told us, for example, we had to use our clean water funds to clean up water from our major cities going back into the Missouri and Mississippi Rivers, putting in water that was higher quality than was already in the river. We wanted to use it on the pristine Ozark streams where small communities and septic tanks were seriously downgrading streams which had been fishable, swimmable, and drinkable. The priority did not make sense for Missouri.

I came up here to try to work with the States, not to tell States that we are not going to send back money you send to Washington unless you adopt our idea.

Only 20 States have decided to enact a primary seatbelt law. Other States have decided a primary seatbelt law is not the way to increase seatbelt usage.

Missouri has made great strides in seatbelt use, and this has been done without a primary seatbelt law. As you can see on this chart, the States which have primary seatbelt laws have the bold numbers. You start out with Alabama, California, Connecticut, the District of Columbia—everybody in the District of Columbia knows you get pulled over if you are not wearing a seatbelt—Georgia, Hawaii, Indiana, Iowa, Louisiana, Maryland, and Michigan, to name the lefthand side.

You can see what progress they have made. Alabama has a primary seatbelt law. In 2002, they had 79 percent usage, and it fell back to 77 percent in 2003. They went down. Other States are nowhere near that. Virginia, for example, has no primary seatbelt law, apparently, according to this chart. In 2003 it only had 75 percent seatbelt usage. The good news is, reduction in non-use, from 30 percent to 25 percent, was a 17-percent reduction.

The State of Missouri has gone from 31-percent non-use to 27-percent non-use without the seatbelt law. Why should this body say we are going to take money away from the State of Missouri because we don't like the way you are reducing non-usage of seatbelts?

I think public statements—and I certainly have made them, and will continue to make them—educational campaigns and incentives are the way to go to improve usage.

When you look at this chart, you see a lot of States with seatbelt usage that is definitely below 90 percent. For most of them, the usage is 70 and 80 percent. We are making progress. We ought to continue to do that with incentives. If you give States incentives, they have the flexibility to use their own solutions to increase seatbelt use. That flexibility would be lost. States would be limited in their ability to educate the public with regard to the importance of highway safety. They would lose safety money. That makes no sense.

The enforcement of primary seatbelt laws costs the State a lot of money, from increased law enforcement personnel, hours of work for clerical representation, and prosecutions. Is that the best way to use their law enforcement people? I think that is something that is better left to the authorities in the individual States.

We have to stop this sanctions approach and, I believe, use incentives. Under title I, under the Commerce Committee report, NHTSA would be authorized to use over $3.5 billion in grant funding and approximately $800 million for vehicle safety-related rules. The NHTSA programs would pay strong attention to driver safety and seatbelt use.

Under the National Highway Safety Program, section 104 grants would be administered by NHTSA in three high-visibility areas of safety: to reduce alcohol-impaired driving, drug-impaired driving, and increase seatbelt usage. I believe that is the appropriate way to go.

The amendment that was described yesterday represents a double penalty for States that do not enact primary seatbelt laws. In fiscal year 2005 and thereafter, 10 percent of section 148 funds—those are funds for highway safety improvement—would be transferred to the section 402 program unless the State has a primary safety belt law or has achieved at least a 90-percent safety belt use rate.

Beginning in 2007, 2 percent of the interstate maintenance, surface transportation, and bridge programs would be withheld from States that do not have a primary seatbelt law or a 90-percent usage rate. The percentage withheld would rise to 4 percent in fiscal year 2008 and thereafter. If Congress enacts these sanctions, we are not likely to authorize incentives. The States have used section 157 safety belt incentive grant funding to support national safety belt mobilization and other safety belt enforcement activities. Without the incentives, the States would have drastically reduced resources for those purposes.

I believe enactment of a primary safety belt penalty mandate, forced upon the States, is premature and unwarranted. There has never been a sufficient program to convince the States to enact primary seatbelt laws or to find other means of increasing usage and decreasing nonusage of seatbelts.

Under the Senate Commerce bill, the new safety belt incentive grant program would provide the States with a grant of five times their apportionment if they enact a primary seatbelt law. We need to see if this program works and see if it is effective.

Many Governors and State legislatures oppose penalties and sanctions. There are currently 18 penalties and sanctions, 7 of which are highway safety related. Increasingly, Congress has relied on punishing the States if they do not meet safety performance objectives. As a result, I think there is an understandable revolt and reaction growing to this approach. The "Mother May I" coming to Washington is bad enough, but when "Mama Federal Government" tells us: "You have to do it this way or you don't get your supper," particularly when your voters, your constituents, your taxpayers have been the ones who have paid for that supper, that is, I think, a real problem. Typically, State legislatures being forced to do this are going to rebel, and I think it is very inappropriate.

We have a letter from the executive director of the American Association of State Highway and Transportation Officials; the executive director of the Governors Highway Safety Association; the president and chief executive officer of the American Highway Users Alliance; the executive director of the International Association of Chiefs of Police; the executive director of the Commercial Vehicle Safety Alliance; the chief executive officer of the Associated General Contractors of America; the executive director of the American Traffic Safety Services Association; the executive director of the National Conference of State Legislatures; the executive director of the American Road & Transportation Builders Association; the president of the American Council of Engineering Companies; the vice president of Public Affairs of AAA, and the executive director of the National Governors Association, all saying:

> . . . we oppose the use of penalties and sanctions.
>
> Our organization supports the underlying safety goals. We believe the use of sanctions and penalties reflect an all-or-nothing approach that forces absolute and unconditional compliance with Federal safety requirements or goals while stifling innovation and redirecting funds from highway construction and maintenance projects with tangible safety benefits.

That makes the case very well.

I ask unanimous consent to print this letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 30, 2004.

Hon. Senator BOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: The organization listed below represent a broad array of national, state and local elected leaders, policymakers and transportation and highway safety interests. Our organizations oppose the use of sanctions and penalties. We believe the use of sanctions and penalties reflect an all-or-nothing approach that forces absolute and unconditional compliance with federal safety requirements or goals while stifling innovation and redirecting funds from highway construction and maintenance projects with tangible safety benefits.

Currently states face eight highway safety-related sanctions and penalties that are designed to force compliance with various federal highway safety mandates or goals including enactment, by specified deadlines, of various types of state safety legislation. While our organizations support the underlying safety goals, we oppose the use of penalties and sanctions. In fact, many of our organizations have adopted the new United States Department of Transportation's safety goal of 1.0 fatalities per hundred million vehicle miles of overall highway travel by 2008—a one-third reduction in today's rate. Sanctions and penalties decrease the amount of funding available to the states to make necessary investments to the highway system, compromising the construction, rehabilitation, operation and maintenance of a safe highway system. Fewer resources to invest means delays in roadway and intersection improvements, fewer dollars for upgrading highway signage and markings, and less funding available for investment in safety research.

We urge you to employ incentives and positive strategies to encourage states to accomplish both public safety and transportation-related objectives rather than adopting a negative sanctions approach. Incentives from an increased overall multiyear funding program give states the flexibility and resources to find creative solutions to safety problems that fit their needs while ensuring stable funding for improving, constructing, operating and maintaining safe highways.

As you consider reauthorization of the Transportation Equity Act for the 21st Century (TEA 21), we urge you to reject any changes to current law that would impose new sanctions or penalties on the states for failure to comply with federal highway safety mandates and goals.

Sincerely,

John Horsley, Executive Director, American Association of State Highway and Transportation Officials; Barbara L. Harsha, Executive Director, Governors Highway Safety Association; Diane Steed, President and Chief Executive Officer, The American Highway Users

Alliance; David Rosenblatt, Executive Director, International Association of Chiefs of Police; Stephen Campbell, Executive Director, Commercial Vehicle Safety Alliance; Stephen Sandherr, Chief Executive Officer, Associated General Contractors of America.

Roger Wentz, Executive Director, American Traffic Safety Services Association; William T. Pound, Executive Director, National Conference of State Legislatures; Peter Ruane, Executive Director, American Road & Transportation Builders Association; David A. Raymond, President, American Council of Engineering Companies; Susan Pikrallidas, Vice President, Public Affairs, AAA; Ray Scheppach, Executive Director, National Governors Association.

Mr. BOND. I urge my colleagues to oppose any effort to mandate primary laws or arbitrary usage of seatbelts on the States.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I would like to continue my discussion about key provisions of S. 1072. In particular, I would like to discuss some of the bicycle and pedestrian provisions. According to the National Highway Traffic Safety Administration, 5,600 pedestrians and bicyclists were killed in traffic accidents in 2001. Tens of thousands more were injured in traffic accidents.

In that same year, more than one-fifth of the bikers killed in traffic crashes were between the ages of 5 and 15, our Nation's children. Pedestrian and bicyclist fatality numbers have been slowly decreasing over the years, but one death is too many. We must improve our record.

S. 1072 provides resources to help States address this safety problem. Our bill reauthorizes the bicycle/pedestrian provisions found in TEA-21. We recognize the importance of these provisions. More people walking and bicycling means fewer people in cars. It means healthier communities and a cleaner environment. We should promote it. Under our proposal, States may continue to use core program dollars to fund improvements for bicyclists and pedestrians.

However, if we really want to encourage people to walk and bicycle around our communities, we must make these activities safer. Mr. President, 5,600 fatalities is an unacceptable number.

In addition to reauthorizing current programs, our bill directs the Secretary of Transportation to make safety grants to fund an information clearinghouse and educational programs to promote bicycle and pedestrian safety. These provisions will support existing efforts to improve bicycle and pedestrian access to transportation facilities and to enhance safety for all transportation users.

I believe that these provisions in the bill, if taken into use by our States and communities, will do a great deal to protect the children presently in our system and in the future.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BOND. Mr. President, after conferring with both sides of the aisle, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 12:19 p.m., recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. INHOFE. I ask unanimous consent that the Senator from New York, Mrs. CLINTON, be recognized for up to 5 minutes as in morning business and then for me to reclaim the floor at the conclusion of her remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New York.

OUTSOURCING AMERICAN JOBS

Mrs. CLINTON. Mr. President, I thank the Senator from Oklahoma.

I rise today because I could not believe my eyes when I saw this headline in the Los Angeles Times today: "Bush Supports Shift of Jobs Overseas." If one reads this article, it is clear the concern I feel on behalf of my constituents, who are finding their jobs going to other countries, is not shared in the White House. In fact, Gregory Mankiw, the President's Chair of the Council of Economic Advisers, has this to say:

> Outsourcing is just a new way of doing international trade. More things are tradable than were tradable in the past. And that's a good thing.

I do not think outsourcing American jobs is a new kind of trade. I do not think we should be thinking of our people as commodities, and I certainly do not believe it is a good thing. If the other end of Pennsylvania believes it is a good thing to have companies shift jobs from America to the rest of the world, then maybe they do not have a clue about what it is going to take to bring jobs back to this country and create the kind of economic prosperity that will put our people back to work again.

Of course, this goes hand in hand with the budget the President sent up, which cuts investments and workforce training of dislocated workers, which underscores the failure to push for stricter standards or real enforcement of labor and environmental standards in our trade agreements, has no plans to address rising health care costs or legacy health and pension costs that are strangling American manufacturing companies, and apparently does not care we are now outsourcing radiologists and engineers, people we told to go get a good education, get that college degree, get that advanced degree; there will always be a place for you in the American economy. If this is what the opinion is on the other end of Pennsylvania Avenue—"Bush Supports Shift of Jobs Overseas"—I certainly hope this body will join to pass a resolution repudiating this strategy. This is a strategy for decline. This is a strategy for the destruction of the American job market.

We will be presenting a resolution, a sense of Senate, to stand against this philosophy in the White House that turns a blind eye to the damage that is being done to the American economy: The loss of jobs, the loss of income, the loss of self-confidence and prestige that is now sweeping our land.

I hope both sides of the aisle, Democrats and Republicans, will join in a sense-of-the-Senate resolution saying: We don't know what they are drinking up there in the White House, we don't know what the Council of Economic Advisers is reading, but we in the Senate do not believe shifting jobs overseas is a good economic strategy and we want, once and for all, to not only repudiate that but to come together with real plans and policies that will keep our jobs here and make it possible for us to promise the American workforce that this economy will be creating opportunities for them and they will not be watching the American dream be outsourced as well.

Mr. President, I thank my colleague from Oklahoma for his kindness in letting me express and vent my frustration about this headline and the words coming out of the White House at this time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003—Continued

AMENDMENT NO. 2276 WITHDRAWN

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to withdraw amendment No. 2276 on behalf of Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE WITHDRAWN

Mr. INHOFE. Mr. President, with the approval of the committee, I now withdraw the committee substitute amendment.

The PRESIDING OFFICER. The Senator has that right.

AMENDMENT NO. 2285

Mr. INHOFE. Mr. President, I now send a substitute amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. INHOFE) proposes an amendment numbered 2285.

Mr. INHOFE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion on the pending substitute to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute to Calendar No. 426, S. 1072, a bill to authorize funds for Federal-Aid Highways, Highway Safety Programs, and Transit Programs, and for other purposes.

Bill Frist, James Inhofe, Christopher Bond, Gordon Smith, Lamar Alexander, Richard G. Lugar, Pat Roberts, Robert F. Bennett, Mike Crapo, Jim Bunning, Ted Stevens, Conrad Burns, Chuck Hagel, Charles Grassley, Trent Lott, Saxby Chambliss.

Mr. FRIST. Mr. President, I will allow the manager to explain what went on so our colleagues will fully understand, but I wish to make a statement. I encourage colleagues who are interested in bringing amendments to the floor to do that and continue to work in that vein. Again, my whole purpose over the last week and a half we have been on this bill has been to make sure people could come to the floor to discuss the bill, and if there are amendments people feel strongly, we are going to continue to move forward.

The objective of the leadership on both sides of the aisle is to complete this bill this week. I encourage people to come to the floor if they have amendments and to talk to the managers this afternoon.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Since this process started, we have been encouraging people to come to discuss their amendments. We are now in a position where they can actually offer their amendments. We had quite a few Members who worked over the weekend, who also had their staff working. They brought amendments down, and I thank all of those Members.

We visited with them. As the managers, we accepted some. I think now we are at the point where we do encourage our Members to bring their amendments. While we are in this stage right now, let me share a couple of points that I think are very significant.

There has been a lot of discussion that the formulas are unfair to some States. I suggest that in almost every case where there is a donee State that becomes a donor State, it is by a very small amount. On the average, the disparity between donee and donor is far less.

In approaching this, we actually took the average donor and put 4 cents on it and then from the donee took 4 cents off. I think it is a very fair way of doing it. But when people talk about the formulas, let's keep in mind the formulas are real. They have not been real in the past. They were not real in TEA-21. They tried to do it but they ended up with a minimum guarantee, which is a political document.

The formulas include such things as total lane miles on the interstate, on principal arterial routes; vehicle miles traveled; annual contributions to the highway trust fund attributed to commercial vehicles; diesel fuel used on highways; relative share of total cost to repair or replace deficient highway bridges. That is one I am particularly interested in since, as I have said many times, my State of Oklahoma is dead last in terms of the conditions of bridges; weighted nonattainment and maintenance areas; rate of return of donor States. All of those are in the formula.

This is the first time, since we started this process—at least since I have been here in 1991 when ISTEA came out—that we actually are using the formula and staying with it. It has not been easy, because people who do not like the way their State was treated come down and say all kinds of detrimental things about the formula, about our motives, about the bill in general.

The bottom line is, we have been honest with the Senate and honest with all of the States.

I do not think it will shock anyone to hear that there were political considerations in the past. We know that from the other body. The House Member from Pennsylvania was always very aggressive in getting the most he could for his State. I think a lot of them are like that, and we have corrected a lot of those.

I would say this: Of all of the ones who are the big players in TEA 21, and that was 1998, there was Senator Moynihan, whom we loved so much. His State was 1.25. We had Pennsylvania, which was Congressman Shuster, 1.21; Rhode Island, of course, Chairman Chafee, 2.17; the Senator from Montana was not only the ranking on the committee but also on the subcommittee, 2.18. At the same time all of that happened, my State was .9050, so we are way down there.

With SAFETEA, our percentages really do not change that much. We do ultimately bring everybody up to 95 percent and that is what this will do. Some are dissatisfied because they do not get up to 95 percent until the sixth year. It is unfortunate we could not come up with any other way, but it would cost so much money that if we did that, the ones who would be paying for it would be the donee States, and that would not be fair to them.

So I feel very good about where we are today. I think we have a fair bill. Very few people in this Chamber know the hours, the months, and the years that have been involved in this bill. Certainly the managers of the bill do because we have been working on this bill for such a long period of time.

Now that we have cloture filed, after it expires, it is our intention to go ahead and have a vote on cloture and get the bill completed. I believe it can be done this week.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for up to 7 minutes as if in morning business and then we return immediately to the bill, S. 1072.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

(The remarks of Mr. INHOFE are printed in today's RECORD under "Morning Business.")

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

AMENDMENT NO. 2286 TO AMENDMENT NO. 2285

(Purpose: To provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mrs. CLINTON, Mr. DEWINE, and Mrs. MURRAY, proposes an amendment numbered 2286.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. WARNER. Mr. President, this is an amendment I submitted the other day on behalf of myself, Senator CLINTON, and Senator DEWINE of Ohio. It is an amendment to increase our national seatbelt use rate to 90 percent, a concept that is well known to the Members of the Senate. This amendment is identical to the legislation I introduced last year, S. 1993.

As my colleagues examine the highway bill and what it means to each of our States, our foremost responsibility, in my judgment, and the judgment of many, as well as the judgment of the President of the United States, must be to improve highway safety for the driving public.

I commend the distinguished chairman of the Environment and Public Works Committee because he has a section in the bill on improving highway safety. But I fear that somehow the President's proposal—actually the proposal the President sent up to the Congress regarding the use of seatbelts—was not included in the final markup. It is for that reason I rise to include in this bill a provision that was sought by the President.

Simply by increasing the number of Americans who will buckle up is the most effective—I repeat, the most effective—step that can be taken to save their lives and the lives of others. That is the single most important step.

I am privileged to serve on the Environment and Public Works Committee, which has the primary responsibility for reauthorizing TEA-21. The bill addresses, as it should, highway safety measures such as how to build safer roads and how to use new technologies to improve safety.

But statistics show that the greatest measure of safety, again, to drivers, passengers, and possibly third parties not connected with the vehicle, is through the use of a seatbelt. It is remarkable the lives that have been saved through the use of this simple device. America has about a 79-percent use rate of seatbelts. Now, that is quite a commendation to the drivers all across this country. Seventy-nine percent of Americans, according to reliable statistics, use their seatbelts. That has been translated into the saving of tens of thousands of lives and injuries in automobile accidents. But I believe, as do many in this Chamber, we can do better.

Those are the facts. Are we just going to have a standstill or are we going to move forward? Senator CLINTON, Senator DEWINE, and I think we should move forward with a firmer approach with achievable goals and funding.

We have debated the benefits of seatbelt use on many occasions in this body and elsewhere across America. And whether it is in the town forums we conduct, town meetings, or here on the floor of the Senate, there is always that individual who comes back: Don't tell me what I have to do. What does it matter to you, JOHN WARNER—or to any other colleague with whom I am privileged to serve—what does it matter to you whether I buckle up?

Well, let's take a look. No one disputes that the absence of wearing a seatbelt causes more loss of life and serious injury. The statistics show that the impact associated with the crash, to the extent the driver can maintain control of the vehicle in those fatal seconds, the severity of the crash, and perhaps the loss of life can be reduced by the use of a safety belt—simply said.

Accidents involving unbelted drivers result in a significant cost to your wallet. Many people are rushed from the accident scene to various emergency facilities. All of that has the initial cost of the law enforcement that responds, the rescue squads that respond, and eventually the costs to the emergency room or whatever medical facility you might have the good fortune to be taken to, to hopefully save your life. That isn't free. There is a cost. Regrettably, a number of persons who suffer these types of injuries in automobile accidents are uninsured. Again, the cost often devolves down on the good old hard-working taxpayers—in most instances, the taxpayers who buckle up.

When an accident happens on our roads and highways across this great Nation, we are all impacted. Accidents cause significant congestion, which results in lost time and productivity as we try to get to our work or to our home along the highway where they are engaged in trying to remove the accident.

More often than not, the accident, with the combined slowdown of those passing the accident, causes significant congestion for some considerable portion of time. Either the lane in which we are traveling moves very slowly because of the accident or, indeed, we come to a standstill, as often is the case when a lane is closed to clear an accident. That standstill frequently is necessitated because of the severity of the injuries experienced in that accident. It takes the response team longer to get to the accident. It takes the response team longer in their carefully trained steps to extricate the injured person. All of that requires needed time.

To give the initial treatment and then to carefully transport that individual, if necessary, to a medical facility takes time. That costs money. The road becomes backed up. That is lost time for your mission on the road, be it for business, family, or pleasure. That is lost time and productivity. Behind you often are trucks and other vehicles involved in commerce. That is lost time and delay due to the seriousness occasioned by injuries and accidents where there has been the lack of use of seatbelts. It is as simple is that. Those are the facts. Then, of course, there is the cost to the community for caring for the injured person who, regrettably, frequently doesn't have the insurance to pay for his or her costs. The local people in your communities end up paying the bill.

The legislation we are proposing today will take an important step forward for the States to adopt either a primary safety belt law or take steps of their own devising to meet a 90-percent seatbelt rate—not the Warner amendment or the legislative measure put forth by the administration upon which we draw our concept for certain portions. The States can decide for themselves how they achieve a 90-percent goal of the use of seatbelts in their respective States. That is the purpose of this legislation—to move every State to a 90-percent use rate for safety belts.

In a letter dated November 12, 2003, to Chairman INHOFE of the Committee on Environment and Public Works, on which I am privileged to serve, Secretary Mineta stated:

> President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries.

That is explicit and clear. The Secretary goes on to say:

> The surest way for a State to increase safety belt usage is through the passage of a primary safety belt law.

I have had this debate with Governors and former Governors, even in this Chamber with former Governors. I think they would tell you that a primary safety belt law is a tough piece of legislation for the State legislature to pass solely on its own. I mean that. Frankly, it needs the impetus of those of us here in the Congress, of the combined efforts of the executive and the legislative branches of the Federal Government because it is just one of those things that State legislatures have extraordinary difficulty grappling with.

Regrettably, in my own State this law has come down to a single vote defeating it in two consecutive attempts. Stop to think, one vote in the distinguished General Assembly of the Commonwealth of Virginia has stopped our State from adopting this type of law.

I believe the impetus here will make it possible for our State and many others to adopt this statute.

As provided in our amendment, States can increase seatbelt use either by enacting, as I said, a primary seatbelt law. Everybody knows what a primary seatbelt law is and how it works. It means a law enforcement officer can literally stop a vehicle if they observe that the individual is not wearing his or her seatbelt. It is as simple as that. But a State, if they decide not to enact a primary safety belt law, can, by implementing their own strategies, whatever they may be—and there is a lot of innovation out in the States—that would result in a 90-percent safety belt use rate. So that is a challenge to the States.

The current national belt use, as I said, is 79 percent. But many States—those that have the primary law—are sometimes at 90, or even above 90, but those that do not have the primary seatblet law are down sometimes in the 60 percentile. It is the weight of the primary States that carries the percentile and brings it up to 79 from those States that don't have an effective law. States with their primary safety belt law have the greatest success for drivers wearing seatbelts.

On an average, States with the primary seatbelt law have a 10- to 15-percent higher seatbelt use compared to those with a secondary system. This demonstrates that secondary seatbelt laws are far more limited in their effectiveness than a primary law.

Essentially, the secondary laws say that if a law enforcement officer has cause other than a perceived or actual seatbelt violation—namely, the driver didn't have it buckled—if they have cause to stop that car, for example, for a speeding offense or a reckless driving offense or indeed an accident and they observed there has been no use of the seatbelt, then in the course of proceeding to enforce the several laws of the State as regards speeding or reckless driving, or whatever the case may be, they can add a second penalty to address the absence of the use of the seatbelt in that State.

Drivers are gamblers. They say: Oh, well, don't worry, I will not buckle up. State law doesn't require it. Unless they stop me—and they are not going to stop me today. It is that gambling attitude that, more often than not, will cause an accident. Then it is too late.

So we come forward today to build on our national programs. We are building on what we did in TEA-21. I was privileged to be on the committee. I was chairman of the subcommittee 6 years ago. I worked with Senator Chafee, who was chairman of the full committee, and we drove hard to make progress with the seatbelt laws, and we did it. We basically put aside a very considerable sum of money to encourage States—again, using their own devices—to increase uses. As a direct consequence of what we did in TEA-21, there has been an 11-percent increase in these 6 years in the use of seatbelts.

Sadly, traffic deaths in 2002 rose to the highest level in over a decade. It is astonishing. Of the nearly 43,000 people killed on our highways, over half were not wearing their seatbelts. That is according to the National Highway Traffic Safety Administration. And 9,200 of these deaths might have been prevented if the safety belt had been used.

Those are alarming statistics. Automobile crashes are the leading cause of death for Americans age 2 to 34. Stop to think of that: Age 2, that means a child; that means a parent neglected to buckle up a child. Automobile crashes as the leading cause of death for Americans age 2 to 34. That is our Nation's youth. Do we have a higher calling in the Congress of the United States than to do everything we can to foster the dreams and ambitions and the productivity of our Nation's youth? I think not. And this is one of the ways.

Last year, 6 out of 10 children who died in car crashes did not have the belt on—6 out of 10; that is over half. I plead with colleagues to join with me, join with the President who has taken this initiative.

My primary responsibility in the Senate—and this is one of the reasons I got interested in this subject—is the welfare of the men and women in the Armed Forces. I say to colleagues, again, the statistics are tragic. Traffic fatalities are the leading noncombat cause of death for our soldiers, sailors, airmen, and marines. They are in that high-risk age category, 18 to 35.

Someone even took a look at the statistics, the total of the fatalities least year, and said that represents in deaths approximately the size of the average U.S. Army battalion. That is several companies and maybe a reinforced element. Just think, that is the magnitude in one category of those who serve our United States, the men and women in the Armed Forces.

I cannot think of any reason why we all cannot join behind this effort. That alone is a driving impetus for this Senator.

The time is long overdue for a national policy to strengthen seatbelt use rates. I said a national policy, and that is what this bill represents, either through States enacting a primary seatbelt law or giving far greater attention to public awareness programs that result in more drivers and passengers wearing safety belts. Our goal is 90 percent—90 percent.

I have been privileged to serve on this committee 17 years, and I, together with many others, notably my dear friend and late chairman, Senator Chafee, addressed this issue. Our committee is rich in the history of focusing revenue from the highway trust fund on effective safety programs. It goes back through many chairmen and members of the committee.

With jurisdiction over the largest share of the highway trust fund, our committee has had the vision to tackle important national safety problems. The legislation before us does provide more funding to help build safer roads—that is a step forward—but it does not have, in my judgment, that provision which represents a step up from what we did in TEA-21, that provision that would represent a recognition of the President's initiative.

The President has taken a decidedly strong initiative to increase the use of seatbelts. It is absent from the bill, and this is why we need a provision to strengthen and to move forward the position of the Congress on the issue of increased use of safety belts. That is the purpose of this amendment.

It is just unfortunate, but those with reckless intent quickly disregard responsible behavior and drive unbelted at excessive speeds and many times with the use of alcohol. So no increased dollars for improved road engineering, which is in this bill, can defy in many instances the type of personal conduct that results in reckless behavior. It is as simple as that.

Our automobiles now come equipped with crash avoidance technologies and are more crashworthy than ever before, but these advances are only part of the solution.

In repeated testimony before the Environment and Public Works Committee, from the administration, our States, safety groups, and the highway industry, we are told that three main causes of traffic deaths and injuries are unbelted drivers, speed, and alcohol.

The formula we have devised in this legislation does have a reduction in the amount a State receives under this proposed bill that we will consider next year when they fail to achieve the 90 percent safety belt use rate. It is as simple as that. But the formula is patterned directly after the law that is on the books now with respect to the .08 legal blood alcohol content level.

The net effect of this legislation is simply to recognize we are asking that the same type of sanction policy with regard to one of the three major causes of death—alcohol—be equated to a second cause of death and injury, and that is absence of the use of seatbelts, bringing into parallel two of the three principal causes of death and injury on today's highways.

The administration put forward an innovative safety belt program, as I said, under the leadership of the President that was a major component of their new core transportation program, the Highway Safety Improvement Program. Our amendment incorporates the administration's bill and includes additional incentives for states to increase seat belt use rates.

I ask unanimous consent to have printed in the RECORD a number of documents that show widespread support for this legislation, from the Virginia Association of Chiefs of Police, the American Medical Association, and the letter to Senator INHOFE from the Secretary of Transportation. One hundred thirty-five organizations across the United States are in support of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
February 9, 2004.

AMA APPLAUDS LEGISLATION TO PROMOTE SEAT BELT ENFORCEMENT AND SAFETY

AMA SPEAKS AT CONGRESSIONAL PRESS CONFERENCE TO URGE SEAT BELT AMENDMENT PASSAGE

On behalf of the American Medical Association, I'm proud to stand here with Senator Warner in support of enforcing seat belt use. Preventing deaths and injuries on our nation's roadways has been a priority of the AMA for many years. In fact, over the last seven years the AMA has distributed more than 16 million brochures on protecting children in motor vehicles, and just last year we released a physicians' guide to assess and counsel older drivers. Requiring all states to enact a primary enforcement seat belt law or achieve a seat belt use rate of at least 90 percent will help protect Americans on the road.

We know the wearing seat belts saves lives. Over half of the 43,000 people killed on America's highways in 2002 were not wearing seat belts. Tragically, six out of 10 children who died that year in motor-vehicle collisions were also not wearing seat belts. Just taking one moment to buckle-up could make a life-or-death difference to the thousands who needlessly die on our roadways every year.

For those lucky enough to survive a devastating auto crash, the health care costs can be staggering. On average, hospitalization costs for unbelted traffic crash victims are 50 percent higher than for those who buckled-up. The needless deaths and injuries that result from not wearing seat belts cost society an estimated $26 billion annually in medical care, lost productivity and other injury-related costs.

There deplorable statistics are reversible. We can significantly reduce deaths and serious injuries from motor-vehicle crashes by enforcing seat belt use nationwide through a primary enforcement law like the one Senator Warner is now proposing.

In my home state of Michigan, a primary enforcement law has been in effect for three years. In that time, nearly 200 lives have been saved, and over 1,000 serious collisions have been averted because of this change in the law.

As a physician, it is a rare blessing to be in a situation where we can easily identify the solution to a public health threat. Passage of the primary enforcement seat belt law will saves lives. It's that simple.

RON DAVIS,
AMA Trustee.

VIRGINIA ASSOCIATION
OF CHIEFS OF POLICE,
Richmond, VA, February 9, 2004.

The Virginia Association of Chiefs of Police (VACP) endorses S. 1993, a bill to create incentives for the states to enact primary safety belt laws. In 2002 in Virginia, we had 913 automobile fatalities. Of those 913 fatalities, 438 (62.7%) were not wearing a safety belt. In those 913 fatality crashes, 9,912 injuries were sustained by unbuckled occupants.

Under our current secondary enforcement law, Virginia's front seat safety belt use is 74.6%, which includes drivers and front seat passengers. Research tells us that front seat occupants of vehicles involved in potentially fatal crashes in states with primary safety belt laws have a 15 percentage point higher belt use than persons in states without primary laws.

The VACP supports the passage of primary safety belt laws as a proven tool to increase safety belt usage and reduce serious injuries and fatalities in the event of a traffic crash. Public education and enhanced traffic enforcement efforts have failed to increase Virginia's safety belt usage rate much beyond 75%. States with primary safety belt laws consistently experience safety belt usage rates up to 90%. The VACP believes that the passage of a primary safety belt law in Virginia will increase belt usage and save the lives of countless Virginians.

DANA G. SCHRAD,
Executive Director,
Virginia Association of Chiefs of Police.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, November 12, 2003.

Hon. JAMES INHOFE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: With almost 43,000 people dying every year on our nation's highways, it is imperative that we do everything in our power to promote a safer transportation system. The Bush Administration's proposal to reauthorize surface transportation programs, the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 (SAFETEA), offers several bold and innovative approaches to address this crisis.

President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries. As a result, SAFETEA's new core highway safety program provides States with powerful funding incentives to increase the percentage of Americans who buckle up every time they get in an automobile. Every percentage point increase in the national safety belt usage rate saves hundreds of lives and millions of dollars in lost productivity.

Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law. States with primary belt laws have safety belt usage rates that are on average eight percentage points higher than States with secondary laws. Recognizing that States may have other innovative methods to achieve higher rates of belt use, SAFETEA also rewards States that achieve 90% safety belt usage rates even if a primary safety belt law is not enacted. I urge you to consider these approaches as your Committee marks up reauthorization legislation.

While safety belts are obviously critical to reducing highway fatalities, so too is a data driven approach to providing safety. Every State faces its own unique safety challenges, and every State must be given broad funding flexibility to solve those challenges. This is a central theme of SAFETEA, which aims to provide States the ability to use scarce resources to meet their own highest priority needs. Such flexibility is essential for States to maximize their resources, including the funds available under a new core highway safety program.

I look forward to working with you on these critically important safety issues as development of a surface transportation reauthorization bill progresses.

Sincerely yours,

NORMAN Y. MINETA.

Mr. WARNER. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. WARNER. I thank the Presiding Officer. I see other hands.

The PRESIDING OFFICER. There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is appropriate that the occupant of the Chair at the present time is the Senator from Rhode Island because the amendment being offered by the Senator from Virginia is one that was a favorite of one of my favorite people, his father. I can remember many times he would be talking about this amendment. In fact, I can recall some disagreements.

I would say: John, your son is a mayor of a significant city. I am sure if you call him up he will tell you, if there is one thing they don't want, it is unfunded mandates. I was the mayor of a city for four terms. The biggest, greatest plague we had was unfunded mandates.

I will reluctantly oppose the Warner-Clinton-DeWine-Murray seatbelt sanction amendment at the appropriate time. This amendment makes a significant and damaging change to the core safety program established in the highway reauthorization bill.

The amendment imposes a new sanction on States that fail to achieve a 90-percent seatbelt rate or enact a primary seatbelt law. Currently, only 20 of the 50 States meet the requirements of this proposed new Federal mandate. As a result, if this amendment were to pass, 30 States would be immediately thrust into a status of noncompliance with this mandate and the clock would start ticking against them, threatening a significant penalty through the loss of funding. My State of Oklahoma is already in compliance. Actually it wouldn't affect us. We are in compliance with the requirements proposed by this new sanction. But I fundamentally oppose imposition of new sanctions on the States.

While most agree that seatbelts represent the single greatest factor in saving lives on our Nation's highways, the decision to pass a primary seatbelt law is best made at the State level.

The penalties proposed by Senator WARNER's seatbelt sanction are twofold. The first penalty takes effect in calculating apportionments for fiscal year 2005. This is especially disconcerting because that gives States who do not already have primary seatbelt laws on the books only 8 months from now to enact a primary law. It doesn't affect me. Our State of Oklahoma already has them. This first penalty would require States in noncompliance to spend 10 percent of the funds apportioned to them under the new core safety programs on safety behavioral projects. Under section 405 of title 23, any funds subject to this transfer cannot be recovered in future years by a State's subsequent compliance with the seatbelt sanction.

A second penalty would be imposed if States had still not enacted a primary seatbelt law or brought their seatbelt rate up to 90 percent by the beginning of fiscal year 2007. States still in noncompliance by this time would lose up to 4 percent of their apportionments under each of the National Highway System programs: The Surface Transportation Program, Interstate Maintenance Program, and the Highway Bridge Replacement and Rehabilitation Program. That one is significant to me. These funds would be completely lost to the States in noncompliance and redistributed among other States.

You could argue that my position in Oklahoma could be enhanced by the passage of this amendment because we know there will be some States that are not in compliance. Certainly our bridges in Oklahoma need as much help as they can get.

The amendment proposes instituting a huge penalty for States without a primary seatbelt law. Although I support the increased use of seatbelts across the United States and would encourage States to enact primary seatbelt laws to reach this objective, I believe threatening States with the loss of needed Federal dollars for surface transportation is not the right approach.

I admire so much the Senator from Virginia and his dedication. I never appreciated what he had to go through 6 years ago as chairman of the Environment and Public Works Committee during the last reauthorization until I became the chairman and am going through it. I am sure he did a far better job than I. But I disagree with this particular amendment.

Mr. WARNER. Will the Senator yield for a question?

Mr. INHOFE. I am happy to yield.

Mr. WARNER. He is always so courteous about matters such as this, and particularly with reference to our dear friend, John Chafee, who felt very strongly about this legislation. It is more than a technicality, but this is not a sanction in the sense that we simply say each State should achieve 90 percent. Now, there may be ways by which States can achieve that other than following this path which, as the Senator correctly points out, has a certain sequence of penalties. They would meet the law and completely avoid the other path, where there are penalties.

My question is this: When America was faced with the problems of alcohol, which is still prevalent on the roads in our Nation, we, the Congress, enacted what we call the famous .08 law; am I correct?

Mr. INHOFE. That is correct.

Mr. WARNER. Didn't we have an identical series of steps in that law that I have put into this law?

Mr. INHOFE. I know there are similar steps. If you say they are identical, I am sure they are.

Mr. WARNER. I assure the Senator it is almost identical. You can come down to where it has worked in the case of alcohol, and now 47 States out of the 50 have adopted the alcohol legislation. I think, quite frankly, that we can see a similar number of States quickly adopt this legislation—a primary seatbelt law to avoid the penalties. So it is not without precedent, and it also gives the State the alternative of doing it by some other means than going down the path I have outlined.

Mr. INHOFE. I agree with the Senator from Virginia. I only say, if your State were to devise a way to get to the 90-percent mark that they have to get to to keep from being penalized, it would have to take some reasonable period of time. They would have to establish some criteria and then try to get there.

I cannot imagine it could be done within 8 months, and these people would already be subjected to the penalties imposed in the year 2005. That would be a concern.

Mr. WARNER. Mr. President, I say to my distinguished colleague that we selected that time period because of the language the Secretary of Transportation forwarded to the Congress. If there could be a means, if you would be willing to help me devise a formula by which you think a greater degree of fairness can be achieved, I am open to that.

Mr. INHOFE. Mr. President, I look forward to working with the Senator from Virginia, as I always do. I think many of us who came to serve in the Senate who were either Governors or mayors in major cities somehow have this obstacle or obstruction in our minds on any kind of mandates. I plead guilty to that. I think other Members might oppose the amendment, such as the Senator from Missouri who was a Governor. That is primarily the reason.

I would be happy to work with the Senator from Virginia, and I think he has an excellent point. I know his heart is right and he is trying to save lives. That is why we all love him so much.

Mr. WARNER. Well, Mr. President, I will take into consideration the views of my distinguished chairman and see what we might do to make that accommodation. I thank the chairman.

Mr. INHOFE. Mr. President, while we are waiting for people to come with their amendments, I will make a few comments relative to statements that were made on the Senate floor yesterday concerning the bill.

Comments were made by one Senator who said he would just suggest that we swap formulas between Oklahoma and Arizona. That was the senior Senator from Arizona, a very distinguished Senator. I only say that Arizona and Oklahoma and all other 48 States have exactly the same formula. You don't have to swap formulas. They are the same.

I also suggest in the case of Arizona, it gets more money than Oklahoma does under this bill—by about $60 million. So if a swap were taking place, I think I would go along with that.

I am concerned a little about the statements made that more States will become donor States. That is true under this bill. Right now, the disparity between donor and donee is far greater than it will be after this bill is passed. So if you have a State that goes from a $1.01 down to 99 cents, that is a small amount, but because it goes below the threshold of a dollar, then it is now in donor status. So the way we try to accomplish this is, if you take the average, the average donor State increased by 4 cents; the average donee State decreased by 4 cents. I don't see that anything could be more fair than that.

Third, I think if you look at the individuals who were driving this legislation 6 years ago—TEA-21—you found that there were some parts of the State that were perhaps treated better than other parts. Certainly, we had three of the most powerful people from the northeastern seaboard—Senators Moynihan, Congressman Shuster, and Senator Chafee. When you look at the amounts that they, under TEA-21, achieved, New York was $1.25; Pennsylvania, $1.21; Rhode Island, $1.26; and Oklahoma, 90.5 cents, which was the minimum. A critic of this bill said we should do what we did 6 years ago and immediately go to 90.5 cents as a floor instead of waiting until the sixth year.

The problem with that is there is not enough money. And if we did that, that would have to come out of the donee State. The other problem is we are actually much more ambitious in this bill in reaching that point.

If you look at this State by State—and several times on this Senate floor we have been challenged by Members from States who felt their State was not getting a fair shake—keep in mind that every State is going to increase by at least 10 percent under this bill, and every State is going to have a donor status of nothing less than 95 percent at the conclusion of this bill, at the sixth year.

Mr. REID. Will the chairman of the committee yield for a question?

Mr. INHOFE. I am happy to yield.

Mr. REID. Mr. President, on the issue now before the Senate, propounded by the senior Senator from Virginia, a unique situation has arisen in Nevada. In Nevada, the State legislature, last session, had a debate on whether or not they would have primary seatbelt requirements for the people of Nevada. They did something interesting. The State now has a law that requires seatbelts for children but not for adults. I think this is pretty compromising.

The Senator from Virginia is not on the Senate floor, but I could go for something like that—that there could be a requirement that States have a mandate that children have to wear seatbelts. The State of Nevada debated this and, as far as adults, it failed. So I ask you and the Senator from Virginia to consider amending the matter now before the Senate to have a requirement for children. I think that is something that would be accepted. I think the debate would be very short and to the point.

I think if he proceeds on his requirement to have seatbelts mandated for everyone, States that are individualistic, such as Nevada—the State of Nevada doesn't like to be told what to do. They believe they are a sovereign State and the legislature meets and debates these issues. On this issue about primary seatbelts, that was brought before the legislature just last session. I think it would be very difficult for this Senator to say that I know more than the Nevada State Legislature, which not only held hearings on this issue but had a long debate and turned down this mandate. While I personally may disagree with that, the point is that the people of the State of Nevada, through its elected legislature, have spoken.

I hope—I repeat for the third time—that the Senator from Virginia would consider modifying the amendment now before the Senate and have this apply just to children.

The question is, through the Chair to the Senator from Oklahoma, how he feels about this. Before he answers, I wish to compliment the Chair and his wonderful father who was one of my role models in this body. It is true he brought this amendment up on a number of occasions, but it never passed. We are now in the same situation as in years previous.

It seems to me we would be well off if we made incremental improvement, and I think that improvement would be to make sure this covers all children.

I again ask the question of my friend from Oklahoma, does he think that is a reasonable compromise?

Mr. INHOFE. Mr. President, I say to my friend from Nevada, the argument I recall against the amendment was that the driver himself or herself would be in a position where they could lose control of a vehicle by not having a seatbelt on and, obviously, the children would be safer than if nobody had on a seatbelt.

The Senator makes a very good point. It is one at which I would certainly like to look.

I can assure the Senator from Nevada, I learned the hard way what our law was in Oklahoma when we started cranking out grandbabies. We have 11 of them now. I did not realize the seriousness of this bill and I did not have one of the young ones in a seatbelt, and I had to pay the penalties. I learned the hard way they really meant business.

Our law has teeth. I would certainly like to look and see what kind of results the State of Nevada has had.

Mr. REID. If I could, Mr. President, I try very rarely to boast on the floor of the Senate, but this is an opportunity I can do so because I noted a sense of pride with the Senator from Oklahoma talking about his 11 grandchildren. A week ago last Sunday, I had born into my family my 14th grandchild. So is it OK if I am a little boastful about that?

Mr. INHOFE. Of course.

Mr. REID. Eleven is OK, but the Senator from Oklahoma still has a way to go.

Mr. INHOFE. We haven't quit.

Mr. REID. What is that?

Mr. INHOFE. We haven't quit.

Mr. REID. Neither have we. In fact, we have just begun to propagate.

Mr. INHOFE. In terms of population of the State of Nevada and the percentage my grandchildren constitute in my State, the Senator from Nevada is way ahead of me.

Mr. President, there are other points about which I could be talking that were brought up, but I don't think it serves any useful purpose. We made great progress on this bill. People have said nothing happened last week. Something did happen last week. We had a chance to bring up the bill, go over the bill, talk to people, and line up votes, quite frankly.

We have the vast majority of people believing this is the right bill. I only regret there are those who try to say it is not fair for one reason or another. There is no question, if you take this and the last two 6-year reauthorizations, that this bill is far more fair than any other authorization we have done.

All these points were kept in mind as to donee States and donor States. Now that we get up to 95 percent, we are going to forget about what it was like to be a 70-percent donor State, but I can remember. This will be an issue that will go away because you figure you are high enough. This bill got us there.

At the same time, we have donee States, States that have done very well in the past. I mentioned a minute ago, partially because the former chairman of the House Transportation Committee, Congressman BUD SHUSTER—and I served with him for 8 years in the House on that committee—perhaps his State got a little higher than it should have through his anxious approach. However, when you compare that to the State of Oklahoma—this is an interesting comparison—you can look at a chart and see you are not getting as much as last year and, therefore, it is unfair.

That is just not true. My State has roughly the same road miles as the State of Pennsylvania. If you look at the next 6 years, the State of Pennsylvania is getting three times as much money as we are getting in our State of Oklahoma. It doesn't sound like I did a very good job for Oklahoma.

There are other factors involved. It was called to my attention by one of the Senators from that State that it is a pass-through State. Everyone goes through Pennsylvania to get someplace. How do you put that into an equation? How do you put down how many people stop to buy products or services in your State? Some of these factors can't be done.

I will say this: The old bill turned out to be a minimum guarantee. That was wrong. That was a political document that merely said we will make 60 percent of the people in this Chamber happy, and we don't care what happens to the other 40 percent. That was not an appropriate way to approach that bill.

With the factors of donee, donor, total lane miles, vehicle miles traveled, annual contributions to the highway trust fund from commercial vehicles, diesel fuel just on highways, relative share of the total cost of repair and replacement of deficient highways and bridges, weighted nonattainment in maintenance areas, and rate of return for donor States, this formula has worked, and I am very proud of it.

We have gone through the last 2 weeks complimenting each other and the leadership. I certainly compliment my friend from Vermont, the ranking member, Senator JEFFORDS, as well as Senator REID, the ranking member on the subcommittee, and, of course, KIT BOND, the chairman of the subcommittee under my committee. But I also compliment the staff.

I can promise you, Mr. President, that the staff worked many more hours than we did. They were down there all this last weekend. All I was doing was sitting on the phone calling for votes. It was a lot of hard work, a lot of dedication. I want all the staff members of the majority and the minority to know how much I personally appreciate them.

I think it is necessary to have this bill. I can't think of anything worse than going on these short extensions and no one can plan in advance. With the bill we have today, we have it set up so we can plan in advance.

The IPAM part of this bill will allow those projects which are ready to go to start working, to start those projects going, to hire the people.

We had a chart a while ago as to the number of people this bill puts to work. We are talking about almost 3 million people, 3 million jobs that will be filled as a result of having this bill pass.

I look forward to talking about the amendments, working toward cloture, and getting this bill passed in the Senate and sent to conference so we can all go to work in conference and come up with a good solution to our Nation's highways, roads, and infrastructure problems, as well as jobs in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I, first, commend my good friend from Oklahoma, and then I will give my synopsis of some of the areas of this bill. I have just never worked with someone who has been more cooperative—and our staffs—to bring about a consensus in a very difficult bill. A little change here and a little change there will change millions of dollars and who it goes to and will bring about a consensus that will at least make enough people happy to vote for the bill, which is the ultimate goal.

We have made great progress. I think we are now in a position where we are going to be able to move forward.

TEA-21 provided record funding levels for transportation, which allowed States and local governments to make greater investments in our transportation systems than ever before. S. 1072 will continue that trend.

In crafting this bill, Chairman INHOFE, Senator BOND, Senator REID, and I wanted to ensure the resources available under this bill would be spent wisely and responsibly.

During our hearings, we learned of challenges facing communities and transportation agencies trying to manage a full load of increasingly complex transportation projects. In response, we crafted a bill that will improve the delivery and stewardship of the Federal aid highway program.

First, we have expanded the scope of a program called "value engineering." Value engineering provides States and local governments an additional approach to examining transportation projects before they are finalized. It promotes improved design, construction, and funding of transportation projects.

Second, we have included provisions to address issues that arise when State and local governments develop large-scale projects, so-called mega projects that cost over $1 billion.

To ensure these projects are developed and managed efficiently, S. 1072 requires project management and financial plans.

Finally, to ensure that money received by the States is properly accounted for, we direct the Secretary to annually review States' financial management systems.

As my colleagues can see, S. 1072 provides record levels of funding for transportation investment and the provisions to ensure we are good stewards of the public funds.

I look forward to going into the amendment process and making sure we work, hopefully, efficiently and effectively and quickly to get this bill before us in final form before too long.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, the transportation planning process is a critical component of any surface transportation program or project. Poor planning may lead to cost overruns, project delays, and even project cancellations. An early and comprehensive planning process can help stakeholders and project sponsors to identify and overcome potential problems so transportation projects proceed smoothly.

Our bill includes several provisions to encourage better planning practices at both the State and metropolitan levels. We make some additions to current law to encourage transportation planning agencies to consider our environmental, natural resource, and community health issues early in the planning process.

The bill directs transportation planners to consult with relevant resource agencies when developing long-range transportation plans.

Improved coordination will promote long-range plans and project proposals that adequately consider and address the diverse implications of transportation projects. Improved interagency consultation and coordination is only one component of a successful plan.

As I have said before, transportation investment is about people and communities. It is about making life better for our citizens by providing an efficient, safe, and comprehensive transportation system.

A successful transportation program is one that considers the needs and the wishes of the people it serves. Our bill will enhance public participation in the planning process, encouraging projects that meet our infrastructure needs without sacrificing the environment or quality of life.

Finally, our bill emphasizes the role of new and emerging technologies in transportation planning. Geospatial mapping technologies have inspired innovative and successful planning processes in many States around the country. We encourage States to continue to develop and implement those technologies and to integrate them into the transportation planning process.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I have a couple of issues I will address as in morning business. I ask consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

A PREMATURE BSE DECISION

Mr. DASCHLE. Mr. President, yesterday the Bush administration called to end the short-term investigation into the recent mad cow scare. While many of us believe Secretary Veneman and her staff have done a good job on many fronts, the decision to suspend the investigation is extremely premature. Despite the high safety standards met by cattle producers, consumers still have questions about the safety of America's meat supply. By curtailing its investigation, the Bush administration has chosen not to do all it can to settle the questions raised by the discovery of a single Canadian-born cow infected with BSE.

In 2001, a herd of 81 cattle came into the United States from Canada. One of those animals turned out to have BSE. USDA, through its investigation, has managed to locate 28 of the remaining 80 Canadian-born animals. We are grateful for these efforts, but there is a lot more work to do. Twenty-eight is not 80.

Last year, USDA Chief Veterinarian Ron DeHaven said:

> We feel confident that we are going to be able to determine the whereabouts of most if not all of these animals within the next several days.

Six weeks later, those early hopes have been disappointed. Consumers have a right to know why those other cattle were not found and what more, if anything, can be done.

If we assume the Canadian index herd were all fed the same bovine byproduct known to cause BSE, it is possible the other animals currently in the United States may also have the disease.

An international panel convened by USDA announced last week they believe some cattle in the U.S. may actually have BSE. While the likelihood an American consumer would come into contact with the meat from one of the infected cows is low, Government has the responsibility to do all it can to instill consumer confidence in the safety and quality of our food system and the food we feed our families.

That work has not been completed because the investigation has not been adequately ended. While the risk to human health may be remote, the Bush administration is doing a disservice to consumers by short-circuiting the good work USDA has done to locate the Canadian-born animals in question.

In the face of so many doubts and questions, it makes no sense to cut this investigation short. Some suggest pressure from the hugely concentrated meatpacking industry is responsible. A small handful of meatpackers controls 80 percent of the beef in the United States. In fact, this is such a significant problem that the Senate approved legislation as part of its last farm bill to address problematic concentration in the meatpacking industry. Unfortunately, that provision was stripped during the conference and was not included in the final farm bill.

Along with this growing concentration comes greater influence within the administration itself. I am not suggesting the packers did something unlawful, but the fact remains they wanted to end this investigation because it cast a cloud over their products. Evidently, these are the interests the Bush administration has chosen to advance above others.

Others have suggested the Bush administration took this step in its zeal for a single American trading continent—no borders with the Canadians or the Mexicans whatsoever. In fact, after the farm bill was passed, the Secretary suggested we should have a continent-of-origin label for certain agricultural products. If that had been pursued, we would never be able to differentiate between our highest quality products and those from Canada and Mexico. As it is, Americans today, still, do not have the option of knowing where our food comes from.

This is particularly important with regard to beef in light of the BSE scare. American consumers are simply asking for a label with basic information about the food they eat. In fact, 80 percent of Americans have said they would like to know where their meat comes from. That is why Senators on both sides of the aisle fought for and won approval of the country-of-origin labeling law. It is why many of us have charged those opposed to COOL with acting irresponsibly. In a backroom deal before the BSE scare, Republicans met in private and delayed the COOL law for 2 years.

The Senate has shown time and time again that we support this important consumer law and that we want to see it back in law, to ensure implementation this fall. In fact, the law still requires USDA to develop the regulations by this fall. So, when we change the date of implementation back to September of this year, there should be no delay whatsoever in USDA implementing it on time as the law originally required. But we should not even have to wait for that. USDA has the authority to immediately provide this information to consumers, to tell them where their food and, in particular, where their meat originated. If we have that, consumers can stay away from Canadian-born cattle, at least until the animals in question that have not been located in the United States are actually found.

But to date the administration will have none of it. They will not help inform U.S. consumers, even though our major export markets have requested we certify that our exports are born and raised and processed in our country. I don't understand why the administration will not provide U.S. consumers the information they want and our foreign trading partners the information they now demand.

The only answer that keeps coming back to many of us is while COOL is good for average Americans, it is inconvenient for the large meatpacking cartel since they would be required to affix a simple label to their products and track the meat from the stockyard to the store shelf. So, despite the support of 167 consumer groups representing over 50 million Americans, the administration denies Americans this basic information.

USDA should reopen the investigation and try to locate all of the cattle from the Canadian index herd. They should also assist American consumers and American farmers and ranchers by immediately implementing a "Product of the USA" labeling program under emergency regulations. Instead of bowing to pressure and cutting short a valuable investigation, the administration should take a step back and rethink its priorities. The BSE scare is now hurting all of our ranchers, as over 40 countries have banned imports from the United States. The American livestock industry is being tarnished and ranchers are suffering because of one Canadian cow. The industry should not be further tarnished by inappropriate Government action. The administration should reopen the investigation, drop its opposition to labeling, and implement COOL immediately.

For the sake of America's farmers and ranchers, for consumer confidence in the safety of our food supply, the administration needs to do the right thing. Though it might upset a few special interests, the American people will overwhelmingly support such an action because it is in their interest. I, for one, will commend the President for his thoughtful reversal of this misplaced policy priority.

WHITE HOUSE SAYS EXPORTING U.S. JOBS IS "GOOD FOR THE ECONOMY"

Mr. President, the other issue I wanted to discuss briefly is a new position taken by the administration, reflected in this newspaper. The article appeared this morning in the Los Angeles Times. The headline reads, "Bush Supports Shift of Jobs Overseas."

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Feb. 10, 2004]

BUSH SUPPORTS SHIFT OF JOBS OVERSEAS

(By Warren Vieth and Edwin Chen)

WASHINGTON.—The movement of American factory jobs and white-collar work to other countries is part of a positive transformation that will enrich the U.S. economy over time, even if it causes short-term pain and dislocation, the Bush administration said Monday.

The embrace of foreign out-sourcing, an accelerating trend that has contributed to U.S. job losses in recent years and has become an issue in the 2004 elections, is contained in the president's annual report to Congress on the health of the economy.

"Outsourcing is just a new way of doing international trade," said N. Gregory Mankiw, chairman of Bush's Council of Economic Advisors, which prepared the report. "More things are tradable than were tradable in the past. And that's good thing."

The report, which predicts that the nation will reverse a three-year employment slide by creating 2.6 million jobs in 2004, is part of a weeklong effort by the administration to highlight signs that the recovery is picking up speed. Bush's economic stewardship has become a central issue in the presidential campaign, and the White House is eager to demonstrate that his policies are producing results.

In his message to Congress on Monday, Bush said the economy " is strong and getting stronger," thanks in part to his tax cuts and other economic programs. He said the nation had survived a stock market meltdown, recession, terrorist attacks, corporate scandals and war in Afghanistan and Iraq, and was finally beginning to enjoy "a mounting prosperity that will reach every corner of America."

The president repeated that message during an afternoon discussion about the economy at SRC Automotive, an engine-rebuilding plant in Springfield, Mo., where he lashed out at lawmakers who oppose making his tax cuts permanent.

"When they say, 'We're going to repeal Bush's tax cuts,' that means they're going to raise you taxes, and that's wrong. And that's bad economics," he said.

Democrats who want Bush's job were quick to challenge his claims.

Sen. John F. Kerry of Massachusetts, the front-runner for the Democratic presidential nomination, supports a rollback of Bush's tax cuts for the wealthiest Americans and backs the creation of tax incentives for companies that keep jobs in the United States—although he supported the North American Free Trade Agreement, which many union members say is responsible for the migration of U.S. jobs, particularly in the auto industry, to Mexico.

Campaigning Monday in Roanoke, Va., Kerry questioned the credibility of the administration's job-creation forecast.

"I've got a feeling this report was prepared by the same people who brought us the intelligence on Iraq," Kerry said. "I don't think we need a new report about jobs in America. I think we need a new president who's going to create jobs in America and put Americans back to work."

In an evening appearance at George Mason University in Fairfax, Va., Sen. John Edwards of North Carolina mocked the Bush administration's economic report.

Edwards, who also supports repealing tax cuts for the richest Americans and offering incentives to corporation that create new jobs in the United States, said it would come as a "news bulletin" to the American people that the economy was improving and that the outsourcing of jobs was good for America.

"These people," he said of the Bush administration, "what planet do they live on? They are so out of touch."

The president's 411-page report contains a detailed diagnosis of the forces the White House says are contributing to America's economic slowdown and a wide-ranging defense of the policies Bush has pursued to combat it.

It asserts that the last recession actually began in late 2000, before the president took office, instead of March 2001, as certified by the official recession-dating panel of the National Bureau of Economic Research.

Much of the report repeats the administration's previous economic prescriptions.

For instance, it says the Bush tax cuts must be made permanent to have their full effect on the economy.

Social Security also must be restructured to let workers put part of their retirement funds in private accounts, the report argues. Doing so could add nearly $5 trillion to the national debt by 2036, the president's advisors note, but the additional borrowing would be repaid 20 years later and the program's longterm health would be more secure.

The report devotes an entire chapter to an issue that has become increasingly troublesome for the administration: the loss of 2.8 million manufacturing jobs since Bush took office, and critics' claims that his trade policies are partly to blame.

His advisors acknowledge that international trade and foreign outsourcing have contributed to the job slump. But the report argues that technological progress and rising productivity—the ability to produce more goods with fewer workers—have played a bigger role than the flight of production to China and other low-wage countries.

Although trade expansion inevitably hurts some domestic workers, the benefits eventually will outweigh the costs as Americans are able to buy cheaper goods and services and as new jobs are created in growing sectors of the economy, the report said.

The president's report endorses the relatively new phenomenon of outsourcing high-end, white-collar work to India and other countries, a trend that has stirred concern within such affected occupations as computer programming and medical diagnostics.

"Maybe we will outsource a few radiologists," Mankiw told reporters. "What does that mean? Well, maybe the next generation of doctors will train fewer radiologists and will train more general practitioners or surgeons. . . . Maybe we've learned that we don't have a comparative advantage in radiologist."

Government should try to salve the short-term disruption by helping displaced workers obtain the training they need to enter new fields, such as healthcare, Mankiw said, not by erecting protectionist barriers on behalf of vulnerable industries or professions. "The market is the best determinant of where the jobs should be," he said.

Bush's quick visit to Missouri—his 15th to a state considered a critical election battleground—was the first of several events this week intended to underscore recent economic gains. Although U.S. job creation remains relatively sluggish, the nation's unemployment rate fell from 6.4% in June to 5.6% in January, and the economy grew at the fastest pace in 20 years during the last half of 2003.

The format of his visit to SRC Automotive—one that he particularly likes—involved several employees and local business owners sharing the stage with the president to discuss their perspectives on the economy, with Bush elaborating on their stories to emphasize particular aspects of his economic program.

Today, Bush is scheduled to meet with economic leaders at the White House. On Thursday, he goes to Pennsylvania's capital, Harrisburg—in another swing state that he has already visited more than two dozen times since becoming president.

Mr. DASCHLE. When I saw the headline, I had to read it twice.

I actually could not believe what I was reading. Again the quote is from the headline, "Bush Supports Shift of Jobs Overseas."

Our economy has already lost 2.6 million jobs in the last 3 years. We have 9 million Americans who are unemployed. Long-term unemployment is at a 20-year high, and 80,000 workers are exhausting their unemployment benefits every week because our Republican colleagues refuse to extend temporary Federal unemployment benefits.

What does the White House say? The President's top economic advisers tell us not to worry. They say shipping American jobs to China, India, and other countries is actually good for the economy. Those comments are actually in this article. It is a direct quote, that these American jobs shipped abroad are good for the economy. They say exporting computer programming jobs and other white-collar jobs is actually good for the economy.

The White House acknowledges some workers will be hurt. But then they say the "benefits" of exporting American jobs "eventually will outweigh the costs as Americans are able to buy cheaper goods and services and new jobs are created in growing sectors of the economy."

How are people without jobs supposed to buy all of these goods and services? How do you keep a consumer economy going when you export the jobs? What are they thinking?

The chairman of the President's Council of Economic Advisers, the office that wrote the report, says the "government should try to salve the short-term disruption by helping displaced workers obtain the training they need to enter new fields, such as health care." That sounds like a cruel joke.

The President's proposed budget for next year cuts money for Federal job training.

You have on the one hand the President's council arguing we ought to train displaced workers but then have the budget presented to Congress as one which actually cuts the very training the administration is advocating.

How do people know what fields to train for? How do they know the jobs they are training for won't be the next jobs targeted to be shipped overseas with the encouragement of the White House?

Maybe exporting American jobs sounds like a good idea if you are sitting in some think tank, or behind a desk at the White House, or here on the Hill. But out in the real world, it is creating real hardship and anxiety.

I have seen what happens when plants ship their jobs overseas. It happened in my hometown 2 years ago. Midcom, Incorporated makes electronic transformers for high-tech companies. They used to employ 200 people in Aberdeen. One Tuesday morning in March of 2001, those workers showed up for work and were told their jobs were going to be gone in 3 months, many of them to Mexico and China.

I have met with many of those workers. A lot of them are women in their 40s and 50s, and their families depended on their incomes to make ends meet. They don't see how exporting their jobs was a good idea for the economy, and neither do most Americans.

The chairman of the President's Council of Economic Advisers is quoted as saying, "Out-sourcing is just a new way of doing international trade." "More things are tradable than were tradable in the past. "

Not everything is tradable. The dignity that comes from earning an honest dollar and providing for your family is not tradable. The security that comes from knowing you can pay the bills and you are not going to lose your home is not tradable. The sense of patriotism and community that says we are all in this together is not a tradable commodity.

The White House report predicts a miraculous economic recovery this year. They say we could see the creation of 3.8 million jobs. The White House has said the economy will create millions of jobs every year now for the last 3 years. And they have been wrong. They are wrong now when they say exporting American jobs is good for the economy. The White House has lost more jobs on President Bush's watch than the last 11 administrations put together. They have cut job training in education. They are blocking Federal unemployment benefits. And now, incredibly, they are saying that exporting middle-class, white-collar jobs is good for the economy.

Instead of policies that reward companies for shifting jobs overseas, instead of letting companies open a post office box in some island nation and call it their corporate headquarters so they skip out on paying taxes, America needs a real plan to keep the good jobs we have here and create many more of them.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Missouri.

Mr. BOND. Mr. President, I understand there is an amendment of the Senator from Virginia and the Senator from New York pending. Is that the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. BOND. Mr. President, I spoke about this amendment this morning. For those who may not have been fortunate enough to hear it, let me reiterate just a few of the important points.

This is a mandate. This is very clearly a mandate with a very severe penalty on any State that doesn't either have 90-percent usage of seatbelts or a primary seatbelt law.

I came to this body as a former Governor who has seen so much of the big brother influence telling State Governors and State legislators what they have to do, and I said we need to find a better way of doing things. I also said I happen to be a strong believer in seatbelts. I have been in a couple of serious accidents. Because I had a seatbelt on and the shoulder harness, I came away with only a good fright, and, fortunately, with no serious injuries. I have seen many other people who were not so fortunate. I believe in encouraging seatbelt usage. I believe the proper way to do it is through incentives and encouragement.

Under this proposed amendment, in fiscal year 2005 and thereafter, 10 percent of the funds under the Highway Safety Improvement Program would be transferred to the section 402 program, and beginning in 2007, 2 percent of the Interstate Maintenance, Surface Transportation and Bridge Programs would be withheld from States that didn't have a primary seatbelt law or achieve at least a 90-percent safety belt use rate. The percentage withheld would rise to 4 percent in fiscal year 2008 and thereafter.

Why do I object to that? That is telling the people who pay the money into the Federal highway trust fund through their taxes on the fuel they buy that their legislature has to do what we say they should or we are going to withhold the money from them. I believe we cannot continue to usurp the activities and the roles of State legislatures and State chief executive officers.

I introduced a letter from a number of organizations saying:

> Currently States face 8 highway safety-related sanctions and penalties that are designed to force compliance with various Federal highway safety mandates or goals, including enactment, by specified deadlines, of various types of State safety legislation. While our organizations support the underlying safety goals, we oppose the use of penalties and sanctions.

They go on to say:

> Fewer resources to invest means delays in roadway and intersection improvements, fewer dollars for upgrading signage and markings, and less funding available for investment and safety research.

Also signing this letter are the executive director of the American Association of State Highway and Transportation Officials, the executive director of the Governors Highway Safety Association, the president and chief executive officer of the American Highway Users Alliance, the executive director of the International Association of Chiefs of Police, the executive director of the Commercial Vehicle Safety Alliance, the executive director of the National Conference of State Legislators, the president of the American Council of Engineering Companies, and the vice president of Public Affairs of the AAA, as well, I might say not surprisingly, as the executive director of the National Governors Association.

I hope we may be able to have a vote on that very shortly. But I would defer to the principal sponsor of the amendment to speak in opposition to the arguments I have made.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my colleague for his courtesy, and that of the distinguished chairman of the committee, Senator INHOFE.

I say to my dear friends: What price do you put on life? No one disputes this legislation will save lives. I don't know of anyone in this Chamber who wouldn't put the highest possible priority on saving lives.

This legislation follows, in many respects, what this Chamber did not too many years ago when it was faced with the problem of trying to reduce the actions and loss of life or injury occasioned by the abuse of alcohol and then driving the automobile.

As a consequence of that, 47 States now have complied with that statute. It is a success in terms of the limited goals that could be set realistically by the .08 drinking level. It achieved the goals in 47 States.

We are asking the average American, about 79 percent of our constituents in the 50 States—it varies from State to State but overall average, nationally, 79 percent—who use the seatbelt, we are just trying to take it from 79 percent up to 90 percent.

That is the purpose, to save lives, very often innocent lives. It is a well-known, documented fact that in a collision, those who have safety belts on have a higher degree of physical control over the vehicle with the hope of trying to reduce the consequences of the inevitable accident. Without a seatbelt, the driver is often jostled in such a way that he or she loses total control of the car and often an innocent individual is injured.

It is the youth of this Nation who will be the principal beneficiaries of this legislation because, regrettably, it is the young people who are so often involved in these frightful accidents. For whatever reason, macho or otherwise, they do not wear their seatbelts.

This law would simply say that law enforcement in the several States, when they observe a car passing and the driver does not utilize their safety belt, can pull that driver over. In my State today, that driver cannot be pulled over unless he or she is committing an offense other than not wearing their safety belt. Law enforcement can then pull that driver over if he or she is not wearing their safety belt and levy whatever penalties are appropriate. But it is that fear of being pulled over, particularly among those young people, who always seem to be fighting accumulated points for driving infractions, who will be the principal beneficiaries.

The men and women of the Armed Forces, regrettably—so many of them, again, ages 18 to 30—are involved in these accidents. So we are helping our military because they will comply with this law of the several States if there is a mandatory seatbelt law.

When my colleagues cast their vote momentarily, stop to think, what price do you put on a life? I bet if you go back—perhaps I can resurrect how you voted on the .08 legislation for alcohol; this is a direct parallel in almost every way.

This is not mandated because the State, on its own initiative, can devise a program to go to 90 percent. It does not have to follow this track. Go ahead, there might be a better idea in your State to reach 90 percent. Then there is no problem under this law; you have met the criteria.

As that bell rings and you approach the Chamber, just ask yourself the question, What price do I put on a life? Because no one in this Chamber can stand up and say this law would not save lives, would not save injuries, would not save money now expended by your local community to care for those in an accident, many of whom do not have insurance. And the bill stops at your local hospital, unpaid. We did it for .08; we can do it for this.

I thank my colleagues for patiently listening to me. My distinguished colleagues from Missouri read off a list of endorsements and I have 135 groups here. The American Medical Association—I listened very carefully yesterday at a press conference when this was addressed by their representative—is strongly in favor of this. My colleague from Missouri mentioned the chiefs of police. I am proud to say my State, the Virginia Chiefs, endorse this statute. As I say, the President, through his Secretary of Transportation, while not directly addressing this specific piece of legislation, said:

> I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries.

I have two cosponsors on this bill. I wonder if the distinguished manager would enable me just to contact them?

Mr. INHOFE. Will the Senator yield?

Mr. WARNER. Yes.

Mr. INHOFE. In fairness to the Senator's cosponsors and in fairness to others who may not be easily retrievable at this time, I believe it would be a good idea to defer the vote. I will move to table and ask for the yeas and nays but ask the leadership to maybe put it tomorrow morning sometime. That will give the Senator ample time and provide time for them to be heard on the bill. Is that acceptable?

Mr. WARNER. That is a reasonable request. I think the distinguished Senator from New York, Mrs. CLINTON, would require, say, 10 minutes and the distinguished Senator from Ohio, Mr. DEWINE, and the distinguished Senator from Washington, 10; I will take 5 more minutes; maybe 40 minutes on this side prior to the vote.

Mr. INHOFE. I do not have a problem with that and 40 minutes on this side at all. Why not plan to do that?

Now I have been told we cannot lock in time agreements on a tabling motion, so I will withhold.

Let me be sure we all understand: In my State of Oklahoma, it perhaps makes no difference. We are one of the 20 States that has mandatory seatbelt laws. In fact, it could be argued we could be benefited by this because if other States do not comply and are punished, then that amount of money could go to the States that already comply. So I could actually benefit.

My problem has always been, as the distinguished Senator from Virginia knows, it is a mandate. I would prefer not to do it this way.

I know the Senator's heart is right. I know there is another great person who served in here by the name of John Chafee who felt as strongly about this as the distinguished Senator from Virginia.

Mr. WARNER. Also, Mr. President, we discussed the possibility that I could amend this because I think the distinguished chairman pointed out that 8 months is a short time. So if we could have a gentlemen's understanding that perhaps I could amend it in such a way to take that clause and revise it to enable States to have more time.

Mr. INHOFE. Yes.

Mr. WARNER. Mr. President, we are accommodating the desires of the managers of this bill. Certainly as the chief proponents of this amendment, as long as my cosponsors have an opportunity to speak to it, this matter will be handled fairly.

I yield the floor.

MOTORCYCLE SAFETY

Ms. MURKOWSKI. Mr. President, the Bureau of Transportation Statistics tells us that almost 5 million motorcycles are registered to operate on America's roadways, covering almost 17 million miles per year. Many more are used off-road, and some estimates put the actual number of riders at up to 20 million.

All these Americans choose to ride motorcycles either for recreation or for their primary means of transportation, and every year the number of Americans on motorcycles increases. As that number increases, so does the number of accidents, including fata accidents. Yet we are falling tragically behind in training these individuals to ride safely.

The single best way to avoid injuries, fatalities, high insurance costs, lawsuits, medical costs and all the other factors that come into play is by avoiding the accidents in the first place.

The National Highway Traffic Safety Administration, in its Motorcycle Safety Program issued in January 2003, said: "Crash prevention . . . offers the greatest potential safety benefit for motorcyclists."

And the single best way to avoid accidents is to provide safety training.

Training works.

Untrained riders have accidents, and trained riders do not. It is really as simple as that.

A study of the California Motorcyclist Safety Program designed by Dr. John Billheimer and completed in 1996 found that rider training dramatically reduces accidents, and thus eliminates injuries and fatalities. Specifically, the study stated, "Analyses of statewide accident trends show that total motorcycle accidents have dropped 67 percent since the introduction of the California Motorcyclist Safety Program, with a drop of 88 percent among the under-18 riders. . . . If accident trends in California had paralleled those in the rest of the U.S. over this period, the State would have experienced an additional 124 fatalities per year. By any measure, the California Motorcyclist Safety Program is a cost-effective program that pays for itself many times over in saved lives and reduced accident rates."

Even more recent statistics from the Commonwealth of Virginia are equally telling. Virginia has approximately 110,000 registered motorcycle. Since 1998, there have been 7,099 motorcycle crashes in Virginia and 222 of those crashes have been fatal. Yet out of all those accidents, the number involving riders with formal training is less than 4 percent of the total, and the number of fatal accidents involving trained riders is just 1.8 percent. The vast majority of all accidents—over 96 percent—are riders without training.

The most far-reaching document yet completed on motorcyclist safety is the "National Agenda for Motorcycle Safety," a cooperative effort by the National Highway Traffic Safety Administration, the Motorcycle Safety Foundation, the National Association of State Motorcycle Safety Administrators, and a host of others representing the insurance industry, law enforcement, riders, traffic safety experts and others.

The National Agenda identified a number of steps needed to reduce the tragic rate of motorcycle accidents. Uppermost among them is the need for better training.

Where does motorcyclist training come from? Who does it? How is it funded?

The truth is, training, and funding for training, is a mixed bag. And that, is exactly the problem. Most States provide at least moral support, but there is no uniform process for ensuring that training is provided, or that the facilities and funding is made available.

In most cases, training is funded almost entirely by the students themselves, who pay up to $300 per person for the privilege. Many States also collect money—often a nominal charge of $5.00 for a motorcycle operator's license. Both these efforts to raise funds are strongly supported by and promoted by the motorcycling community—but they want to ensure that the funds are actually used for things that enhance motorcyclist safety.

As for the curriculum itself, far and away the most frequent choice is the material created by the Motorcycle Safety Foundation (MSF), a group supported by the major motorcycle manufacturers.

The MSF course material for beginning motorcyclists is extremely comprehensive. It focuses on teaching the skills and knowledge needed for safe riding—beginning with the use of proper equipment such as gloves, boots and helmets, goes on to teach students how to predict and avoid hazardous situations, and graduates to teaching the physical skills needed for crash avoidance. This is precisely the course material that has produced such outstanding results in California, Virginia and many other States.

You may well ask, "If training is so successful, why do we still have so many accidents? The answer is as simple as can be: training availability lags far behind the demand.

Throughout the country, the waiting list to join a training class ranges from several weeks to several months.

In California, which has one of the oldest and strongest programs, it may take as long as 3 months.

In Wisconsin, one of the States where training dollars were totally eliminated, motorcyclist groups have stepped up to the plate to self-fund training, but the waiting list may be as large as 7,000 people.

Illinois trained 8,500 people in 2000, but had to turn away nearly 3,000 more for lack of space. Course capacity increased in 2001 and 2002, but the number of people turned away increased faster. In 2003, almost 11,000 students completed training, but almost 4,000 were told "Sorry, there's no room for you."

And that's the story in State after State.

Unfortunately, what that means is that untrained riders are increasing in number all the time. If you can pass your State's test, you can ride. And if you just spent thousands of dollars on a new motorcycle, the chances are you won't be letting that new motorcycle license go to waste. But a licensed rider isn't necessarily a trained rider, nor is he or she necessarily a safe rider. It takes training—or years of experience—to make a safe rider. The statistics from California and Virginia confirm that for all to see.

At the appropriate time, it is my intention to seek action to encourage the State to provide more and better support for these vital training efforts.

Now, let me turn to another concern of the motorcycling community. A large part of the training needed to produce safe riders consists of teaching them how to avoid road hazards that simply should not exist in the first place. In many cases, highway engineering practices focus on four wheels, not two.

The average driver cruises past such things as bridge expansion joints, loose manhole covers, the slick sealants used to fill cracks in asphalt pavement, rough asphalt patches, rumble strips and lane-dividing buttons that keep drivers awake, and the steel or steel cable barriers along the side of the road. Yet any or all of these things may be hazardous to a rider.

The motorcycling community has long sought ways to let engineers and designers know about those hazards, and work with them to design better systems. I have seriously contemplated offering an amendment that would address this issue, but I am happy to report that such an amendment may not be needed.

That concludes my statement for the movement, but at this time I would like to engage in a colloquy with the chairman of the Environment and Public Works Committee on this matter.

I have been working in several areas to address the issue of motorcyclist safety. As part of this effort, I have been working to establish an Advisory Council to assist the Secretary of Transportation in developing the appropriate safety specifications for highways and motorcycles. Fatalities among motorcyclists have gone up dramatically, rising from 2,112 in 1997 to 3,244 in 2002. Because motorcyclists have special needs and concerns, I have long been concerned that the Department of Transportation has not had adequate input from either riders or experts outside the Department itself. Thus, I proposed establishing a council of riders and experts to advise the Secretary on their unique safety needs.

Chairman INHOFE has been very helpful in trying to find the most appropriate way to get this accomplished. He suggested and I agreed to work with the American Association of State Highway and Transportation Officials—AASHTO, which is the organization that actually develops guidelines for highway safety engineering.

I recently received from AASHTO a letter describing a task force it has developed to identify strategies that can be used to reduce motorcycle fatalities and injuries. I believe this task force may be able to accomplish my goal of elevating the unique safety needs of motorcyclists to greater attention by including both riders and outside experts in its deliberations. As a result, I have decided not to offer an amendment to establish an advisory council at this time.

I believe that Chairman INHOFE has had an opportunity to look over the AASHTO letter and I am wondering if he agrees with me that this will accomplish what we have been working towards.

Mr. INHOFE. I have read the AASHTO letter to Senator MURKOWSKI and agree with her that the task force proposed by AASHTO will indeed accomplish what she seeks to achieve.

Mr. President, I ask unanimous consent that the letter from AASHTO dated February 3, 2004 to Senator MURKOWSKI be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF STATE
HIGHWAY AND TRANSPORTATION
OFFICIALS,
Washington, DC, February 3, 2004.

Hon. LISA A. MURKOWSKI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: It has been brought to our attention that motorcycle safety issues are of great concern to you and your constituents. As you know, motorcycle fatalities have gone up dramatically in the past several years, rising from 2,112 fatalities in 1997 to 3,244 in 2002. The State transportation agencies share your commitment to addressing this public safety problem.

Motorcycle riding has special needs and concerns. Currently, the American Association of State Highway and Transportation Officials (AASHTO), through the National Cooperative Highway Research Program (NCHRP), is developing guidance for the State transportation departments on motorcycle issues as part of the implementation of our Strategic Highway Safety Plan. Part of this multi-million-dollar research effort is focused on improving motorcycle safety and increasing motorcycle awareness. Targeted areas in which I understand you may share a strong interest include:

Increasing the awareness of motorcycles on the road through a "share-the-road with motorcycles" campaign and stressing the importance of motorcycle awareness information in driver training courses, driver handbooks or manuals, and licensing tests;

Expanding comprehensive motorcycle rider education and skill testing in all States for novice riders; and

Reducing drinking and driving by motorcyclists through alcohol awareness messages and targeted enforcement.

As part of this effort, a workshop is being planned for June 2004 to identify strategies that can be used to reduce motorcycle fatalities and injuries. You and/or your constituents are welcome to participate in, and contribute to, this workshop. The result of this research project will be the development of a guide for highway officials on practices than can improve safety for motorcyclists throughout the transportation system.

Also as part of the implementation of our Strategic Highway Safety Plan, ASSHTO has committed to the creation of a joint task force to identify hazards/areas of concern to motorcyclists, as well as highway practices that can help minimize these concerns. Examples include the longitudinal expansion joints on bridges, the slickness of material used to fill asphalt pavement cracks, and the safety of various types of guardrail including traditional steel W-beam guardrail and the newer cable barriers. This joint task force will consist of members from the State transportation departments, the American Motorcyclist Association, the Motorcycle Riders Foundation, the National Highway Traffic Safety Administration, and the Federal Highway Administration. Additional input may also be sought from other noted experts in the areas of motorcycle and highway safety both here and abroad. The information developed by this special committee will be used as input into the revision and update of the various AASHTO manuals and guides.

We are very pleased that you have an interest in this area and we are committed to working with you over the next year to ensure that these issues are addressed and that the resulting recommendations are successfully implemented. Please contact my office at (202) 624-5800 if you have any questions regarding this information.

Sincerely,

JOHN C. HORSLEY,
Executive Director.

Mr. INHOFE. I understand that the Senator has also proposed creating a new program to encourage improvements in the States' motorcycle safety programs. I believe this amendment would be very valuable. I also believe it would be most appropriate offered as part of the Commerce Committee title, and would like to be added as an original cosponsor of the amendment when that happens.

Ms. MURKOWSKI. I thank the Chairman for his assistance and will add him as an original cosponsor when that amendment is offered.

The PRESIDING OFFICER. Who seeks recognition?

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. FRIST. Mr. President, I now send a cloture motion on the bill to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair lays before the Senate the cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 426, S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.
>
> Bill Frist, James Inhofe, Christopher Bond, Gordon Smith, Lamar Alexander, Richard Lugar, Lincoln Chafee, Elizabeth Dole, George Allen, Pat Roberts, Robert Bennett, Craig Thomas, Richard Shelby, Norm Coleman, Mike Crapo, Mike Enzi, Jim Bunning.

MORNING BUSINESS

Mr. FRIST. I now ask unanimous consent that there be a period for morning business with Senators to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

SECOND LIEUTENANT LUKE S. JAMES

Mr. INHOFE. Mr. President, I rise today to honor the memory of a brave young American who gave his life defending our Nation. I went to the ceremony out at Arlington this morning for this young man. It was one of the most moving experiences I have ever had. This man felt a call to serve his country, to be a part of something bigger than himself. For that call, he paid the highest price.

2LT Luke James of Hooker, OK, was a platoon leader in the 82nd Airborne's B Company, 2nd Battalion, 505th Parachute Infantry Regiment, stationed at Fort Bragg, NC. He is survived by his wife Molly and their little son Bradley who was born just 6 months ago. His parents Brad and Arleen James live in Hooker, OK, where Luke played football at Hooker High School and graduated near the top of his class. Luke later attended and graduated from Oklahoma State University where he participated in the ROTC program and earned a degree in animal science.

While on a dismounted patrol, Luke was killed by a roadside bomb during an ambush on January 27. He gave his life for the freedom of millions of Americans and for the peace and future of the Iraqi people.

Lieutenant James had long imagined a life of service in the Army. He was going to be career. These aspirations were realized culminating with his commissioning into the airborne infantry on December of 2002. His parents have described how Luke embodied the selfless attitude toward service to country that is so evident in all of our military men and women.

On February 10, I had the opportunity to attend Lieutenant James' funeral at Arlington National Cemetery. The ceremony honored Luke, and deservedly so. In the words of Lieutenant James's mother, speaking of her son, she said:

> We are very proud as his parents that he had the attitude he had, and wanted to serve. . . . It wouldn't have been this mother's choice, but you have to have young men and women willing to preserve the freedom we have. We are glad he was willing.

He was willing. We as a nation are grateful. The loss of 2LT Luke S. James is grievous to all of us. Our thoughts are with his wife and son, as well as his family in Oklahoma.

Today we recognize his valor and commitment. It is for men like Luke James I am proud to be a part of this great Nation. He was a special soldier, a real Oklahoman, and a true American.

As we tour over there, and see these young warriors and their attitude and commitment and patriotism, it is so heartwarming. I am sure at one time or another I saw Luke, but I don't remember when that was. But he is certainly typical, and his family, recognizing that he made the supreme sacrifice, but he made it for us. He knew that risk was there when he took on the position he held.

THE CASE OF MAHER ARAR

Mr. LEAHY. Mr. President, I rise to speak about a very troubling case of rendition and alleged torture that became public last fall. This is the case of Maher Arar, a Canadian and Syrian citizen, who was deported from the United States to Syria last year, who was held and interrogated for months by the Syrians at the Bush administration's request, and who claims to have suffered torture while in custody there.

Mr. Arar was stopped by immigration officers at John F. Kennedy International Airport in September 2002 as he attempted to change planes on his way home to Canada from Tunisia. He claims that he was interrogated by an FBI agent and a New York City police officer, and that he was denied access to a lawyer. He further claims that he repeatedly told U.S. officials that he feared he would be tortured if deported to Syria. After being held for nearly two weeks in a federal detention center in New York, Mr. Arar was transferred by U.S. authorities to Syria. Arar claims that he was physically tortured during the first two weeks of his detention in Syria, and that he was subjected to severe psychological abuse over the following ten months, including being held in a grave-like cell and being forced to undergo interrogation while hearing the screams of other prisoners.

Syria has a well-documented history of state-sponsored torture. In fact, President Bush stated on November 7, 2003, that Syria has left "a legacy of torture, oppression, misery, and ruin" to its people. Stories like Mr. Arar's are appalling and, if true, seriously damage our credibility as a responsible member of the international community.

When unrelated allegations of rendition and possible breaches of the Convention Against Torture ("Torture Convention") surfaced in the summer of 2003, I wrote to administration officials asking for guarantees that the United States is complying with its obligations under this Convention. I received a response from the General Counsel of the Department of Defense, William J. Haynes. His letter contained a welcome commitment by the administration that it is the policy of the United States to comply with all of its legal obligations under the Torture Convention. I wrote to Mr. Haynes again for clarification on a number of points, such as how the administration reconciled this statement of policy with reported acts of rendition and accusations of the use of interrogation techniques rising to or near the level of torture. After 2 months with no response, another letter, this one not from Haynes himself but from a subordinate, was delivered late at night on the eve of Mr. Haynes' November 19, 2003 confirmation hearing for a seat on the Fourth Circuit Court of Appeals. That letter was totally unresponsive to my questions.

Because Mr. Arar claims that he was interrogated by an FBI agent, I wrote to FBI Director Mueller on November 17, 2003 for more information on the case. Later that week, when press accounts indicated that the deportation of Mr. Arar was approved by the Department of Justice ("DOJ"), I wrote to Attorney General Ashcroft to ask a number of additional questions. Neither of these letters has been answered.

Administration officials claim that the CIA received assurances from Syria that it would not torture Mr. Arar, and yet, spokesmen for DOJ have not explained why they believed the Syrian assurances to be credible. Nor have they explained inconsistencies in statements coming from officials at different agencies. Although the administration has officially welcomed statements by the Syrian government that Mr. Arar was not tortured, other unnamed officials have been quoted in the press as saying that, while in captivity in Syria, Mr. Arar confessed under torture that he had gone to Afghanistan for terrorist training. I have asked DOJ to address that shocking contradiction and also to explain whether the United States has investigated Syria's alleged non-compliance with any assurances it provided to the U.S. government.

Whether or not Mr. Arar had ties to terrorist organizations, as is alleged by U.S. officials, or whether his confession was a false one produced by coercion, as he claims, he was subject to the legal protections provided by the Torture Convention, which the United States has ratified.

Recently, the Canadian government announced a full inquiry into the deportation of Mr. Arar to Syria and his alleged torture there. This inquiry will also examine the role played by Canadian officials in the case to determine whether the Canadian government was complicit in the rendition of Mr. Arar. And just weeks ago, a non-profit organization, the Center for Constitutional Rights, filed a constitutional and human rights case on behalf of Mr. Arar with the U.S. District Court for the Eastern District of New York challenging the decision by federal officials to deport him to Syria. As the Washington Post editorialized on February 2, 2004, "The government should be obliged to spell out how this decision came to be made and why."

I urge my colleagues to follow this Federal court case the Canadian inquiry closely. If the allegations by Mr. Arar are true, then our government has much to answer for. The case has already damaged our standing with foreign governments, many of which we have criticized in the past for relying on torture in interrogations. If the U.S. is "subcontracting" interrogation of terrorism suspects to nations that bend the rules on torture, it undermines our reputation as a Nation of laws, it hurts our credibility in seeking to uphold human rights, and it invites others to use the same tactics.

I ask unanimous consent to print the letters I mentioned and the Washington Post editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, February 2, 2004]

MR. ARAR'S LAWSUIT

The Federal lawsuit filed last week by Maher Arar—the Syrian-born Canadian whom the federal government deported to Syria—offers a good opportunity to shed some light on one of the more peculiar civil liberties cases to arise during the war on terrorism. Mr. Arar and the U.S. government agree on the barest outlines of his story: He was flying home from Tunisia to Canada in the fall of 2002 on a path that took him through New York. He had, however, been placed on the terrorist watch list. When he presented his Canadian passport, he was detained for more than a week and—despite his pleas to be sent to Canada—was sent to Syria. There he was held for 10 months until intervention by the Canadian government secured his release.

That is where agreement ends. Mr. Arar denies any connection to al Qaeda. He claims to have been savagely tortured in his country of birth. And he alleges that he was sent to Syria, rather than to Canada, precisely so that he would be tortured—to be precise, "so that Syrian authorities would interrogate him in ways that [American officials] believed themselves unable to do directly." All of which, if true, would violate this country's international treaty obligations, which prohibit turning someone over to a government likely to mistreat that person. In Canada, Mr. Arar's case has become a cause, cited as an example of American arrogance and contempt for Canada's interests and citizens.

The American government firmly—if vaguely—denies any wrongdoing. It still claims that its information on Mr. Arar was solid, though it refuses to release any of what it terms "sensitive national security information." Mr. Arar is a member of al Qaeda, the Justice Department alleged in a recent statement. Anonymous officials have been quoted in press accounts saying that he was carrying a list of al Qaeda operatives and that then-Deputy Attorney General Larry D. Thompson signed an order certifying that returning Mr. Arar to Canada would be "prejudicial to the interests of the United States." The department says that Mr. Arar's deportation to Syria was "fully within the law and applicable international treaties and conventions." Far from intending that Syria would torture him, in fact, the department claims that it was "provided with reliable assurances that Mr. Arar would be treated humanely."

There are two questions that we hope this litigation would shed light upon. The first is whether Mr. Arar was, in fact, a would-be-terrorist. The second is why he was sent to a country known for abusing human rights, instead of being sent to Canada or detained here as an enemy combatant. What was the goal, if not to delegate to the Syrians torture that American authorities cannot engage in? At the least, the government should be obliged to spell out how this decision came to be made and why.

U.S. SENATE,
Washington, DC, June 2, 2003.

Hon. CONDOLEEZZA RICE,
National Security Adviser, The White House, Washington, DC.

DEAR DR. RICE: Over the past several months, unnamed Administration officials have suggested in several press accounts that detainees held by the United States in the war on terrorism have been subjected to "stress and duress" interrogation techniques, including beatings, lengthy sleep and food deprivation, and being shackled in painful positions for extended periods of time. Our understanding is that these statements pertain in particular to interrogations conducted by the Central Intelligence Agency in Afghanistan and other locations outside the United States. Officials have also stated that detainees have been transferred for interrogation to governments that routinely torture prisoners.

These assertions have been reported extensively in the international media in ways that could undermine the credibility of American efforts to combat torture and promote the rule of law, particularly in the Islamic world.

I appreciate President Bush's statement, during his recent meeting with U.N. High Commissioner for Human Rights Sergio De Mello, that the United States does not, as a matter of policy, practice torture. I also commend the Administration for its willingness to meet with and respond to the concerns of leading human rights organizations about reports of mistreatment of detainees. At the same time, I believe the Administration's response thus far, including in a recent letter to Human Rights Watch from Department of Defense General Counsel William Haynes, while helpful, leaves important questions unanswered.

The Administration understandably does not wish to catalogue the interrogation techniques used by U.S. personnel in fighting international terrorism. But it should affirm with clarity that America upholds in practice the laws that prohibit the specific forms of mistreatment reported in recent months. The need for a clear and thorough response from the Administration is all the greater because reports of mistreatment initially arose not from outside complaints, but from statements made by administration officials themselves.

With that in mind, I would appreciate your answers to the following questions:

First, Mr. Haynes' letter states that when questioning enemy combatants, U.S. personnel are required to follow, "applicable laws prohibiting torture." What are those laws? Given that the United States has ratified the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (CAT), is this Convention one of those laws, and does it bind U.S. personnel both inside and outside the United States?

Second, does the Administration accept that the United States has a specific obligation under the CAT not to engage in cruel, inhuman and degrading treatment?

Third, when the United States ratified the CAT, it entered a reservation regarding its prohibition on cruel, inhuman and degrading treatment, stating that it interprets this term to mean "the cruel, unusual and inhumane treatment or punishment prohibited by the 5th, 8th, and/or 14th amendments to the Constitution." Are all U.S. interrogations of enemy combatants conducted in a manner consistent with this reservation?

Fourth, in its annual Country Reports on Human Rights Practices, the State Department has repeatedly condemned many of the same "stress and duress" interrogation techniques that U.S. personnel are alleged to have used in Afghanistan. Can you confirm that the United States is not employing the specific methods of interrogation that the State Department has condemned in countries such as Egypt, Iran, Eritrea, Libya, Jordan and Burma?

Fifth, the Defense Department acknowledged in March that it was investigating the deaths from blunt force injury of two detainees who were held at a Bagram air base in Afghanistan. What is the status of that investigation and when do you expect it to be completed? Has the Defense Department or the CIA investigated any other allegations of torture or mistreatment of detainees, and if so, with what result? What steps would be taken if any U.S. personnel were found to have engaged in unlawful conduct?

Finally, Mr. Haynes' letter offers a welcome clarification that when detainees are transferred to other countries, "U.S. Government instructions are to seek and obtain appropriate assurances that such enemy combatants are not tortured." How does the administration follow up to determine if these pledges of humane treatment are honored in practice, particularly when the governments in question are known to practice torture?

I believe these questions can be answered without revealing sensitive information or in any way undermining the fight against international terrorism. Defeating terrorism is a national security priority, and no one questions the imperative of subjecting captured terrorists to thorough and aggressive interrogations consistent with the law.

The challenge is to carry on this fight while upholding the values and laws that distinguish us from the enemy we are fighting. As President Bush has said, America is not merely struggling to defeat a terrible evil, but to uphold "the permanent rights and the hopes of mankind." I hope you agree that clarity on this fundamental question of human rights and human dignity is vital to that larger struggle.

Thank you for your assistance.

Sincerely,

PATRICK LEAHY,
U.S. Senator.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, June 25, 2003.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I am writing in response to your June 2, 2003, letter to Dr. Rice raising a number of legal questions regarding the treatment of detainees held by the United States in the wake of the September 11, 2001, attacks on the United States and in this Nation's war on terrorists of global reach. We appreciate and fully share your concern for ensuring that in the conduct of this war against a ruthless and unprincipled foe, the United States does not compromise its commitment to human rights in accordance with the law.

In response to your specific inquiries, we can assure you that it is the policy of the United States to comply with all of its legal obligations in its treatment of detainees, and in particular with legal obligations prohibiting torture. Its obligations include conducting interrogations in a manner that is consistent with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ("CAT") as ratified by the United States in 1994. And it includes compliance with the Federal anti-torture statute, 18 U.S.C., §§2340–2340A, which Congress enacted to fulfill U.S. obligations under the CAT. The United States does not permit, tolerate or condone any such torture by its employees under any circumstances.

Under Article 16 of the CAT, the United States also has an obligation to "undertake . . . to prevent other acts of cruel, inhuman, or degrading treatment or punishment which do not amount to torture." As you noted, because the terms in Article 16 are not defined, the United States ratified the CAT with a reservation to this provision. This reservation supplies an important definition for the term "cruel, inhuman, or degrading treatment or punishment." Specifically, this reservation provides that "the United States considers itself bound by the obligation under article 16 to prevent, 'cruel, inhuman or degrading treatment or punishment' only in so far as the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States." United States policy is to treat all detainees and conduct all interrogations, wherever they may occur, in a manner consistent with this commitment.

As your letter stated, it would not be appropriate to catalogue the interrogation techniques used by U.S. personnel in fighting international terrorism, and thus we cannot comment on specific cases or practices. We can assure you, however, that credible allegations of illegal conduct by U.S. personnel will be investigated and, as appropriate, reported to proper authorities. In this connection, the Department of Defense investigation into the deaths at Bagram, Afghanistan, is still in progress. Should any investigation indicate that illegal conduct has occurred, the appropriate authorities would have a duty to take action to ensure that any individuals responsible are held accountable in accordance with the law.

With respect to Article 3 of the CAT, the United States does not "expel, return ('refouler') or extradite" individuals to other countries where the U.S. believes it is "more likely than not" that they will be tortured. Should an individual be transferred to another country to be held on behalf of the United States, or should we otherwise deem it appropriate, United States policy is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country. We can assure you that the United States would take steps to investigate credible allegations of torture and take appropriate action if there were reason to believe that those assurances were not being honored.

In closing, I want to express my appreciation for your thoughtful questions. We are committed to protecting the people of this Nation as well as to upholding its fundamental values under the law.

Sincerely,

WILLIAM J. HAYNES II.

U.S. SENATE,
Washington, DC, September 9, 2003.

WILLIAM J. HAYNES II,
General Counsel, Department of Defense,
Defense Pentagon, Washington, DC.

DEAR MR. HAYNES: Thank you for your June 25, 2003, letter concerning U.S. policy with regard to the treatment of detainees held by the United States.

I very much appreciate your clear statement that it is the policy of the United States to comply with all of its legal obligations under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). I also welcome your statement that it is United States policy to treat all detainees and conduct all interrogations, wherever they may occur, in a manner consistent with our government's obligation, under Article 16 of the CAT, "to prevent other acts of cruel, inhuman, or degrading treatment or punishment" as prohibited under the Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution.

This statement of policy rules out the use of many of the "stress and duress" interrogation techniques that have been alleged in press reports over the last several months, including beatings, lengthy sleep and food deprivation, and shackling detainees in painful positions for extended periods of time. It should also go a long way towards answering concerns that have been expressed by our friends overseas about the treatment of detainees in U.S. custody. It should strengthen our nation's ability to lead by example in the protection of human rights around the world, and our ability to protect Americans, including our service members, should they be detained abroad.

At the same time, the ultimate credibility of this policy will depend on its implementation by U.S. personnel around the world. In that spirit, I would appreciate it if you could clarify how the administration's policy to comply with the CAT is communicated to those personnel directly involved in detention and interrogation? As you note in your letter, the U.S. obligation under Article 16 of the CAT is to "undertake . . . to prevent" cruel, inhuman or degrading treatment or punishment. What is the administration doing to prevent violations? Have any recent directives regulations or general orders been issued to implement the policy your June 25 letter describes? If so, I would appreciate receiving a copy.

I understand that interrogations conducted by the U.S. military are governed at least in part by Field Manual 34-52, which prohibits "the use of force, mental torture, threats, insults, or exposure to unpleasant and inhumane treatment of any kind." This field manual rightly stresses that "the use of force is a poor technique, as it yields unreliable results, may damage subsequent collection efforts, and can induce the source to say whatever he thinks the interrogator wants to hear." Are there further guidelines that in any way add to, define, or limit the prohibitions contained in this field manual? What mechanisms exist for ensuring compliance with these guidelines?

Most important, I hope you can assure me that interrogators working for other agencies, including the CIA, operate from the same guidelines as the Department of Defense. If CIA or other interrogation guidelines in use by any person working for or on behalf of the U.S. government differ, could you clarify how, and why?

I am pleased that before handing over detainees for interrogation to third countries, the United States obtains specific assurances that they will not be tortured. I remain concerned, however, that mere assurances from countries that are known to practice torture systematically are not sufficient. While you state that the United States would follow up on any credible information that such detainees have been mistreated, how would such information emerge if no outsiders have access to these detainees? Has the administration considered seeking assurances that an organization such as the International Committee for the Red Cross have access to detainees after they have been turned over? If not, I urge you to do so.

Finally, has the administration followed up on specific allegations reported in the press that such detainees may have been tortured, including claims regarding a German citizen sent to Syria in 2001, and statements by former CIA official Vincent Cannistrano concerning an al-Qaeda detainee sent from

Guantanamo to Egypt (see enclosed articles)?

Thank you again for your response to my last letter.

With best regards,

PATRICK LEAHY,
U.S. Senator.

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, November 18, 2003.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I am responding to your September 9, 2003 letter, which follows up on the June 25, 2003 letter from Mr. Haynes concerning U.S. policy on the treatment of detainees held by the United States in the war on terrorism. The earlier letter to you and an April 2, 2003 letter to the Executive Director of Human Rights Watch (enclosed) contain precise statements of U.S. policy. As statements of U.S. policy, they reflect the policy applicable to the Executive Branch.

Your letter inquired about Department of Defense (DoD) implementation of the policy described in the June 25 letter. The Department takes its compliance with U.S. obligations very seriously. For that reason, the Department has a Law of War Program, which is governed by DoD directive 5100.77 (December 9, 1998), a copy of which is enclosed. That Directive, among other things, provides that it is DoD policy to ensure that DoD components observe the law of war obligations of the United States, and that those components implement an effective program to prevent violations of the law of war. Through the Law of War Program, the Department seeks to prevent law of war violations through training and by instructing DoD personnel about U.S. obligations, and ensuring that qualified legal advisers are available at all levels of command to provide advice on compliance with the law of war.

Moreover, DoD personnel are instructed to report allegations of mistreatment of or injuries to detained enemy combatants through normal command channels for ultimate transmission to appropriate authorities. Individual military personnel bear a responsibility to ensure their compliance. Commanding officers carry the additional responsibility to be aware of and to direct the conduct of the men and women under their command in order to, among other things, ensure their compliance with U.S. obligations in matters such as the treatment of those detained in an armed conflict. Although our principal institutional focus is, as it should be, on compliance with the law of war and avoiding and preventing violations of it, DoD also has an effective military criminal justice system for detecting, investigating, prosecuting, and punishing misconduct by military personnel should it occur.

Your letter also asked whether follow-up had occurred regarding allegations appearing in stories in the Washington Post on January 31, 2003, in Newsday on February 6, 2003, and in the Los Angeles Times on March 3, 2003. With respect to the first story, it does not allege unlawful activity by any U.S. official because participation in questioning abroad and knowledge of transfers to third countries, without more, do not contravene the law. With respect to the second story, the allegations of improper treatment it contains are by an individual who has not been a Central Intelligence Agency employee since well before 2001. With respect to the final story, the unnamed sources are quoted as saying that they did not know details, but they nevertheless then speculated about what was happening. To the extent that it might be possible to construe the latter two stories as containing allegations about the treatment of individuals while outside military control, I understand that the Office of the Director of Central Intelligence (DCI) has copies of these articles and is responsible for appropriate action.

Please allow me to emphasize that press stories often contain allegations that are untrue, and that my mention of the office of the DCI indicates nothing concerning the merits of those allegations and it does not express a view concerning what action might be appropriate.

I appreciate very much the opportunity to address your concerns. The Administration is committed to carrying out the law as we continue our dedicated efforts to protect Americans from terrorism.

Sincerely,

DANIEL J. DELL'ORTO,
Principal Deputy General Counsel.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 17, 2003.

Hon. ROBERT S. MUELLER,
Director, Federal Bureau of Investigation,
Washington, DC.

DEAR DIRECTOR MUELLER: I am writing to inquire about the role the FBI may have played in the extraordinary rendition of Maher Arar, a Canadian and Syrian citizen, from the United States to Syria last year.

Press reports indicate that Mr. Arar was stopped by immigration officers at John F. Kennedy International Airport as he attempted to change planes on his way home to Canada from Tunisia. Mr. Arar claims that he was then interrogated by an FBI agent and a New York City police officer. He further claims that, "They told me I had no right to a lawyer because I was not an American citizen," and that he repeatedly told U.S. officials that he feared he would be tortured if returned to Syria. "Deported Terror Suspect Details Torture in Syria," Washington Post, November 5, 2003. After being held for nearly two weeks in a federal detention center, Mr. Arar alleges that he was then handed over to U.S. intelligence officials who flew him to Jordan and turned him over to Jordanian authorities, who beat him. He was then taken to Syria, where he was detained and allegedly tortured over a period of ten months.

While the Bush administration officially denies engaging in extraordinary renditions of this sort, numerous unnamed intelligence officials have admitted to the press that renditions have occurred, purportedly under a "secret rendition policy." Id. This policy was described as "a secret presidential 'finding' authorizing the CIA to place suspects in foreign hands without due process." Id.

I find Mr. Arar's claims and the underlying rendition policy deeply troubling and would like information on the role of the FBI, if any, in this case.

1. Under what specific authority was Mr. Arar detained, first at the airport and then at the federal detention center in Brooklyn?

2. Is it true that one or more FBI agents interrogated Mr. Arar after he was detained by immigration officers at JFK airport?

3. If so, is it true that Mr. Arar was denied access to counsel?

4. Did the FBI participate in any manner in the transfer of Mr. Arar to Washington, D.C., Jordan, Syria, or to any other location?

5. An intelligence official is quoted in the Washington Post story as saying, "The Justice Department did not have enough evidence to detain him when he landed in the United States." If this is true and if, as has also been reported in the press, U.S. officials were in contact with Canadian authorities, why did the FBI and/or other officials choose not to turn Arar over to Canadian authorities?

6. In a June 25, 2003, letter to me on the subject of rendition and other matters, the U.S. Defense Department General Counsel, William Haynes, stated that the "United States policy is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country." Did the United States seek assurances from Jordan and/or Syria that Mr. Arar would not be subject to torture, or to cruel, or inhuman, or degrading treatment or punishment while in the custody of either nation? If so, what steps did the United States take after his rendition to assess compliance with such assurances in this case? Were the assurances provided in writing? If so, please provide a copy to the Committee. If such a document is classified, please arrange for cleared staff to view it. If no assurances were obtained, please explain why not.

7. Under U.S. law, non-citizens who express concerns about torture if removed are entitled to an evaluation of their claim before being removed. Under the specific regulations that were likely applied to Mr. Arar's removal, there is an explicit prohibition against returning someone to a country where there are substantial grounds for believing he would be subjected to torture. What process was used, if any, to evaluate the likelihood that Mr. Arar would be subjected to torture before removing him to Syria?

8. Are you aware of a "secret presidential 'finding' authorizing the CIA to place suspects in foreign hands without due process"? If so, please provide a copy to the Committee. If such a document is classified, please arrange for cleared staff to view it.

9. Has the FBI participated in any other alleged renditions, including interviewing and then handing suspects over to intelligence officers for transfer to another country?

Thank you for your prompt answers to these questions.

Sincerely,

PATRICK LEAHY,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 21, 2003.

Hon. JOHN ASHCROFT,
Attorney General, Department of Justice,
Washington, DC.

DEAR ATTORNEY GENERAL ASHCROFT: I am writing to inquire about the rendition of Maher Arar, a Canadian and Syrian citizen, from the United States to Syria last year.

I wrote to FBI Director Robert Mueller about this case on Monday, November 17. (See attached). Since that time, additional information on this case has been provided to the press, mainly in statements by unnamed administration officials, but also by Department of Justice (DOJ) spokespersons.

Washington Post articles indicate that the deportation of Mr. Arar was approved on October 7, 2002, by then-Deputy Attorney General Larry Thompson, who signed the order in his capacity as Acting Attorney General. "Man Was Deported After Syrian Assurances," Washington Post, November 20, 2003 [hereinafter Washington Post, Nov. 20. 2003]; "Top Justice Aide Approved Sending Suspect to Syria," Washington Post, November 19, 2003. The same story states that U.S. officials "decided to send [Arar] to Syria last year only after the CIA received assurances from Syria that it would not torture the man." Washington Post, Nov. 20, 2003. And yet, "spokesmen at the Department of Justice declined to comment on why they believed the Syrian assurances to be credible." Id.

Mr. Arar claims that he was, in fact, tortured while in Syrian custody. The Syrian government has denied that Arar was subjected to torture, but statements from U.S. officials contradict that assertion. In a November 15 New York Times article, "American officials who spoke on condition of anonymity," were quoted as saying that Arar "*confessed under torture* in Syria that he had gone to Afghanistan for terrorist training, named his instructors and gave other intimate details." "Qaeda Pawn, U.S. Calls Him. Victim, He Calls Himself." New York Times, November 15, 2003 (emphasis added). I find this statement to be shocking in light of the administration's assertions that it acted within the scope of its international treaty obligations.

Mr. Arar claims to have stated repeatedly to his U.S. interrogators that he feared torture at the hands of the Syrian government. Whether or not Mr. Arar had ties to terrorist organizations, as is alleged by U.S. officials, or whether his confession was a false one produced by coercion, as he claims, he was subject to the legal protections provided by the Convention Against Torture, which the United States has ratified.

The statements by Mr. Arar and the unnamed sources in the New York Times article cited above beg the question of whether the United States has investigated Syria's alleged non-compliance with any assurances it provided to the U.S. government. This question is especially critical in light of President Bush's statement on November 7, 2003, that Syria has left "a legacy of torture, oppression, misery, and ruin" to its people.

In light of the above facts and assertions, I request that you provide detailed answers to the following questions:

1. Under what specific authority was Mr. Arar detained, first at John F. Kennedy Airport and then at the federal detention center in Brooklyn, New York?

2. Is it true that Mr. Arar was denied access to counsel, as he claims?

3. An intelligence official is quoted in a November 5 Washington Post story as saying, "The Justice Department did not have enough evidence to detain him when he landed in the United States." "Deported Terror Suspect Details Torture in Syria," Washington Post, November 5, 2003. It has also been reported that U.S. officials were in contact with Canadian authorities regarding this case. Given that Mr. Arar, a Canadian citizen, resides in Canada and was traveling home to Canada when he was detained at the airport, why did the officials choose not to turn Arar over to Canadian authorities?

4. Did you become aware of Mr. Arar's case at any point between his detention on September 26, 2002, and October 7, 2002, the date the deportation order was signed by Mr. Thompson? Did Mr. Thompson, who was serving as Acting Attorney General when he signed the order, consult with you before signing the order? Did you approve this action?

5. In a June 25, 2003, letter to me on the subject of rendition and other matters, the U.S. Defense Department General Counsel, William Haynes, stated that the "United States policy is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country." The November 20 Washington Post article cited above confirms that assurances were obtained from Syria. What was the scope of such assurances? Were they provided to the U.S. government in writing? If so, please provide a copy to the Committee. If such a document is classified, please arrange for cleared staff to view it. If the assurances were not provided in writing, please explain why written assurances were not sought or provided.

6. What steps did the United States after Arar's rendition to assess compliance with the assurances provided by Syria in this case?

7. Is the statement of an unnamed official above that Arar "confessed under torture" accurate? If so, then Syria's actions violated the assurances provided to the U.S. before Arar's rendition. What has the U.S. done (a) to investigate such non-compliance and (b) to hold Syria accountable for such violations.

8. Under U.S. law, non-citizens who express concerns about torture if removed are entitled to an evaluation of their claim before being removed. Under the specific regulations that were likely applied to Mr. Arar's removal, there is an explicit prohibition against returning someone to a country where there are substantial grounds for believing he would be subject to torture. What process was used, if any, to evaluate the likelihood that Mr. Arar would be subjected to torture before removing him to Syria?

9. According to the November 5 Washington Post article cited in question 3, numerous unnamed intelligence officials have admitted to the press that renditions have occurred, purportedly under a "secret rendition policy." This policy was described as "a secret presidential 'finding' authorizing the CIA to place suspects in foreign hands without due process." Are you aware of a "secret presidential 'finding' authorizing the CIA to place suspects in foreign hands without due process"? If so, please provide a copy to the Committee. If such a document is classified, please arrange for cleared staff to view it.

10. Has the FBI or DOJ authorized or participated in any other alleged renditions, including interviewing and then handing suspects over to intelligence officers for transfer to another country?

11. In its effort to fight terrorism, the administration has focused on individuals who have connections to Al Qaeda that need to be further explored, and has argued that it has the right to detain and interrogate prisoners in Guantanamo Bay, perhaps as unlawful combatants or enemy combatants, as long "as it is necessary to help win the war against the Al Qaeda network and its allies." Washington Post, '"High Court Will Hear Appeals From Guantanamo Prisoners," November 11, 2003. Notwithstanding my concerns about the legal status of those detained at Guantanamo, and the administration's treatment of enemy combatants in general, it would seem that Mr. Arar fit the classic administration profile for someone who should be detained in Guantanamo. Presumably, Mr. Arar would have been safer in detention at Guantanamo Bay than in Syria.

a. Was the option to detain Arar as an enemy combatant in Guantanamo Bay considered and rejected in favor of rendition to Syria? If so, on what basis was the decision made to send him to Syria?

b. Where there is more than one destination country to which detainees may be rendered, do you believe there should be a policy to render detainees to the country where torture is least likely (e.g., a country that does not have a history of documented humanitarian abuses)?

c. What is the standard applied by the administration in determining whether to deport an individual, transfer the individual to custody at Guantanamo Bay, or to charge the individual with a crime?

Thank you for your prompt answers to these questions.

Sincerely,

PATRICK LEAHY,
U.S. Senator.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Passaic, NJ, in August, 1999. Kareem Washington, a gay man who sometimes dressed in women's clothing, was stabbed multiple times and left to die in an industrial area in Passaic. Police were unsure of the motive for the murder, however, the victim's wallet was found on his body. The victim was wearing a skirt, high-heeled shoes and stockings at the time he was killed.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO GOVERNOR LOUIE B. NUNN

Mr. BUNNING. Mr. President, I would like to take a moment today to remember Gov. Louie B. Nunn of Versailles, KY, who passed away Thursday, February 5, 2004. Louie was elected Governor of Kentucky in 1967 and was a pillar of strength in the Republican Party for half a century.

Looking back through the history of the Commonwealth, I can say that he was truly the education Governor. Louie was a champion of the education system in Kentucky. He raised the standards of education for all, but focused his efforts on those people who too often fell through the cracks in the system.

He also was an advocate for mental health issues. People used to put anyone with a mental health problem in a shoebox and write them off, but Louie saw that was wrong and got in there to fix the problem. He made it a priority and he cleaned it up.

He earned the title of Governor with a quick wit, a sharp political eye, and a gift for speaking. Louie could tell these fantastic stories and everyone would love them, captured by his words.

I have always admired his love of politics and that he always stayed committed to the Republican Party. I know he was proud to see the Republican Party win back the governorship, ending the 32-year drought since he held office in 1971. But I remember Louie for supporting his party in Kentucky through its successes and through its failures. Even when there was no one around to join him, he carried the Republican banner proudly.

And through his perseverance, he left a lasting legacy in Kentucky politics. More than any other person, he taught the people in Kentucky how to win elections and with that, he taught Republicans how to win statewide. He used to tell the story about his father, who was a precinct captain in Kentucky. Every election, his father would work as hard as he could and talk with voters one by one. And every election, they would win his precinct. Louie taught us that is how you won an election, one precinct at a time.

Gov. Louie Nunn was respected by his friends and colleagues on both sides of the aisle. All in the Commonwealth of Kentucky will miss him.

FREE TRADE AGREEMENT STRATEGY SHOULD PRIORITIZE JOBS

Mr. BAUCUS. Mr. President, I rise today to talk about our international trade policy—specifically this administration's selection of free trade agreements.

A year-and-a-half ago, many of us stood on this floor arguing that we should grant the President trade negotiating authority, or fast track. We did so because we believe that good trade agreements can create jobs for American workers and farmers.

I still believe that. And I believe we must move ahead with an aggressive trade agenda—even in an election year.

So what does that mean? Of course, our first priorities should be moving ahead with negotiations in the World Trade Organization and completing the Free Trade Area of the Americas. Those agreements provide—by far—the best opportunities for American workers and farmers.

Unfortunately, both of those agreements are languishing. WTO negotiations broke down last fall in Cancun. And the FTAA has been watered down so much that many are starting to question its value.

The administration, rightly, has chosen not to put all of its eggs in one basket. They have, over the last several years, initiated a number of new free trade agreements.

Now generally, I support this approach. We cannot allow the intransigence of some countries to hold us back from seeking new markets.

But the process by which we select new FTAs is deeply flawed. Initially, there was no process at all. There was no consultation with Congress, no public process, no criteria. To be fair, there's been some improvement—but not much, and only after serious criticism from Congress and the business community.

Mr. President, as a way to try to understand the administration's trade policy, Congressman CAL DOOLEY and I asked the General Accounting Office to assess the criteria and processes that drive the selection of our free trade agreement partners.

Today, GAO is releasing their report, and its findings confirm a number of serious concerns.

First, the criteria themselves are so broad I question whether they are meaningful. GAO finds that the criteria used within the administration to justify the selection of FTA partners have been a moving target. Different sets of criteria were used, for example, when deciding to go forward with the Central American and Australian FTAs than were used for some of the most recently announced FTAs, such as Thailand, the Andeans, and Panama.

Whatever the criteria considered, they are not weighted by importance. Moreover, the criteria are so broad—and their consideration so open-ended—it is hard to imagine any country in the world that couldn't meet them.

Second, to the extent that the existing criteria and review process set priorities, I question whether they are the right ones. GAO finds that strategic and foreign policy goals dominate the FTA selection process.

In my view, this takes our trade policy down the wrong path. I have long believed that trade agreements should be pursued on their own merits—because they create commercial opportunities for our farmers and businesses, and most critically, because they hold out the prospect of more and better-paying jobs for American workers.

These paramount concerns seem largely lost in the selection process, which looks like more of a throw-back to the Cold War—when trade policy was treated primarily as an instrument of foreign policy.

Third, the entire selection process is woefully lacking in transparency and public participation. GAO finds that, at the time this report was requested, there was virtually no formal process at all for selecting FTAs.

The attention focused on this situation by this investigation has clearly contributed to the development of a more formal interagency process for considering potential FTAs. But the process is still a closed one.

There is no notice of countries under consideration for future FTAs until the choice has already been made. There is no formal process for soliciting the views of Congress, the business community, or the general public. There is no formal public discussion of how to prioritize negotiating resources.

To my surprise, in fact, the administration has insisted until recently that the selection criteria themselves are classified. Important trade policy decisions like these should not be made in secret based on secret criteria.

Mr. President, at a time when manufacturing and other jobs are increasingly moving offshore, we need a trade policy that helps U.S. companies create and keep good jobs in this country. We need to bring the focus of our trade agenda back to commercial benefits and, most importantly, to jobs. We need to have a public dialogue on how choices are made and how resources are allocated. I urge the administration to engage with Congress to address the issues raised by this report.

I yield the floor.

ADDITIONAL STATEMENTS

RECOGNITION OF ANNIE LEE COONEY ON HER 100TH BIRTHDAY

• Mr. BOND. Mr. President, I rise today with the distinct privilege of recognizing one of St. Louis's most outstanding citizens, Mrs. Annie Lee Cooney on the occasion of her 100th birthday February 25, 2004.

Mrs. Cooney was born in Indianola, MS, as the third youngest of seven girls and two brothers. As the granddaughter of slaves and the daughter of active participants in the African-American community, Annie Lee was instilled at an early age with values and character that remain strong to this day. Her parents, Indiana and Oliver Jarman were active in the African-American community in her home town. Her father, Oliver Jarman, was a high ranking official in the Prince Hall Masons in Mississippi and was also instrumental in founding a Penny Bank in Greenville, MS.

In 1922, after attending the Tuskeegee Institute, in Tuskeegee, AL, Annie Lee moved to St. Louis to live with her sister and helped with her new baby. But it was in St. Louis where Annie Lee's life changed when she met and fell in love with Roy Cooney. The young couple were married in 1924 and Roy and Annie Lee Cooney soon became the loving parents to thirteen children—seven girls and six boys, all of whom went on to attend college.

Mrs. Cooney has been very active in the Black Catholic Community in St. Louis since the early 1930s. Some of Mrs. Cooney's professional achievements include being named President of the Sisters of the Blessed Sacrament alumni in the 1960s and Sigma Gamma Rho Sorority Mother of the Year in

1980. Mrs. Cooney has been an active member of the National Council of Negro Women, the Council of Catholic Women, the Legion of Mary, the Catholic Knights of America, the Cairo Social Club, charitable works and scholarships to Black youth, and the Seminarians Club, spiritual and financial aid to Black Catholic Seminarians. She was also a member of the Cook Avenue Block Unit Association, and a strong force in her neighborhood—with her home often serving as a gathering place for youth and young adults. Perhaps Mrs. Cooney's greatest display of goodwill was in her frequent visits to Homer G. Phillips Hospital with the Helpers of the Holy Souls. For over forty years Mrs. Cooney visited the sick and hospitalized and would provide them with candy, toiletries, and prayer.

Mrs. Cooney has traveled the world extensively, and has brought goodwill to wherever she has been. She has remained true to her motto: "If I can help somebody as I travel on, then my living will not be in vain." On behalf of the people of St. Louis and the State of Missouri, I extend my most sincere gratitude to Mrs. Annie Lee Cooney for her years of dedicated community service and the goodwill. I wish her all the best on this most important occasion, her one-hundredth birthday.•

REMEMBERING ELROY "CRAZY LEGS" HIRSCH

• Mr. FEINGOLD. Mr. President, today I honor an incredible athlete and a hero of University of Wisconsin athletics, Elroy "Crazy Legs" Hirsch.

Not many Wisconsin Badger fans can forget the 1942 football season, the only season "Crazy Legs" spent playing for the University of Wisconsin football team. By running, passing, and catching for over 1,400 yards, the Wausau-born Hirsch led the Badgers to a second-place finish in the Big Ten with an 8-1-1 record and a No. 3 ranking in the final Associated Press poll.

Hirsch's football career at Wisconsin was cut short when he joined the Marines and was ordered to Michigan for basic training in 1943. Hirsch continued his illustrious career at the University of Michigan and then professionally with the Chicago Rockets of the All-American Football Conference and then the Los Angeles Rams of the NFL. Hirsch was instrumental in the Rams' 1951 championship season by leading the league in catches, receiving yards and receiving touchdowns. Hirsch was inducted into the NFL Hall of Fame in 1968.

Hirsch's on-field legacy will forever be remembered, as his number 40 is one of only 4 numbers that has been retired by the Badgers. But his legacy off the field at the University of Wisconsin was just as important. He served as athletic director from 1969 to 1987. His tenure saw a rise in football attendance and a hockey program that reached national prominence.

The University of Wisconsin and fans from all over the State will be forever grateful for Elroy's devotion to UW athletics. My thoughts go out to his wife Ruth and his family. "Crazy Legs" was a tremendous asset to the University of Wisconsin, both on and off the field, and he will be greatly missed.•

ELLEN KAY YORK, U.S. ARMY CORPS OF ENGINEERS

• Mr. BOND. Mr. President, I rise today to honor the exemplary career of Ellen Kay York, who retired in January after 28 years of public service and returning to her home in St. Robert, MO.

Since November 2000, Ellen has served as the executive secretary to the Army's Chief of Engineers and Commander of the U.S. Army Corps of Engineers. As the senior office manager for the Executive Office, Ellen has been a valuable member of the Corps' team. In addition to her outstanding management of the Chief of Engineers' schedule, correspondence, and daily office operations, Ellen responded to a variety of requests for information from the public and the Congress, providing answers and information on behalf of the Chief of Engineers. Her skill and sensitivity have gained the respect, gratitude, and confidence of the senior leaders throughout the worldwide, 36,000-person organization.

Throughout her tenure with the Corps, Ellen Kay York has been a mentor to junior employees, spending countless hours and personal time to advise and counsel them. She has been active as well with Toastmasters International, as the Area 13 governor and as the president of the Corps' chapter, the Castle Toastmasters.

I know that the team at the Corps will miss her, particularly the so-called superior officers. I am sure that she managed and protected on too many occasions to site. But we are delighted that she is returning to God's country were she will be rewarded for and liberated from her dedicated public service. Today I congratulate this outstanding public servant for her many years of selfless and faithful service to the Nation.•

RECOGNITION OF COLONEL ROBERT C. KING

• Mr. GRASSLEY. Mr. President, I would like to take a moment to commend a remarkable Iowan. COL Robert C. King retired from his duties as Public Affairs Officer for the Iowa National Guard in December 2003 and will retire from the National Guard at the end of the year. Colonel King has been a member of the Iowa National Guard since 1968 and has worked tirelessly to break new ground in the area of communication between the Iowa National Guard and outside media outlets. It goes without saying, his service is appreciated beyond words.

In his job as Public Affairs Officer, Colonel King cultivated a media relationship with the National Guard when none existed before. He served during some of the highest profile activities since World War II including the crash of United Flight 232, Operations Desert Shield and Desert Storm, the floods of 1993, as well as Operation Enduring Freedom and Operation Iraqi Freedom. Colonel King has represented the Iowa National Guard and its thousands of members at a variety of functions throughout the State. He has held several command-directed assignments and served as the commander of the State Area Readiness Command in addition to his role as Public Affairs Officer. He handled this dual assignment with remarkable ease and showed his dedication through his willingness to take on such a committed role. While under his command, the Iowa National Guard Headquarters received Superior Unit Awards every year. Colonel King served as the 34th Rear Area Operations Center training administrator and executive officer. Colonel King also served as the administrative-supply technician for the 186th Military Police Company. He has been a valuable connection for me personally, providing information for me to stay abreast of what is going on with the Iowa National Guard. I am proud of Colonel King and the contributions he has made to Iowa. He tapped previously underutilized or noticeably absent avenues within the media relations field for the Iowa National Guard. His devotion to the soldier, the National Guard, Iowa and this country is beyond reproach.

Again, I would like to congratulate Colonel King on his retirement as Public Affairs Officer for the Iowa National Guard. He has proven to be a remarkable officer and I thank him for his inexhaustible dedication to Iowa and to America.•

RECOGNIZING SANDPOINT, IDAHO AS A SUNSET MAGAZINE "BEST SMALL TOWN"

• Mr. CRAPO. Mr. President, Idaho is known as the Gem State. I rise today to recognize a diamond among our community gems that has gained the attention of Sunset magazine. Every year, Sunset selects a group of neighborhoods, cities, and towns which readers have nominated as "best places to live." I am proud to say that Sandpoint, ID, a small community in the panhandle has earned the distinction of "Best Small Town" in January 2004.

Sandpoint sits tucked away in the Selkirk Mountain Range, approximately 50 miles south of the Canadian border. It borders Lake Pend Oreille, the largest freshwater lake in Idaho, and is 9 miles from the well-known ski resort, Schweitzer Basin. Sandpoint is a diverse community of about 7,500 people who have occupations ranging from retail businessperson, logger, doctor, attorney, vintner, millworker, herbalist, teacher, and builder. Tourism, timber, and a thriving arts community call attention to the complexity and wonderful character of Sandpoint.

This honor bestowed by the readers of Sunset magazine indicates the efforts Sandpoint residents have made to work together to create a warm, inviting community which upholds values of family and prioritizes preservation of the incredible natural beauty that surrounds this precious gem of Idaho. I commend the community and its leaders for their continuing commitment to making Sandpoint "the best."•

RECOGNIZING LAKE CASCADE, IDAHO AS A WASHINGTON POST 2004 TRAVEL "HOT SPOT"

• Mr. CRAPO. Mr. President, I rise today to recognize an up-and-coming resort community in my home State of Idaho. The Washington Post Travel Section recently chose the Top Ten domestic travel "Hot Spots" for 2004. Lake Cascade, ID was one of the destinations selected. With the construction of the first ski, golf, and lake resort in the Nation in over 20 years, the Tamarack, Lake Cascade is poised to join the ranks of Idaho's nationally renowned resort communities.

Lake Cascade will gain valuable jobs, nationwide notoriety, and welcome economic growth from the Tamarack. I commend the business and community leaders for their commitment to rural development. Lake Cascade is the gateway to the Frank Church Wilderness Area, a place of stunning beauty, largely undisturbed by man. The town has a wonderful history as a playground for outdoor enthusiasts of all types, and draws visitors from many places. I look forward to watching this burgeoning Idaho community as it embarks on a new chapter in its history.•

IN MEMORIAM OF JOHN "JACK" BURRIS

• Mr. CARPER. Mr. President, I would like to set aside a moment to reflect on the life of Mr. John "Jack" Burris upon his passing late last month. Jack was a good friend and a man who made remarkable contributions to our State. He was a truly selfless man with a kind heart, diverse interests, great abilities and boundless energy.

Jack was born in Lincoln City, now part of Milford, DE, to the late John W. and Edna Vaughn Burris. After graduating from the Peddie School in Hightstown, NJ in 1938, he went on to study at the University of Pennsylvania in 1942.

After serving his country in World War II as a member of the United States Marine Corps, Jack returned to Delaware and began farming for several years. He then founded the Burris Poultry Business, which operated from 1948 until it was sold in 1971, at which time he founded Burris Logistics, a frozen-food warehousing and distribution company, which he ran until last year.

Jack was an uncommonly active member of his community, serving on countless boards and committees. He was a member of the Executive Committee of the Wilmington Trust Co. and was chairman of its Kent County Advisory Board. For 19 years, Jack was director of the Brandywine Fund. He contributed generously of his time and energies to community, educational and service organizations.

For 35 years, he served on the Milford Memorial Hospital Board. During a portion of that time, he was the board's chairman. More recently, Jack was a member of the Bayhealth Foundation board. Annually for 37 years, he and his family cooked the chicken dinners for the Milford Hospital Fair to help support the community's hospital. For 19 years, he served as chairman of the State Integrity Commission and in 2000, he co-chaired—at my request—the committee that raised funds to remodel the State Archives Building and transform in into a state-of-the-art facility.

One of Jack's greatest joys, however, was supporting the efforts of the United Way in our State. For more than 20 years, he actively participated in Kent and Sussex Counties' United Way campaigns, serving as chairman for many years. Jack and his wife, Lillian, were honored as exceptional volunteers, receiving the United Way's Alexis de Tocqueville Society Award. He was also a charter member of the Milford Lions Club.

From 1976 to 1992, Jack was a trustee of the University of Delaware and co-chair of the search committee that recommended Dr. David Roselle as president. In 1992, he received a Doctor of Humane Letters from the University of Delaware and also served that same year on the Agriculture Advisory Committee of the University of Delaware Board of Trustees, as well as a trustees emeritus.

For more than 30 years, he was an active member of the Avenue United Methodist Church in Milford, where he served on the administrative board and was the Pastor-Parish Committee chairman for 18 years.

In 1998, Jack was inducted into the National Frozen Food Industries Hall of Fame. The Baltimore and Washington Frozen Food Association in 1993 and 1994 honored him as Man of the Year. He was inducted into the Delaware Business Leaders Hall of Fame and twice, with his wife, Lillian Marshall Burris, was named as Outstanding Citizen of the Year by the Milford Chamber of Commerce. One of his greatest honors was receiving the Josiah Marvel Cup award from the Delaware State Chamber of Commerce in 1993.

Jack Burris also has received many prestigious awards for his dedication and service. Among them are the Dover Colonial Rotary's Paul Harris Service Award, the Lions International Melvin Jones Award for Dedicated Humanitarian Services, the Delmarva Poultry Citizen of the Year and Del-Mar-Va Boy Scout Council's Citizen of the Year.

Jack leaves behind his wife of 61 years Lillian, a remarkable woman in her own right, as well as four children, twelve grandchildren, three step-grandchildren, and twelve great-grandchildren. He also leaves behind a legion of friends, colleagues and several generations of Delawareans who are living more fulfilling, satisfying lives today because of Jack's extraordinary contributions.

Jack Burris' legacy will live on in the lives of those he helped to shape and in the hearts of those who were lucky enough to call him their friend. I rise today to commemorate Jack's life, to celebrate his life, and to offer his family our heartfelt thanks for sharing this remarkable human being with all of us. Jack embodied the best of Delaware. He was one of a kind. He will be sorely missed.•

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 2061. A bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

S. 2062. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

PETITIONS AND MEMORIALS

POM–338. A memorial adopted by the Legislature of the State of Florida relative to National Forest System lands underlying the George Kirkpatrick Dam on the Oklawaha River near Palatka, Florida, and related lands to the State of Florida; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE MEMORIAL NO. 1669

Whereas, through the Water Resources Act of 1990, the United States Congress deauthorized the Cross Florida Barge Canal project located between the Gulf of Mexico and the Atlantic Ocean, and

Whereas, said act also transferred to the State of Florida all lands and interest in lands acquired and facilities completed for the project, and

Whereas, the State of Florida has established and maintained a greenway corridor which is open to the public for compatible recreation and conservation activities, and

Whereas, in order to continue these efforts it has become necessary to consolidate and collect these lands: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is requested to provide for the conveyance of the National Forest System lands underlying the George Kirkpatrick Dam on the Oklawaha River near Palatka, Florida, and the National Forest System lands lying below the 21 feet National Geodetic Vertical Datum (NGVD) underlying the Rodman Reservoir formed by such dam and National Forest Service Tract #C–615 to the State of Florida; and be it further

Resolved, That copies of this memorial be dispatched to the President of the United States, the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

POM–339. A resolution adopted by the House of Representatives of the Legislature of the State of Texas relative to the enforcement of food import restrictions on seafood imports; to the Committee on Agriculture, Nutrition, and Forestry.

House Concurrent Resolution No. 103

Whereas, imports of seafood from countries that use substances in aquaculture such as chloramphenicol, nitrofurans, and other veterinary drugs banned for such use in the United States pose potential threats to United States consumers; and

Whereas, the State of Texas is concerned about the use of certain antibiotics and other banned veterinary drugs in shrimp imported from outside of the United States for consumption in the State of Texas; chloramphenicol, a potent antibiotic, can cause severe toxic effects in humans, including hypoplastic anemia, which is usually irreversible and fatal; and

Whereas, because of such human health impacts, chloramphenicol, nitrofurans, and similar veterinary drugs are not approved for use in food-producing animals in the United States; and

Whereas, other countries, including Thailand, Vietnam, and China, have been found to use these drugs in the aquaculture of shrimp and other seafood; and

Whereas, the United States imports over 400,000 metric tons of shrimp annually, and Thailand, Vietnam, and China are the largest, second largest, and fifth largest exporters of shrimp to the United States, respectively; and

Whereas, on detection of chloramphenicol in certain shipments of seafood from China and other countries through the use of testing protocols that can detect such substances to 0.3 parts per billion, the European Union and Canada severely restricted imports of shrimp and other food from these countries in 2002; and

Whereas, the federal Food and Drug Administration inspects only two percent of all seafood imports into the United States and uses a testing procedure that cannot detect the presence of chloramphenicol below one part per billion; and

Whereas, United States-based companies involved in the importing and processing of shrimp are opposed to the use of chloramphenicol and are working with the domestic shrimp industry and the FDA to develop effective protocols to detect banned antibiotics and to exclude all tainted products from the United States market; and

Whereas, although the federal Food and Drug Administration tests of imported food did not detect chloramphenicol in shrimp imported from China and other countries in 2002, independent testing performed by or for Alabama, Florida, Louisiana, Mississippi, and Texas detected chloramphenicol in samples of imported shrimp from those countries at levels harmful to human health; and

Whereas, The denial of entry to the European Union and Canada of contaminated shrimp and other products will likely redirect those contaminated products to the United States: Now, therefore, be it

Resolved, That the 78th Legislature of the State of Texas hereby express concern about the presence of chloramphenicol, nitrofurans, and other banned veterinary drugs in imported shrimp, the potential adverse impact on the safety of the food supply, and the resultant risk to importers and domestic stakeholders to develop effective methods to detect and exclude seafood imports containing chloramphenicol, nitrofurans, and other banned veterinary drugs; and, be it further

Resolved, That the 78th Legislature of the State of Texas hereby call for immediate and focused actions by the United States government to improve the enforcement of food import restrictions on seafood imports containing chloramphenicol, nitrofurans, and other banned veterinary drugs in order to ensure the safety of the food supply and to protect consumers in the United States and, in particular, in Texas.

POM–340. A memorial adopted by the Legislature of the State of Florida relative to federal funding for a full accounting of those missing from our nation's wars; to the Committee on Armed Services.

House Memorial No. 209

Whereas, the men and women of the United States Armed Forces are trained and dedicated to protect the security of our nation, and

Whereas, these men and women have devoted themselves to the task of protecting our lives and liberty as United States citizens, and

Whereas, all Americans derive inspiration from the sacrifices endured by members of the armed services during captivity as prisoners of war, and

Whereas, the courage of the families of those members of the Armed Services who remain missing or unaccounted for continues to be a great source of inspiration and admiration for all Americans, and

Whereas, Americans recognize the special debt of gratitude owed to those who have sacrificed their freedom in the service of our country, and

Whereas, as a reaffirmation of our commitment to the courageous families of these military personnel, the State of Florida pledges support to the Defense Prisoner of War/Missing Personnel Office within the Department of Defense, which is the federal agency charged to deal with the POW/MIA issue, and

Whereas, the State of Florida hopes to ensure that those who served and sacrificed for our nation are not forgotten and left on faraway shores by urging the Congress to continue their support of the Defense Prisoner of War/Missing Personnel Office of the Department of Defense and its activities: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is requested to provide the funds necessary for the Defense Prisoner of War/Missing Personnel Office of the Department of Defense and other Department of Defense agencies that play critical roles in achieving the fullest possible accounting of POW/MIA's to continue their work unimpeded from budgetary constraints or reductions. Be it further

Resolved, That the State of Florida, through the Florida Department of Veterans' Affairs, will continue working with the Defense Prisoner of War/Missing Personnel Office to assist in the identification of unlocated family members of any Florida resident classified as a United States POW/MIA, thereby enabling the Defense Prisoner of War/Missing Personnel Office to request that eligible family members provide a blood sample to keep on file in the event it is needed in the identification process. Be it further

Resolved, That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

POM–341. A memorial adopted by the Legislature of the State of Florida urging Congress to take all actions necessary to resolve the fate of Captain M. Scott Speicher; to the Committee on Armed Services.

House Memorial No. 429

Whereas, the Armed Forces of the United States fought admirably, bravely, and successfully during Operation Desert Storm, and

Whereas, M. Scott Speicher, then a lieutenant commander and now a captain in the United States Navy, flew a Navy FA 18 in a bombing mission over Iraq on January 17, 1991, and

Whereas, then-Lieutenant Commander Speicher failed to return to his carrier following that mission and was erroneously declared killed in action, and

Whereas, since that time, intelligence has determined that Captain Speicher ejected from his aircraft, and

Whereas, in January 2001, in an unprecedented action, Captain Speicher's designation was changed from "Killed in Action" to "Missing in Action," and

Whereas, the former executive chairman of the United Nations Special Commission, a renowned expert on Iraq, testified before the United States Senate in July 2002 that "we should not give up" on Captain Speicher, and

Whereas, in October 2002, based upon intelligence confirming that he had been taken captive by the Iraqi government, Captain Speicher's designation was changed from "MIA" to "MIA-Captured," and further intelligence reports make it clear that Iraq is in a position to resolve questions regarding Captain Speicher's fate, and

Whereas, this nation has pledged to the members of our armed services that they will not be abandoned, and the State of Florida renews that pledge to Captain Speicher: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is requested to take all actions necessary to resolve the fate of Captain M. Scott Speicher, United States Navy, MIA-Captured. Be it further

Resolved, That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

POM-342. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the Fair Credit Reporting Act; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 183

Whereas, while the advantages of technology have brought consumers and businesses numerous benefits, our information age has also greatly increased the threat of identity theft. Although this issue is clearly not a new concern, the extent to which people are vulnerable to this crime has multiplied in recent years; and

Whereas, in many ways, protections for consumers have not kept pace. Public and private institutions have taken strong actions to try to safeguard their customers, but identity theft continues to increase. Identity theft is widely acknowledged to be one of the country's fastest-growing types of crime; and

Whereas, in November 2001, the United States Supreme Court rules that the two-year statute of limitations during which an identity theft victim could take action against a credit reporting agency under the Federal Fair Credit Reporting Act is based on when the identity theft took place; and

Whereas, given the unique nature of identity theft, which can easily take place without the victim's knowledge and which often takes a long time to unravel, the Fair Credit Reporting Act needs to be amended. This legislation must ensure that a victim of identity theft can take legal action based on when the fraud is discovered. Clearly, the law should not further penalize the victim of identity theft crime: Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to amend the Fair Credit Reporting Act to provide that the statute of limitations for an identity theft suit is two years from the time the fraud was discovered; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-343. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to enacting legislation to prohibit the use of a person's Social Security number as an identification beyond its original purpose; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 186

Whereas, Social Security numbers are unique to each individual and are invaluable for administering and policing the safety net for millions of Americans who qualify for the benefit programs administered by the Social Security Administration. Over the decades since Social Security was enacted, government agencies increasingly based their personal records on the Social Security number. This number began to assume the status of a virtual national identification number; and

Whereas, concerns over the proliferation of uses for the Social Security number outside of the Social Security Administration led to the enactment by Congress of the Privacy Act in 1974. This act was intended to limit further government use of the Social Security number. Nonetheless, congressional actions in the following years allowed the use of the Social Security number for additional non-Social Security purposes; and

Whereas, despite the federal Privacy Act, numerous governmental and even private organizations use the unique Social Security number as a basis for identifying individuals. With so many public and private organizations using a single identification number for an individual, it is possible to gather enormous amounts of information about a single person; and

Whereas, the Internet has made this explosion of information a danger to our people. Identity theft is now easy. The enormous financial and personal damage that identity theft inflicts on innocent people and the difficulty of correcting that damage is well documented. Congress must take stronger actions to prevent Social Security numbers from being used as general personal identification numbers: Now, therefore, be it

Resolved by the Senate, That we memorialize the United States Congress to enact legislation to prohibit the use of a person's Social Security number as an identification number beyond its original purpose; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-344. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to enacting legislation to provide greater protections against identity theft; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 182

Whereas, identity theft has become a significant and growing problem in twenty-first century America. The advantages of instant communications and extensive records, which are facilitated by the technology of the digital age, have also brought misuses of these tools for criminal purposes. With frightening speed and ease, an innocent person can face great problems or even financial ruin through identity theft; and

Whereas, much stronger protections need to be created to deal with identity theft. In addition to the steps of increasing penalties and trying to prevent this crime from occurring, there are legislative measures that should be enacted to try to make sure that people who are victims of this crime can recover with a minimum of time, cost, and disruption to their lives; and

Whereas, Michigan is taking numerous steps to fight identity theft, but federal actions are clearly vital to the ultimate success of this initiative. Specific measures that should be enacted into federal law include restricting the commercial use of Social Security numbers as identification numbers and allowing consumers to freeze their credit reports to minimize losses. Clearly, stronger protections against identity theft are long overdue: Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact legislation to provide greater protections against identity theft. We urge that measures be enacted to restrict the commercial use of Social Security numbers as identification numbers and to allow consumers to freeze their credit reports to minimize losses; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-345. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to enacting legislation to provide Michigan a more equitable share of federal transit funding and increased funding for bus projects; to the Committee on Commerce, Science, and Transportation.

HOUSE RESOLUTION NO. 135

Whereas, the United States Congress reauthorizes transportation expenditures every five years, and the current authorizing legislation, TEA 21 (Transportation Efficiency for the 21st Century), will expire with Fiscal Year 2002–2003; and

Whereas, Federal public transportation funding is appropriated by Congress as part of this appropriations process; and

Whereas, the state of Michigan historically receives no greater than 45% to 50% of the tax dollars it sends to Washington as part of the national transit trust fund; and

Whereas, as part of TEA 21, states have been guaranteed a minimum of 90% return of all tax dollars in the highway trust fund; but no guarantee was granted to transit projects; and

Whereas, currently, only 20% of federal discretionary funding for transit projects may be allocated to bus or bus facilities, while 65% of all public transportation ridership is provided on buses in this country; and

Whereas, SMART, the public transit provider in southeastern Michigan, is working to secure increased federal transportation funding and a more appropriate percentage of discretionary funding for transit projects: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to provide Michigan a more equitable share of federal transit funding and urge the Michigan congressional delegation to support all measures that would guarantee that a minimum of 90% of all transit trust funds be returned to the state of origin. We also call on Congress to increase funding for bus projects and urge that a minimum if 33% of federal transit discretionary funds be allocated to bus and bus facility projects; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation. Adopted by the House of Representatives, November 5, 2003.

POM-346. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to developing economic incentives and other programs to aid in the recovery and stabilization of the manufacturing industry in the United States; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 165

Whereas, historically, manufacturing has been a base industry for the national economy, steadily comprising approximately 17 percent of the Gross Domestic Product since 1947; and

Whereas, the manufacturing industry has experienced a rapid decline and economic losses over the last three years. After a peak in July 2000 of 17.3 million people employed by the manufacturing sector, employment declined by more than 2.7 million jobs over the next 38 consecutive months; and

Whereas, lowered demand due to troubled economic conditions, coupled with unfair foreign competition, has greatly hindered the economic prosperity of the manufacturing industry. There is substantial concern over the continuation of manufacturing in the United States if the unfair trade practices of other nations on our domestic market are not addressed; and

Whereas, the restoration and revival of the manufacturing sector are vital to the economic recovery of the United States, as manufacturing has consistently led the economic recovery from previous down-turns; and

Whereas, maintaining a strong and vibrant manufacturing industry is crucial to sustaining or enhancing our national security. Recent bankruptcies and other losses in the manufacturing industry could put the United States in the unprecedented position where it must purchase defense technology from other countries, as foreign companies currently produce such items as a key guidance chip for smart bombs. Most recently, a foreign company purchased a bankrupt domestic manufacturer that retained the rights to the stealth fighter technology; and

Whereas, developing a package of economic incentives to help foster additional growth in the manufacturing industry and assist in keeping domestic manufacturers competitive with their foreign counterparts will greatly benefit not only the manufacturing industry, but will also provide great economic benefits to Michigan and the entire country: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to develop economic incentives and other programs to aid in the recovery and stabilization of the manufacturing industry in the United States; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Commerce, and the members of the Michigan congressional delegation.

POM–347. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to accelerated highway investments in any short-term economic stimulus package; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 124

Whereas, since the events of September 11, 2001, a much sharper focus has been placed on ways to address America's economic stimulus needs and generate American jobs; and

Whereas, every $1 billion of increased investment in highway infrastructure generates 42,000 jobs and $2.1 billion in economic activity; and

Whereas, the Michigan Department of Transportation, working with their partners in the private sector, can provide an immediate stimulus to the economy, while at the same time addressing high priority infrastructure needs; and

Whereas, the Congress of the United States should provide $5 billion in obligation authority in fiscal year 2002 to the state Department of Transportation, consistent with the funding formulas included in the Transportation Equity Act for the 21st Century (TEA–21); and

Whereas, the Highway Account of the Highway Trust Fund (HTF) has a sufficient balance to allow for this investment; and

Whereas, Michigan's share of this investment would be $160.7 million; and

Whereas, this investment would create 5,804 jobs in Michigan; and

Whereas, there are considerable needs across the state for road and bridge improvement projects to warrant this additional investment: Now, therefore, be it

Resolved by the Senate, That the members of this legislative body memorialize the Congress of the United States to include accelerated highway investments in any short-term economic stimulus package that is passed in Washington, D.C.; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–348. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to enacting Great Lakes environmental restoration legislation; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 141

Whereas, although the Great Lakes network is a cornerstone of our nation's health and economic prosperity, many threats jeopardize this fresh water treasure. The invasion of nonnative species, pollution from numerous sources, damage to wetlands, and many other forces have damaged the lakes. Efforts to address these problems in the past have generally sought to reduce the damage rather than offering an opportunity to restore the lakes; and

Whereas, the proposed Great Lakes Environmental Restoration Act presently before the United States Senate holds great promise to address long-term issues facing the Great Lakes. This legislation would provide $6 billion over a ten-year span—in addition to existing programs—for a wide range of initiatives to restore the Great Lakes and put in place mechanisms to ensure better coordination of efforts and standards far into the future. Developing improved monitoring indicators is a major part of the act, with requirements for ongoing gathering and review of critical information; and

Whereas, the Great Lakes Restoration Financing Act, a similar House proposal, through $4 billion in funding over a five-year period, would provide a greater coordination of efforts through involvement by Great Lakes governors and elected officials as well as key federal agencies. There would also be an emphasis on implementing individual state management plans; and

Whereas, clearly, the Great Lakes network is one of the world's greatest natural assets. Investing in its restoration is paramount to the quality of the future we will share: Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact Great Lakes environmental restoration act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–349. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to enacting legislation to give states the authority to ban out-of-state solid waste; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 85

Whereas, in 1992, the United States Supreme Court, in Fort Gratiot Sanitary Landfill v. Michigan Department of Natural Resources, ruled that states could not regulate or ban the importation of solid waste because only Congress has the authority to regulate interstate commerce. Since that time, Michigan has become the dumping ground for increasing amounts of solid waste from outside of our state and, with large amounts of trash from Canada, from outside the country; and

Whereas, Michigan has become one of the largest recipients of imported solid waste in the country. Approximately 15 percent of all trash dumped in landfills in Michigan now originates elsewhere. The amounts have increased significantly in the past several years, and recent reports of a major contract with Ontario and of the closing of the nation's largest landfill in New York seem to indicate this situation will only become a bigger issue in the future; and

Whereas, accepting unlimited volumes of trash from outside our state is a serious long-term commitment. Long after the money from the contract has been spent, there is a threat to the environment and an obligation to monitor sites to protect water and health. Clearly, any state accepting these long-term risks should be able to regulate what comes across state lines for disposal: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to give states the authority to ban out-of-state solid waste; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representative, and the members of the Michigan congressional delegation.

POM–350. A concurrent resolution adopted by the Senate of the Legislature of the State of Michigan relative to regulations under the Clean Water Act; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 11

Whereas, one of the most frustrating issues facing the Great Lakes is the threat from nonindigenous species. Invaders like the zebra mussle, the round goby, and the ruffe damage the ecology of the Great Lakes and connecting waterways in many ways. The impact of exotic species on municipal water systems, fishing, and aquatic plant life exacts a terrible toll on the nation's most important freshwater resource; and

Whereas, Michigan has exercised consistent leadership in the effort to prevent the arrival of more nonnative species. Out state has put incentives in place in an effort to curb the release of untreated ballast water from the ships that traverse the lakes, which is the primary source of these foreign species. As a state that has suffered significantly because of organisms released into the lakes through the discharge of ballast water, Michigan has repeatedly called for stronger steps to prevent this from happening; and

Whereas, the effort to halt the introduction and spread of nonindigenous species through ballast water discharges continues to be frustrated by federal regulations under the Clean Water Act. Although this key federal act requires permits through the National Pollution Discharge Elimination System for discharges, 40 C.F.R. §122.3(a) provides that discharges from vessels that are incidental to normal operations are exempt from the permit requirement. Although efforts to repeal this exemption recently failed, removing the exemption remains a vitally important step to take to safeguard the Great Lakes: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorializing the Congress of the United States and the Environmental Protection Agency to repeal 40 C.F.R. §122.3(a), which provides for an exemption for ballast water discharges from permit requirements under the federal Clean Water Act; and be it further

Resolved, That copies of this resolution be transmitted to the Environmental Protection Agency, the United States Coast Guard, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–351. A concurrent resolution adopted by the Senate of the Legislature of the State of Michigan relative to funding the Great Lakes Legacy Act and to expediting cleanup efforts in Michigan's designated Areas of Concern; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 13

Whereas, the United States-Canada Great Lakes Water Quality Agreement of 1972, as amended, provided for the designation of Areas of Concern in need of remedial actions to address documented pollution problems; and

Whereas, fourteen Areas of Concern (AOC) have been designated in Michigan under the Great Lakes Water Quality Agreement, each with a Remedial Action Plan that coordinates and focuses the efforts of multiple levels of government and other stakeholders; and

Whereas, substantial progress has been made in characterizing the sources and causes of beneficial use impairments, identifying necessary remediation activities, and generating broad stakeholder involvement in and support for the Remedial Action Plan process; and

Whereas, substantial resources are needed to remediate contaminated sediments, which are a persistent source of toxic pollution to the Great Lakes from each AOC and contribute to 11 of the 14 beneficial use impairments identified in the Great Lakes Water Quality Agreement; and

Whereas, Congress has enacted the Great Lakes Legacy Act, authorizing $270 million for monitoring, assessing, and cleaning up contaminated sediments in Great Lakes Areas of Concern; and

Whereas, substantial funds under the Clean Michigan Initiative environment bond program remain earmarked for cleanup efforts in Michigan's 14 Areas of Concern; and

Whereas, the United States Environmental Protection Agency is reorienting its programs to expedite progress in restoring the Areas of Concern, has finalized guidelines for removing communities from the list of toxic hot spots and has committed to a new Great Lakes Strategy that calls for completing restoration and "delisting" of 10 Areas of Concern by 2010; and

Whereas, the Senate Great Lakes Conservation Task Force has called for a more aggressive state role in supporting Area of Concern cleanup efforts and greater use of federal resources toward this end: Now, therefore, but it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the Congress of the United States to fund the Great Lakes Legacy Act at its authorized level of $54 million in Fiscal Year 2004; and be it further

Resolved, That we urge the Department of Environmental Quality, in collaboration with local advisory councils in the Areas of Concern, to utilize funds remaining in the Clean Michigan Initiative to leverage funding under the Great Lakes Legacy Act to implement sediment cleanup projects in the state's Areas of Concern; and be it further

Resolved, That we urge the United States Environmental Protection Agency and the Department of Environmental Quality to monitor and report on progress in achieving cleanup goals in the Areas of Concern, including the documentation needed to remove the affected communities from the list of Areas of Concern and to consult with and empower local advisory groups established to represent the Area of Concern communities in the development and implementation of cleanup plans; and be it further

Resolved, That copies of this resolution be transmitted to the Administrator of the United States Environmental Protection Agency, the EPA Region 5 office, the EPA Great Lakes National Program Office, the International Joint Commission, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the director of the Michigan Department of Environmental Quality.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs:

Report to accompany S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes (Rept. No. 108–225).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. BOXER:

S. 2058. A bill to direct the Secretary of the Interior to cancel certain Bureau of Land Management leases that authorize extraction of sand and gravel from the Federal mineral estate in land in Soledad Canyon, California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FITZGERALD (for himself, Mr. LEVIN, and Ms. COLLINS):

S. 2059. A bill to improve the governance and regulation of mutual funds under the securities laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REID:

S. 2060. A bill to permit certain local law enforcement officers to carry firearms on aircraft; to the Committee on Commerce, Science, and Transportation.

By Mr. GREGG (for himself and Mr. ENSIGN):

S. 2061. A bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services; read the first time.

By Mr. GRASSLEY (for himself, Mr. CARPER, Mr. CHAFEE, Mr. DODD, Mr. HATCH, Mr. KOHL, Ms. LANDRIEU, Mr. LUGAR, Mr. MILLER, Mr. SCHUMER, and Mr. SPECTER):

S. 2062. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; read the first time.

By Mr. CONRAD (for himself, Mr. GRAHAM of Florida, Mr. ROCKEFELLER, Mr. AKAKA, and Mr. JOHNSON):

S. 2063. A bill to require the Secretary of Veterans Affairs to carry out a demonstration project on priorities in the scheduling of appointments of veterans for health care through the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. ENSIGN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 11, a bill to protect patients' access to quality and affordable health care by reducing the effects of excessive liability costs.

S. 491

At the request of Mr. REID, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 595

At the request of Mr. HATCH, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 700

At the request of Mr. COCHRAN, his name was withdrawn as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 736

At the request of Mr. ENSIGN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from Alaska (Ms.

MURKOWSKI) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1197

At the request of Mr. ENZI, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1558

At the request of Mr. ALLARD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1558, a bill to restore religious freedoms.

S. 1587

At the request of Mr. BIDEN, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1587, a bill to make it a criminal act to willfully use a weapon, explosive, chemical weapon, or nuclear or radioactive material with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes.

S. 1603

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1603, a bill the amend title 18 of the United States Code, to prohibit the unauthorized use of military certificates, and for other purposes.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1793, a bill to provide for college quality, affordability, and diversity, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1843

At the request of Ms. SNOWE, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Louisiana (Mr. BREAUX) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 1843, a bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes.

S. 1890

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 1998

At the request of Mr. BINGAMAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1998, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 2056

At the request of Mr. BROWNBACK, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week."

S. CON. RES. 81

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER:

S. 2058. A bill to direct the Secretary of the Interior to cancel certain Bureau of Land Management leases that authorize extraction of sand and gravel from the Federal mineral estate in land in Soledad Canyon, California, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am introducing a bill today that would terminate two Bureau of Land Management mining leases in Soledad Canyon, an area that is adjacent to the city of Santa Clarita in Los Angeles County, CA.

The bill would also prohibit the issuance of any future mining leases for sand and gravel in the Soledad Canyon area that exceed the historical level of mining, which is estimated to be 285,000 tons of sand and gravel per year. Before issuing any future leases in this area, the Secretary of the Interior would be required to consult with the city of Santa Clarita and take into consideration the environmental and traffic impacts of mining. Congressman BUCK MCKEON introduced this legislation in the House of Representatives in November 2003.

Here is the problem. These two leases in Soledad Canyon would allow mining of approximately 56 million tons of sand and gravel over the next 20 years. That will mean more dust and air pollution, as well as more traffic congestion.

The residents of the city of Santa Clarita suffer from some of the worst air quality in the Nation. The mining in Soledad Canyon would occur in an area where State standards for particulate matter are already exceeded. Development of these mining leases will worsen air pollution by increasing dust and particulate matter emissions. This will lead to more respiratory problems, increased doctor and emergency room visits, more hospitalizations for cardiac and pulmonary disease, and premature deaths for area residents.

Increased traffic congestion will also result from these mining leases. Interstate 5 and State Route 14 are located in the vicinity of the mining leases, and State Route 14 is already plagued with serious traffic problems. Development of these leases would tremendously increase truck traffic in the area, causing further congestion. It is estimated that the proposed expansion of mining in Soledad Canyon would result in 347 trucks making round trips to and from the site each day in the first 10 years, increasing to 582 trucks in the second 10 years of operation.

Due to these serious concerns over impacts on air quality and traffic congestion, there is very strong opposition to the two leases by the people of Santa Clarita and over 80 organizations in California. We need this legislation.

I believe that local health and safety concerns should not be overridden by the Federal Government. Development of these leases should not occur to the detriment of the people of Santa Clarita. I share Congressman BUCK McKEON's interest in working with TMC/Cemex—the company that currently holds the leases—the city of Santa Clarita, and the Bureau of Land Management to find a resolution that is acceptable to all parties and that protects the health and safety of the city and its residents.

By Mr. FITZGERALD (for himself, Mr. LEVIN, and Ms. COLLINS):

S. 2059. A bill to improve the governance and regulation of mutual funds under the securities laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FITZGERALD. Mr. President, today I rise to introduce the Mutual Fund Reform Act of 2004. This legislation would make fund governance truly accountable, require genuinely transparent total fund costs, enhance comprehension and comparison of fund fees, confront trading abuses, create a culture of compliance, eliminate hidden transactions that mislead investors and drive up costs, and save billions of dollars for the 95 million Americans who invest in mutual funds. Above all, the Mutual Fund Reform Act strives to preserve the attraction of mutual funds as a flexible and investor-friendly vehicle for long-term, diversified investment.

I am pleased to be joined today by my distinguished colleagues on the Committee on Governmental Affairs, Senator CARL LEVIN and Senator SUSAN COLLINS, the committee's chairman, who are original cosponsors of this legislation. I am grateful for the extensive and important input both Senators provided in the drafting of this bill, and appreciate the invaluable perspective Senator COLLINS provided based on her first-hand experience as Maine's Commissioner of Professional and Financial Regulation.

I would like to take this opportunity to recognize the work of a number of our colleagues in this area. Last year, I was pleased to cosponsor S. 1822, introduced by Senator DANIEL AKAKA, the Ranking Member of the Senate Governmental Affairs Subcommittee on Financial Management, the Budget, and International Security, which I chair, to address mutual fund trading abuses. Senators CORZINE, DODD, and KERRY also have sponsored mutual fund bills from which I drew, as well as legislation introduced by Congressman RICHARD BAKER last summer and overwhelmingly passed by the House of Representatives at the end of the last session.

I also would like to acknowledge the ongoing work of the Senate Committee on Banking, Housing and Urban Affairs, the authorizing committee which will ultimately decide questions of mutual fund industry reform. The committee is conducting a series of legislative hearings to examine the mutual fund scandal and the merits of various reform proposals. I commend the leadership of Chairman RICHARD SHELBY and Ranking Member PAUL SARBANES, and look forward to continuing to work with them and the other members of the Banking Committee on this issue in the coming months.

The bill I am introducing today reflects extensive testimony that was presented during oversight hearings of the Financial Management Subcommittee that I chaired on November 3, 2003, and January 27, 2004. The general consensus of the panelists at the November hearing was that illegal late trading and illicit market timing were indeed very serious threats to investors but that excessive fees and inadequate disclosure of those fees were an even more serious threat to American investors. Witnesses at our hearing last month testified regarding the propriety and the adequacy of the disclosure of mutual fund fees, specifically hidden fees such as revenue sharing, directed brokerage, soft money arrangements, and hidden loads such as 12b-1 fees. The subcommittee also heard from two whistleblowers who were responsible for the initial revelations regarding Putnam Investments and Canary Capital Partners, LLC.

The bill also reflects the constructive input from a number of key organizations and leaders of mutual fund reform. I especially appreciate the extensive contributions of Mr. John Bogle, the founder and former CEO of the Vanguard Group, who has been a champion of reforms in the mutual fund industry for many years.

I ask unanimous consent that letters from Mr. Bogle, Massachusetts Secretary of State William Galvin, and organizations representing investors and consumers endorsing this bill be printed in the RECORD.

In 1980 only a small percentage of Americans invested in mutual funds and the assets of the industry were only $115 billion. Today, roughly 95 million Americans own shares in mutual funds and the assets of all the funds combined are now more than $7 trillion. Mutual funds have grown in popularity in part because Congress has sanctioned or expanded a variety of tax-sheltered savings vehicles such as 401(k)s, Keoghs, traditional IRAs, Roth IRAs, Rollover IRAs, and college savings plans. Given that mutual funds are now the repository of such a large share of so many Americans' savings, few issues we confront are as important as protecting the money invested in mutual funds.

I want to commend the many recent regulatory initiatives from the Securities and Exchange Commission (SEC). They are collectively a step in the right direction and a demonstration of our seriousness in Washington about putting the interests of America's mutual investors first. But the SEC does not have the statutory authority to take all of the needed steps to restore integrity and health to the mutual fund industry. The current scandals demand that Congress take a comprehensive look at an industry still governed by a 64-year old law.

Therefore, the Mutual Fund Reform Act of 2004 puts the interests of investors first by: ensuring independent and empowered boards of directors, clarifying and making specific fund directors' foremost fiduciary duty to shareholders; strengthening the fund advisers' fiduciary duty regarding negotiating fees and providing fund information, and instituting Sarbanes-Oxley-style provisions for independent accounting and auditing, codes of ethics, chief compliance officers, compliance certifications, and whistleblower protections.

The Mutual Reform Act of 2004 empowers both investors and free markets with clear, comprehensible fund transaction information by: standardizing computation and disclosure of (i) fund expenses and (ii) transaction costs, which yield a total investment cost ratio, and tell investors actual dollar costs; providing disclosure and definitions of all types of costs and requiring that the SEC approve imposition of any new types of costs; disclosing portfolio managers' compensation and stake in fund; disclosing broker compensation at the point of sale; disclosing and explaining portfolio turnover ratios to investors, and disclosing proxy voting policies and record.

The Mutual Fund Reform Act of 2004 vastly simplifies the disclosure regime by: eliminating asset-based distribution fees (Rule 12b-1 fees), the original purpose of which has been lost and the current use of which is confusing and misleading—and amending the Investment Company Act of 1940 to permit the use of the adviser's fee for distribution expenses, which locates the incentive to keep distribution expenses reasonable exactly where it belongs—with the fund adviser; prohibiting shadow transactions—such as revenue sharing, directed brokerage, and soft-dollar arrangements—that are riddled with conflicts of interest, serve no reasonable business purpose, and drive up costs; "Unbundling" commissions, such that research and other services, heretofore covered by hidden soft-dollar arrangements, will be the subject of separate negotiation and a freer and fairer market; requiring enforceable market timing policies and mandatory redemption fees—as well as provision by omnibus account intermediaries of basic customer information to funds to enable funds to enforce their market timing, redemption fee, and breakpoint discount policies; and requiring fair value pricing and strengthening late trading rules.

The Mutual Fund Reform Act also would perpetuate the dialogue and preserve the wisdom gathered from hard experience. The Act directs the SEC and the General Accounting Office to conduct several studies, including a study of ways to minimize conflicts of interest and incentivize internal management of mutual funds; a study on coordination of enforcement efforts between SEC headquarters, SEC regional offices, and state regulatory and law enforcement entities; and a study to enhance the role of the internet in educating investors and providing timely information about laws, regulations, enforcement proceedings and individual funds, possibly by mandating disclosures on websites.

Enactment of the Mutual Fund Reform Act would help restore the integrity of the mutual fund industry and would dramatically enhance the amount of retirement savings for many long term investors. Shareholders would be the big winners under this legislation, and the losers would be high cost mutual funds. I therefore urge my colleagues to support passage of this legislation.

I ask unanimous consent that the text of the bill, as well as a one-page summary and white paper describing the legislation, be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

THE VANGUARD GROUP,
Valley Forge, PA, February 6, 2004.

I salute Senator Fitzgerald for the bill he has drafted to improve the governance and regulation of mutual funds. I've spent the greater part of my career speaking out on nearly all of the important legislative issues that Senator Fitzgerald's Mutual Fund Reform Act of 2004 addresses. While nothing can solve the industry's problems overnight, I view of the bill as the gold standard in putting mutual fund shareholders back in the driver's seat, and endorse it in its entirety.

JOHN C. BOGLE,
Founder.

SECRETARY OF THE COMMONWEALTH
OF MASSACHUSETTS,
Boston, MA, January 23, 2004.

Re Mutual Fund Reform act of 2004.

Hon. PETER FITZGERALD,
Chairman, Subcommittee of Financial Management, the Budget, and International Security, Senate Committee of Governmental Affairs, Hart Senate Building, Washington, DC.

DEAR SENATOR FITZGERALD: As the chief securities regulator in Massachusetts, I write in support of the Mutual Fund Reform Act of 2004. The recently-exposed abuses relating to mutual funds show the need for this legislation. Small investors are particularly vulnerable to these abusive practices, since nearly half of U.S. households own mutual funds—often through their retirement plans.

The bill increases the independence of fund directors and obliges them to act as fiduciaries on behalf of shareholders; it makes the costs of mutual funds more transparent; and it curtails many abusive mutual fund sales practices.

We particularly support the provisions to prohibit directed brokerage and soft dollar arrangements by mutual funds. These practices, at best, mask the true costs of fund operations; at worst, they are kick back-type payments in the securities industry.

I also encourage you to add a provision that will give investors the ability to choose the forum where they may arbitrate disputes with their brokers. Under the current system, investors are forced to arbitrate their claims in a forum chosen by the brokerage.

Please contact me if I can assist you in working for the adoption of this important legislation.

Sincerely,

WILLIAM F. GALVIN,
Secretary of the Commonwealth.

FEBRUARY 5, 2004.

Hon. PETER G. FITZGERALD,
Dirksen Building, U.S. Senate,
Washington, DC.

DEAR SENATOR FITZGERALD: We are writing to express our enthusiastic support for your draft "Mutual Fund Reform Act." More than any other legislation that has yet to be introduced since the mutual fund scandals erupted last year, this bill recognizes the need to fundamentally transform the way in which mutual funds are governed, operated, and sold to ensure that they live up to their statutory obligation to operate in their shareholders' best interests.

This legislation offers a thoughtful and far-reaching agenda for reform. It addresses significant gaps in the SEC's proposals to improve fund governance, dramatically enhances the quality of mutual fund cost disclosures, and prohibits distribution practices that create unacceptable and poorly understood conflicts of interest. It also takes the necessary step of banning hidden "soft dollar" arrangements that boost shareholder costs and create additional conflicts of interest. We look forward to working with you to win passage of these essential reforms.

Our support for this bill is based on the firm belief that mutual funds have been and will continue to be the best way for average, middle-income investors to participate in our nation's securities markets. Individuals with only modest amounts to invest have benefited greatly from the opportunity mutual funds offer to achieve broad diversification. While wealthy investors have other options that provide similar benefits, average, middle-class investors do not. The resulting influx of money into mutual funds has in turn produced generous profits for fund companies.

This long record or mutual success had caused some in the industry and among its regulators to become complacent, taking for granted that all was well. By revealing the extent to which some fund managers had abandoned their obligation to operate in fund shareholders' best interests, the trading scandals uncovered last fall provided sudden and compelling evidence that such complacency was ill-founded. The closer scrutiny of fund operations that resulted quickly uncovered evidence of other similar failings: Management fees that had failed to drop significantly, or in some cases at all, despite a massive growth in assets; use of portfolio transaction commissions, which are not incorporated in the fund expense ratio, to pay for services whose costs would otherwise have to be disclosed; use of portfolio transaction commissions borne by shareholders to pay for services whose benefits flowed in part or in whole to the fund manager; use of poorly disclosed or misunderstood compensation methods, including 12b-1 fees, directed brokerage, and payments for shelf space to induce brokers to recommend particular funds; and broker recommendation of mutual funds based on the financial incentives received rather than on which funds offer the best quality at the most reasonable price.

By driving up costs to investors and undermining competition based on cost and quality, these practices inflict far greater financial harm on their victims than the trading scandals appear to have done.

Since it became clear that mutual fund sales and trading abuses were widespread throughout the industry, the Securities and Exchange Commission has responded with an ambitious enforcement, investigation, and rule-making agenda. In addition to developing reforms targeted specifically at excessive and late trading, the Commission has issued proposals to strengthen mutual fund governance, sought suggestions on how to improve disclosure of portfolio transaction costs, and proposed rules to improve disclosure of distribution-related costs and conflicts of interest.

Despite this important progress, there are serious gaps in the SEC's regulatory agenda. Some result from the agency's lack of authority to effect change. Others result from the SEC's lack of a vision of how mutual fund regulation must be transformed. This legislation fills those gaps. If it is adopted, it will dramatically improve fund governance, eliminate practices that create unacceptable conflicts of interest, and save mutual fund investors potentially tens of billions of dollars a year by wringing out excess costs.

Our specific comments in support of some of the bill's most important pro-investor provisions follow.

1. The legislation's fund governance reforms address significant gaps in the SEC's rule proposal.

The Securities and Exchange Commission has made a promising start on the issue of fund governance. In January, it issued a rule proposal that would require that three-quarters of mutual fund board members, including the chairman, be independent. It would further require that independent members meet at least quarterly without any interested parties present. It authorizes the board to hire staff to help it fulfill its responsibilities. And it requires boards to retain copies of the written documents considered as part of the board's annual review of the advisory contract.

Although the Commission certainly deserves credit for this important first step, there is more that must be done to achieve the goal of improved fund governance. First and foremost, the Commission lacks the authority to strengthen the definition of independent director. So, even if it adopts its independent governance requirements without weakening amendments over the already announced objections of two commissioners, non-immediate family members, individuals associated with significant service providers of the fund, and recently retired fund company employees would all be eligible to serve as "independent" directors. Furthermore, the SEC proposal does not require that independent directors have sole authority to nominate new directors and set director compensation, potentially leaving significant issues in the hands of fund managers.

This bill addresses all those concerns. It includes an excellent definition of independence, which both specifically addresses the issue of significant service providers and authorizes the SEC to exclude from the definition of independent director any set of individuals who for business, family, or other reasons are unlikely to demonstrate the appropriate degree of independence. It requires both that independent directors determine director compensation and that a committee of independent directors nominate new directors. And it directs the SEC to study whether any limit should be placed on the aggregate amount of director compensation an individual could receive from a single fund family and still be considered independent.

The bill further recognizes that lack if independence is not the only concern about mutual fund governance. Also problematic is the failure of many mutual fund boards to act as fiduciaries, with a broad responsibility to protect shareholder interests. The bill attacks this problem by broadening the scope of directors' fiduciary duty. As defined in the legislation, that duty would include, among other things, a responsibility to: take quality of management as well as actual costs and economies of scale into account when negotiating management contracts; evaluate the quality, comprehensiveness, and clarity of disclosures to fund shareholders regarding costs; assess any distribution and marketing plan with regard to its costs and benefits; and monitor enforcement of policies and procedures to ensure compliance with applicable securities laws. The SEC would be responsible for detailing how the board's fiduciary duty applies in each instance.

By shoring up the independence of fund boards and expanding and clarifying their fiduciary duty to shareholders, this bill would increase the likelihood that fund boards would serve their intended function as the first line of defense against a variety of abusive practices.

One element missing from the bill, however, is any consideration of creating an independent board to oversee mutual funds. In testimony late last year, SEC Chairman William Donaldson suggested that the Commission was exploring ways in which funds could "assume greater responsibilities for compliance with the federal securities laws, including whether funds and advisers should periodically undergo an independent third-party compliance audit." "These compliance audits could be a useful supplement to our own examination program and could ensure more frequent examination of funds and advisers," he said.

Recent accounting scandals should have taught us the risks of relying on audits that are paid for by the entity being audited. If the SEC needs a supplement to its own examination program, a far better approach would be to create an independent board, subject to SEC oversight, to conduct such audits. The board could be modeled on the Public Company Accounting Oversight Board, with similar authority to set standards, conduct inspections, and bring enforcement actions and similar (or, better yet, stronger) requirements for board member independence. Your bill would require a GAO study of the SEC's current organizational structure with respect to mutual fund regulation. We urge you, at a minimum, to include an assessment of the benefits of establishing an independent oversight board as part of that study.

2. The legislation would dramatically enhance the quality of mutual fund cost disclosures.

A major shortcoming in the SEC's regulation of mutual funds have been its failure to take effective action to bring down excessive costs. Not only has the agency not used its own enforcement authority to bring cases against fund managers who charge and fund boards who approve unreasonable fees, it has criticized the New York Attorney General for negotiating fee reduction agreements as part of his settlement with fund companies that engaged in abusive trading. In criticizing those fee reduction agreements, Commission officials have suggested that they prefer to rely on independent fund boards and the market to discipline costs.

While the Commission can show some progress on the issue of fund governance, its proposals on cost disclosure are extremely disappointing. They fall far short of the bare minimum needed to introduce meaningful cost competition in the mutual fund marketplace. This legislation attacks to excessive costs both through strengthened governance requirements that do beyond those in the SEC rule proposal and through improved disclosures that will be more effective in raising investor awareness of costs than those proposed so far by the SEC.

One important area where the bill improves on SEC proposals is in disclosure of portfolio transaction costs. These costs vary greatly from fund to fund, may be the highest cost for an actively managed stock fund, and in some cases exceed all others costs combined. A recent study found that, on average, funds spend $0.43 on portfolio transactions for every $1.00 of expenses that are disclosed in the current expense ratio, and that in some cases fund transaction costs can exceed three or four times the current expense ratio. (Jason Karceski, Miles Livingston, Edward O'Neal, Mutual Fund Brokerage Commissions, Jan. 2004, available at http://www.zeroalphagroup.com/headlines/ZAG mutual fund true cost study.pdf.)

Yet, the SEC has long resisted incorporating these costs in the expense ratio. In response to congressional pressure, the agency has recently issued a concept release seeking suggestions for improving transaction cost disclosure, but it is not at all clear that the agency will come out in support of an approach that goes much beyond its previously stated preference for giving greater prominence to disclosure of the portfolio turnover rate. Such an approach makes not distinction between those funds that get good execution for their trades and those that do not. Furthermore, it continues to make it possible for funds to hide costs that would otherwise have to be disclosed by paying for them through soft dollar arrangements.

The bill would bring these costs out into the open where they belong. It would do so by requiring a separate computation of portfolio transaction costs that includes, at a minimum, brokerage commissions and bid-ask spread costs. And it would require this transaction cost ratio to be disclosed both separately and as part of a total investment cost ratio in the prospectus fee table and wherever else the expense ratio is disclosed. Because the bill would retain the current expense ratio, while also creating a new total expense ratio that includes portfolio transaction costs, it would allow the markets to decide which measure of fund costs is most appropriate and useful. Once this information is brought out into the open, these costs are more likely to be subject to competitive pressures, helping to drive down expenses for shareholders.

The bill would supplement this disclosure by requiring individualized disclosure in annual reports of the projected actual dollar amount of each investor's total annual costs based upon the investor's assets at the time of the disclosure. We strongly support individualized dollar cost disclosures, but believe that, to be workable, this information must be provided in the quarterly or annual account statements that show the shareholder's account balance and transaction activity. Putting cost information in dollar amounts side-by-side with information on the fund's gains or losses for the year is key to helping investors to put those costs into perspective. We urge you to adopt this clarification.

In addition, the draft version of the legislation that we have reviewed does not require pre-sale disclosure of mutual fund costs, as opposed to distribution costs. If we are to promote effective cost competition in the mutual fund industry, investors must receive cost information in advance of the sale. Post-sale disclosure, while useful in raising investor awareness of costs, comes too late to influence the purchase decision. We believe investors would be best served by pre-sale cost disclosures that are comparative in nature, showing how the fund's cost compare to category averages and minimums, and how this is likely to affect performance over the long-term. The provision in the bill that allows for point-of-sale disclosure provides an easy mechanism for offering this information. We urge you to add a provision to this effect to your bill.

With these changes, the cost disclosure provisions in this bill will go a long way toward bringing meaningful cost competition to an industry that has too long escaped its disciplining effects.

3. The bill would prohibit a variety of distribution practices that create unacceptable conflicts of interest.

Growing investor reluctance to pay the front loads that were common in the 1980s has driven mutual fund distribution costs underground. Funds substituted a variety of distribution practices—e.g., 12b-1 fees, directed brokerage, and payments for shelf space—that were less visible to shareholders. These practices encouraged the impression that the funds were load-free when in fact they imposed significant distribution costs. The practices adopted also posed significant new conflicts of interest.

Although 12b-1 fees are disclosed as a separate line item on prospectus fee tables, evidence suggests that investors are less aware of the cost implications of annual expenses than they are of front loads and do not necessarily understand that 12b-1 fees are used to compensate brokers. Because they are included in the expense ratio, 12b-1 fees appear to be a cost the shareholder pays for the fund, not a cost they pay for the services the broker provides. Problems with 12b-1 fees abound, including the fact that investors in funds that charge substantial 12b-1 fees may be stuck paying distribution costs whose benefits flow partially, or even primarily, to the fund company. Shareholders are forced to pay the fees even when they do not use the services the fees are designed to provide. With fund manager compensation based on a percentage of assets under management, fund managers reap significant benefits from the asset growth the fees promote, without having to risk their own money in the process.

Because it also uses shareholder assets to promote distribution, directed brokerage creates many of the same conflicts as 12b-1 fees and more. Not only are shareholders forced to pay higher costs for benefits that flow in part or in full to the fund manager, in some cases costs paid by one set of shareholders may be used in part to promote sale of other funds in the same fund family. Furthermore, these arrangements may encourage fund managers to decide where to conduct their portfolio transactions based not on where they can get the best execution, but on where they get the best distribution. They may even encourage fund managers to trade more than necessary simply to fulfill their directed brokerage agreements. This, in turn, drives up costs to shareholders. While 12b-1 fees are disclosed to investors, distribution costs paid through directed brokerage are not. Instead, they are hidden in undisclosed portfolio transaction costs.

Payments for shelf space are similar to directed brokerage agreements. Instead of being paid indirectly through portfolio transaction costs, however, these financial incentives are made in the form of cash payments by the fund manager to the broker. At best, by eating into the manager's bottom line, the payments may reduce the likelihood that the management fee will be reduced in response to economies of scale. At worst, fund managers will pass along those costs to shareholders in a form that is even less transparent than directed brokerage payments.

All these practices are designed to encourage brokers to recommend funds based not on which offer the best quality at the most reasonable price, but instead on which offer the most generous compensation to the broker. As such, they stand in sharp contrast to the image brokers promote of themselves as objective advisers. To its great credit, the legislation recognizes that simply disclosing these conflicts will not solve the problem. The best disclosure in the world is unlikely to counteract multi-million dollar advertising campaigns intent on convincing investors to place their trust in the objectivity and professionalism of their "financial consultant."

Instead, the legislation deals with these conflicts in the cleanest, most sensible way possible. It eliminates them. In doing so, it takes an enormous and much needed step toward forcing brokers to act like the objective advisers they claim to be. Furthermore, reforming the distribution system in this way is one of the most important things Congress can do to promote competition in the mutual fund industry based on cost and quality. That is because these practices allow mediocre, high-cost funds to survive and even thrive simply by offering generous compensation to the brokers that sell them. And, by making it harder for brokers to hide the compensation they receive for selling particular funds, this legislation should make it easier for shareholders to assess whether the services they receive from their broker justify the costs.

4. The bill would prohibit soft dollar arrangements that boost shareholder costs and create unacceptable conflicts of interest.

Soft dollar arrangements allow fund managers to pay for services through portfolio transaction costs that they would otherwise have to bill for directly—primarily research, but a variety of other services as well. And, because these costs are hidden, they create a strong incentive for fund managers to pay for services in this fashion. The conflicts they create are substantial. As with directed brokerage agreements, they encourage fund managers to direct their portfolio transactions based on the services they receive and not on who offers the best execution for those trades. Soft dollar arrangements also may encourage excessive trading with no purpose except to fulfill soft dollar agreements. This, in turn, requires shareholders to pay those unnecessary trading costs. Soft dollar arrangements may also encourage fund managers to choose service providers based not on who offers the best service at the best price, but on what services can be paid for through soft dollars, where the costs will be hidden.

As with the distribution practices discussed above, the legislation would deal with these conflicts by eliminating them. We strongly support this approach, which would reduce shareholder costs by requiring funds to seek best execution on all their trades. Some in the independent research community have raised concerns about this approach, suggesting that it will harm independent research. Nothing could be further from the truth. As long as funds can pay for research through soft dollars, they will have an incentive to choose the research whose cost can be hidden in this fashion. If soft dollar arrangements are banned, however, funds will have no reason to choose research based on any consideration but which is of the highest quality. If independent research can compete on quality, its competitive position should be improved under a soft dollar ban.

CONCLUSION

Mutual funds have been largely responsible for making it possible for average, middle-income investors to participate in our Nation's securities markets. As such, they have done much to promote both the financial well-being of those investors and the financial health of our capital markets. Regulatory oversight, however, has not kept pace with mutual funds' growing and changing role in our financial markets. The recent trading and sales abuse scandals have offered a painful reminder of just how far some fund companies have strayed from their obligation to operate in shareholders' best interests.

Fundamental reform is needed to get the fund industry back on track. The SEC has gotten us part of the way there with its recent enforcement actions and rule proposals. But partway there is simply not good enough. Important gaps exist in the SEC's agenda that will keep it from delivering the comprehensive reform that the current situation demands. This legislation fills those gaps. It offers a far-reaching and thoughtful approach that, if enacted, will go a long way toward getting the mutual fund industry back to operating in shareholders' best interests once again. Please let us know what we can do to help win passage of these essential, pro-investor reforms.

Respectfully submitted,

BARBARA ROPER,
Director of Investor Protection, Consumer Federation of America.

TRAVIS PLUNKETT,
Legislative Director, Consumer Federation of America.

MERCER BULLARD,
Founder and President, Fund Democracy, Inc.

ED MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.

SALLY GREENBERG,
Senior Counsel, Consumers Union.

KENNETH MCELDOWNEY,
Executive Director, Consumer Action.

COALITION OF MUTUAL
FUND INVESTORS,
Washington, DC, January 26, 2004.
Hon. PETER FITZGERALD,
Chairman, Subcommittee on Financial Management, The Budget and International Security, Committee on Governmental Affairs, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FITZGERALD: The Coalition of Mutual Fund Investors ("CMFI" or "Coalition") has reviewed your legislative proposals to reform the mutual fund industry. Without a doubt, your legislative initiative is the most comprehensive mutual fund bill yet to be introduced in either the House or the Senate.

The Coalition strongly supports your efforts to improve the mutual fund regulatory framework in a manner which benefits all individual investors. As the mutual fund reform debate begins this year in the Senate, your bill is likely to serve as the gold standard by which other legislative proposals are evaluated for their effectiveness in protecting the interests of individual investors.

CMFI supports the provisions contained in the mutual fund reform bill which recently passed the House of Representatives (H.R. 2420), however, the Coalition has been advocating additional regulatory measures to protect the interests of individual investors. These additional measures include: (1) better shareholder disclosure of mutual fund operating and transaction costs, (2) improved oversight of "omnibus" accounts operated by financial intermediaries, and (3) enhanced disclosure of the Statement of Additional Information.

You have included many of these reform proposals in your bill and so the Coalition is very pleased to offer its support to your legislation. The Coalition is particularly pleased that your legislation includes a CMFI proposal to require financial intermediaries operating "omnibus" accounts to disclose basic shareholder identity and transaction information to mutual funds so that the funds can ensure uniform application of their policies, procedures, fees, and charges across all shareholder classes. The interests of long-term shareholders are being harmed by a lack of oversight regarding the trading activities occurring in these "omnibus accounts" and your legislation addresses this structural problem with an effective solution.

The Coalition looks forward to working with you and your staff to enact the many thoughtful provisions contained in your bill.

Sincerely,

NIELS HOLCH,
Executive Director.

S. 2059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Mutual Fund Reform Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Rulemaking.
TITLE I—FUND GOVERNANCE
Sec. 110. Independent directors.
Sec. 111. Study of director compensation and independence.
Sec. 112. Fiduciary duties of directors.
Sec. 113. Fiduciary duty of investment adviser.

Sec. 114. Termination of fund advisers.
Sec. 115. Independent accounting and auditing.
Sec. 116. Prevention of fraud; internal compliance and control procedures.

TITLE II—FUND TRANSPARENCY

Sec. 210. Cost consolidation and clarity.
Sec. 211. Advisor compensation and ownership of fund shares.
Sec. 212. Point of sale and additional disclosure of broker compensation.
Sec. 213. Breakpoint discounts.
Sec. 214. Portfolio turnover ratio.
Sec. 215. Proxy voting policies and record.
Sec. 216. Customer information from account intermediaries.
Sec. 217. Advertising.

TITLE III—FUND REGULATION AND OVERSIGHT

Sec. 310. Prohibition of asset-based distribution expenses.
Sec. 311. Prohibition on revenue sharing, directed brokerage, and soft dollar arrangements.
Sec. 312. Market timing.
Sec. 313. Elimination of stale prices.
Sec. 314. Prohibition of short term trading; mandatory redemption fees.
Sec. 315. Prevention of after-hours trading.
Sec. 316. Ban on joint management of mutual funds and hedge funds.
Sec. 317. Selective disclosures.

TITLE IV—STUDIES

Sec. 410. Study of adviser conflict of interest.
Sec. 411. Study of coordination of enforcement efforts.
Sec. 412. Study of Commission organizational structure.
Sec. 413. Trends in arbitration clauses.
Sec. 414. Hedge fund regulation.
Sec. 415. Investor education and the Internet.

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(2) INVESTMENT ADVISER.—The term "investment adviser" has the same meaning as in section 2(a)(20) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(20)).

(3) INVESTMENT COMPANY.—The term "investment company" has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80-3).

(4) REGISTERED INVESTMENT COMPANY.—The term "registered investment company" means an investment company that is registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8).

SEC. 3. RULEMAKING.

(a) TIMING.—Unless otherwise specified in this Act or the amendments made by this Act, the Commission shall issue, in final form, all rules and regulations required by this Act and the amendments made by this Act not later than 180 days after the date of enactment of this Act.

(b) AUTHORITY TO DEFINE TERMS.—The Commission may, in issuing rules and regulations under this Act or the amendments made by this Act, define any term used in this Act or such amendments that is not otherwise defined for purposes of this Act or such amendment, as the Commission determines necessary and appropriate.

(c) EXEMPTION AUTHORITY.—The Commission may, in issuing rules and regulations under this Act or the amendments made by this Act, exempt any investment company or other person from the application of such rules, as the Commission determines is necessary and appropriate, in the public interest or for the protection of investors.

TITLE I—FUND GOVERNANCE

SEC. 110. INDEPENDENT DIRECTORS.

(a) INDEPENDENT FUND BOARDS.—Section 10(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(a)) is amended—

(1) by striking "shall have" and inserting the following: "shall—

"(1) have";

(2) by striking "60 per centum" and inserting "25 percent";

(3) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(2) have as chairman of its board of directors an interested person of such registered company; or

"(3) have as a member of its board of directors any person that is not an interested person of such registered investment company—

"(A) who has served without being approved or elected by the shareholders of such registered investment company at least once every 5 years; and

"(B) unless such director has been found, on an annual basis, by a majority of the directors who are not interested persons, after reasonable inquiry by such directors, not to have any material business or familial relationship with the registered investment company, a significant service provider to the company, or any entity controlling, controlled by, or under common control with such service provider, that is likely to impair the independence of the director.".

(b) ACTION BY INDEPENDENT DIRECTORS.—Section 10 of the Investment Company Act of 1940 (15 U.S.C. 80a-10) is amended by adding at the end the following:

"(i) INDEPENDENT COMMITTEE.—

"(1) IN GENERAL.—The members of the board of directors of a registered investment company who are not interested persons of such registered investment company shall establish a committee comprised solely of such members, which committee shall be responsible for—

"(A) selecting persons to be nominated for election to the board of directors;

"(B) adopting qualification standards for the nomination of directors; and

"(C) determining the compensation to be paid to directors.

"(2) DISCLOSURE.—The standards developed under paragraph (1)(B) shall be disclosed in the registration statement of the registered investment company.".

(c) DEFINITION OF INTERESTED PERSON.—Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2) is amended—

(1) in subparagraph (A)—

(A) in clause (iv), by striking "two" and inserting "5"; and

(B) by striking clause (vii) and inserting the following:

"(vii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of an investment adviser or principal underwriter to such registered investment company, or of any entity controlling, controlled by, or under common control with such investment adviser or principal underwriter;

"(viii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of any entity that has within the preceding 5 fiscal years acted as a significant service provider to such registered investment company, or of any entity controlling, controlled by, or under the common control with such service provider;

"(ix) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

"(I) a material business relationship with the investment company or an affiliated person of such investment company;

"(II) a close familial relationship with any natural person who is an affiliated person of such investment company; or

"(III) any other reason determined by the Commission.";

(2) in subparagraph (B)—

(A) in clause (iv), by striking "two" and inserting "5"; and

(B) by striking clause (vii) and inserting the following:

"(vii) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

"(I) a material business relationship with such investment adviser or principal underwriter or affiliated person of such investment adviser or principal underwriter;

"(II) a close familial relationship with any natural person who is an affiliated person of such investment adviser or principal underwriter; or

"(III) any other reason as determined by the Commission.".

(d) DEFINITION OF SIGNIFICANT SERVICE PROVIDER.—Section 2(a) of the Investment Company Act of 1940 is amended by adding at the end the following:

"(53) SIGNIFICANT SERVICE PROVIDER.—

"(A) IN GENERAL.—Not later than 270 days after the date of enactment of the Mutual Fund Reform Act of 2004, the Commission shall issue final rules defining the term 'significant service provider'.

"(B) REQUIREMENTS.—The definition developed under paragraph (1) shall include, at a minimum, the investment adviser and principal underwriter of a registered investment company for purposes of paragraph (19).".

SEC. 111. STUDY OF DIRECTOR COMPENSATION AND INDEPENDENCE.

(a) IN GENERAL.—The Commission shall conduct a study of—

(1) whether any limits should be placed upon the amount of compensation paid by a registered investment company or any affiliate of such company to a director thereof; and

(2) whether a director of a registered investment company who is otherwise not an interested person of a registered investment company, as defined in section 2(a)(19) of the Investment Company Act of 1940, as amended by this Act, but serves as a director of multiple registered investment companies, or receives substantial compensation from the investment adviser of any such company, should be considered an "interested person" for purposes of section 2 of the Investment Company Act of 1940.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report regarding the study conducted under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 112. FIDUCIARY DUTIES OF DIRECTORS.

Section 10 of the Investment Company Act of 1940 (15 U.S.C. 80a-10), as amended by this Act, is amended by adding at the end the following:

"(j) FIDUCIARY DUTY OF DIRECTORS.—

"(1) IN GENERAL.—The members of the board of directors of a registered investment company shall have a fiduciary duty to act with loyalty and care, in the best interests of the shareholders.

"(2) RULEMAKING.—The Commission shall promulgate rules to clarify the scope of the fiduciary duty under paragraph (1), which rules shall, at a minimum, require the directors of a registered investment company to—

"(A) determine the extent to which independent and reliable sources of information are sufficient to discharge director responsibilities;

"(B) negotiate management and advisory fees with due regard for the actual cost of such services, including economies of scale;

"(C) evaluate the totality of fees with reference to the interests of shareholders;

"(D) evaluate the quality of the management of the company and potentially superior alternatives;

"(E) evaluate the quality, comprehensiveness, and clarity of disclosures to shareholders regarding costs;

"(F) evaluate any distribution or marketing plan of the company, including its costs and benefits;

"(G) evaluate the size of the portfolio of the company and its suitability to the interests of shareholders;

"(H) implement and monitor policies to ensure compliance with applicable securities laws; and

"(I) implement and monitor policies with respect to predatory trading practices.".

SEC. 113. FIDUCIARY DUTY OF INVESTMENT ADVISER.

Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a–35(b)) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) DUTIES WITH RESPECT TO COMPENSATION AND PROVISION OF INFORMATION.—For purposes of subsections (a) and (b), the fiduciary duty of an investment adviser—

"(1) with respect to any compensation received, may require reasonable reference to the actual costs of the adviser and economies of scale; and

"(2) shall include a duty to supply such material information as is necessary for the independent directors of a registered investment company with whom the adviser is employed to review and govern such company.".

SEC. 114. TERMINATION OF FUND ADVISER.

The Commission shall promulgate such rules as it determines necessary in the public interest or for the protection of investors to facilitate the process through which the independent directors of a registered investment company may terminate the services of the investment adviser of such company in the good faith exercise of their fiduciary duties, without undue exposure to financial or litigation risk.

SEC. 115. INDEPENDENT ACCOUNTING AND AUDITING.

(a) AMENDMENTS.—Section 32 of the Investment Company Act of 1940 (15 U.S.C. 80a–31) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) such accountant shall have been selected at a meeting held within 30 days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year by the vote, cast in person, of a majority of the members of the audit committee of such registered investment company;

"(2) such selection shall have been submitted for ratification or rejection at the next succeeding annual meeting of stockholders if such meeting be held, except that any vacancy occurring between annual meetings, due to the death or resignation of the accountant, may be filled by the vote of a majority of the members of the audit committee of such registered company, cast in person at a meeting called for the purpose of voting on such action;"; and

(B) by adding at the end the following: "The Commission, by rule, regulation, or order, may exempt a registered management company or registered face-amount certificate company otherwise subject to this subsection from the requirement in paragraph (1) that the votes by the members of the audit committee be cast at a meeting in person, when such a requirement is impracticable, subject to such conditions as the Commission may require."; and

(2) by adding at the end the following:

"(d) AUDIT COMMITTEE REQUIREMENTS.—

"(1) REQUIREMENTS AS PREREQUISITE TO FILING FINANCIAL STATEMENTS.—Any registered management company or registered face-amount certificate company that files with the Commission any financial statement signed or certified by an independent public accountant shall comply with the requirements of paragraphs (2) through (6) of this subsection and any rule or regulation of the Commission issued thereunder.

"(2) RESPONSIBILITY RELATING TO INDEPENDENT PUBLIC ACCOUNTANTS.—The audit committee of the registered investment company, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any independent public accountant employed by the registered investment company (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing the audit report or related work, and each such independent public accountant shall report directly to the audit committee.

"(3) INDEPENDENCE.—

"(A) IN GENERAL.—Each member of the audit committee of the registered investment company shall be a member of the board of directors of the company, and shall otherwise be independent.

"(B) CRITERIA.—In order to be considered to be independent for purposes of this paragraph, a member of an audit committee of a registered investment company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee—

"(i) accept any consulting, advisory, or other compensatory fee from the registered investment company or the investment adviser or principal underwriter of the registered investment company; or

"(ii) be an interested person of the registered investment company.

"(4) COMPLAINTS.—The audit committee of the registered investment company shall establish procedures for—

"(A) the receipt, retention, and treatment of complaints received by the registered investment company regarding accounting, internal accounting controls, or auditing matters; and

"(B) the confidential, anonymous submission by employees of the registered investment company and its investment adviser or principal underwriter of concerns regarding questionable accounting or auditing matters.

"(5) AUTHORITY TO ENGAGE ADVISERS.—The audit committee of the registered investment company shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

"(6) FUNDING.—The registered investment company shall provide appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation—

"(A) to the independent public accountant employed by the registered investment company for the purpose of rendering or issuing the audit report; and

"(B) to any advisers employed by the audit committee under paragraph (5).

"(7) AUDIT COMMITTEE.—For purposes of this subsection, the term 'audit committee' means—

"(A) a committee (or equivalent body) established by and amongst the board of directors of a registered investment company for the purpose of overseeing the accounting and financial reporting processes of the company and audits of the financial statements of the company; and

"(B) if no such committee exists with respect to a registered investment company, the entire board of directors of the company.".

(b) CONFORMING AMENDMENT.—Section 10A(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(m)) is amended by adding at the end the following:

"(7) EXEMPTION FOR INVESTMENT COMPANIES.—Effective one year after the date of enactment of the Mutual Fund Reform Act of 2004, for purposes of this subsection, the term 'issuer' shall not include any investment company that is registered under section 8 of the Investment Company Act of 1940.".

(c) IMPLEMENTATION.—The Commission shall issue final regulations to carry out section 32(d) of the Investment Company Act of 1940, as added by subsection (a) of this section.

SEC. 116. PREVENTION OF FRAUD; INTERNAL COMPLIANCE AND CONTROL PROCEDURES.

(a) DETECTION AND PREVENTION OF FRAUD.—Section 17(j) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(j)) is amended to read as follows:

"(j) DETECTION AND PREVENTION OF FRAUD.—

"(1) COMMISSION RULES TO PROHIBIT FRAUD, DECEPTION, AND MANIPULATION.—It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of an investment adviser of or principal underwriter for a registered investment company, to engage in any act, practice, or course of business in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by such registered investment company, or any security issued by such registered investment company or by an affiliated registered investment company, in contravention of such rules as the Commission may adopt to define, and prescribe means reasonably necessary to prevent, such acts, practices, or courses of business as are fraudulent, deceptive or manipulative.

"(2) CODES OF ETHICS.—The rules adopted under paragraph (1) shall include requirements for the adoption of codes of ethics by a registered investment company and investment advisers of, and principal underwriters for, such investment companies establishing such standards as are reasonably necessary to prevent such acts, practices, or courses of business. Such rules and regulations shall require each such registered investment company to disclose such codes of ethics (and any changes therein) in the periodic report to shareholders of such company, and to disclose such code of ethics and any waivers and material violations thereof on a readily accessible electronic public information facility of such company and in such additional form and manner as the Commission shall require by rule or regulation.

"(3) Additional compliance procedures.—The rules adopted under paragraph (1) shall—

"(A) require each registered investment company and investment adviser to adopt and implement general policies and procedures reasonably designed to prevent violations of this title, the Securities Act of 1933 (15 U.S.C. 78a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.) and amendments made by that Act, the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), subchapter II of chapter 53 of title 31, United States Code, chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

"(B) require each registered investment company and registered investment adviser to review such policies and procedures annually for their adequacy and the effectiveness of their implementation; and

"(C) require each registered investment company to appoint a chief compliance officer to be responsible for overseeing such policies and procedures—

"(i) whose compensation shall be approved by the members of the board of directors of the company who are not interested persons of the company;

"(ii) who shall report directly to the members of the board of directors of the company who are not interested persons of such company, privately as such members request, but not less frequently than annually; and

"(iii) whose report to such members shall include any violations or waivers of, and any other significant issues arising under, such policies and procedures.

"(4) Certifications.—The rules adopted under paragraph (1) shall require each senior executive officer, or such officers designated by the Commission, of an investment adviser of a registered investment company to certify in each periodic report to shareholders, or other appropriate disclosure document, that—

"(A) procedures are in place for verifying that the determination of current net asset value of any redeemable security issued by the company used in computing periodically the current price for the purpose of purchase, redemption, and sale complies with the requirements of this title and the rules and regulations issued under this title, and the company is in compliance with such procedures;

"(B) procedures are in place to ensure that, if the shares of the company are offered as different classes of shares, such classes are designed in the interests of shareholders, and could reasonably be an appropriate investment option for a shareholder;

"(C) procedures are in place to ensure that information about the portfolio securities of the company is not disclosed in violation of the securities laws or the code of ethics of the company;

"(D) the members of the board of directors who are not interested persons of the company have reviewed and approved the compensation of the portfolio manager of the company in connection with their consideration of the investment advisory contract under section 15(c); and

"(E) the company has established and enforces a code of ethics, as required by paragraph (2).".

(b) Whistleblower Protection.—Section 1514A(a) of title 18, United States Code, is amended by striking the matter preceding paragraph (1) and inserting the following:

"(a) Whistleblower Protection for Employees of Publicly Traded Companies and Registered Investment Companies.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78o(d)), or that is an investment adviser, principal underwriter, or significant service provider (as such terms are defined under section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)) of an investment company which is registered under section 8 of the Investment Company Act of 1940, or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—".

TITLE II—FUND TRANSPARENCY

SEC. 210. COST CONSOLIDATION AND CLARITY.

(a) Expense Ratio Computation.—

(1) In general.—The Commission shall, by rule, develop a standardized method of calculating the expense ratio of a registered investment company that accounts for as many operating costs to shareholders of such companies as is practicable.

(2) Separate disclosures.—In developing the method of calculation required under paragraph (1), if the Commission determines that the inclusion of certain costs in such calculation will lead to a significant risk of confusing or misleading shareholders, the Commission shall develop separate standardized methods for the calculation and disclosure of such costs.

(b) Transaction Cost Ratio.—The Commission shall, by rule, develop a standardized method of computing the transaction cost ratio of a registered investment company that practicably and fairly accounts for actual transaction costs to shareholders, including, at a minimum, brokerage commissions and bid-ask spread costs. Such computation, if necessary for ease of administration, may be based upon a fair method of estimation or a standardized derivation from easily ascertainable information.

(c) Disclosure of Expense Ratio and Transaction Cost Ratio.—The Commission shall, by rule, require the prominent disclosure of the expense ratio and the transaction cost ratio of a registered company, both separately and as a total investment cost ratio, in—

(1) each annual report of the registered investment company;

(2) any prospectus of the registered investment company, as part of a fee table; and

(3) such other filings with the Commission as the Commission determines appropriate.

(d) Actual Cost Disclosure.—The Commission shall, by rule, require, on at least an annual basis, the prominent disclosure in the shareholder account statement of a registered investment company of the actual dollar amount of the projected annual costs of each shareholder of the company, based upon the asset value of the shareholder at the time of the disclosure.

(e) Definition of Fees and Expenses.—

(1) In general.—The Commission shall, by rule, define all specific allowable types or categories of fees and expenses that may be borne by the shareholders of a registered investment company.

(2) New fees and expenses.—No new fee or expense, other than any defined under paragraph (1), shall be borne by the shareholders of a registered investment company, unless the Commission finds that such new fee or expense fairly reflects the services provided to, or is in the best interests of the shareholders of—

(A) a particular registered investment company;

(B) specific types or categories of registered investment companies; or

(C) registered investment companies in general.

(f) Cost Structures.—The Commission shall promulgate such rules or regulations as are necessary—

(1) to promote the standardization and simplification of the disclosure of the cost structures of registered investment companies; and

(2) to ensure that the shareholders of such registered investment companies receive all material information regarding such costs—

(A) in a nonmisleading manner; and

(B) in such form and prominence as to facilitate, to the extent practicable, ease of comprehension and comparison of such costs.

(g) Descriptions of Fees, Expenses, and Costs.—The Commission shall, by rule, require—

(1) the disclosure, in any annual or periodic report filed with the Commission or any prospectus delivered to the shareholders of a registered investment company, of all types of fees, expenses, or costs borne by shareholders;

(2) a clear definition of each such fee, expense, or cost; and

(3) information as to where shareholders may find out more information concerning such fees, expenses, or costs.

SEC. 211. ADVISOR COMPENSATION AND OWNERSHIP OF FUND SHARES.

(a) Compensation of Investment Adviser.—The Commission shall, by rule, require—

(1) the disclosure to the shareholders of a registered investment company of—

(A) the amount and structure of, or the method used to determine, the compensation paid by the registered investment company to the portfolio manager or portfolio management team of the investment adviser; and

(B) the ownership interest in such company of the portfolio manager or portfolio management team; and

(2) the disclosure to the board of directors of the registered investment company of all transactions in the securities of the company by the portfolio manager or management team of the investment adviser of such company.

(b) Form of Disclosure.—The disclosures required under subparagraphs (A) and (B) of subsection (a)(1) shall be made by a registered investment company in—

(1) the registration statement of the company; and

(2) any other filings with the Commission that the Commission determines appropriate.

SEC. 212. POINT OF SALE AND ADDITIONAL DISCLOSURE OF BROKER COMPENSATION.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following:

"(11) Broker disclosures in mutual fund transactions.—

"(A) In general.—Each broker shall disclose in writing to each person that purchases the shares of an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8)—

"(i) the source and amount of any compensation received or to be received by the broker in connection with such transaction; and

"(ii) such other information as the Commission determines appropriate.

"(B) Timing of disclosure.—The disclosures required under subparagraph (A) shall be made at or before the time of the purchase transaction.

"(C) Limitation.—The disclosures required under subparagraph (A) may not be made exclusively in—

"(i) a registration statement or prospectus of the registered investment company; or

"(ii) any other filing of a registered investment company with the Commission.".

SEC. 213. BREAKPOINT DISCOUNTS.

The Commission, by rule, shall require the disclosure by any registered investment company, in any quarterly or other periodic report filed with the Commission, information concerning discounts on front-end sales loads for which shareholders may be eligible, including the minimum purchase amounts required for such discounts.

SEC. 214. PORTFOLIO TURNOVER RATIO.

The Commission, by rule, shall require the disclosure, by any registered investment company, in any quarterly or periodic report filed with the Commission, and in any prospectus delivered to the shareholders of such company, of the portfolio turnover ratio of the company, and an explanation of its meaning and implications for cost and performance. Such rules shall require the disclosures to be prominently displayed within the appropriate document.

SEC. 215. PROXY VOTING POLICIES AND RECORD.

Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended by adding at the end the following:

"(k) Proxy Voting Disclosure.—

"(1) In general.—Each registered investment company, other than a small business investment company, shall file with the Commission, not later than August 31 of each year, an annual report, on a form prescribed by the Commission by rule, containing the proxy voting record of the registrant and policies of the company with respect to the voting of such proxies for the most recent 12-month period ending on June 30.

"(2) Notice in financial statements.—The financial statements of each registered investment company shall state that information regarding how the company voted proxies and proxy voting policies relating to portfolio securities during the most recent 12-month period ending on June 30 is available—

"(A) without charge, upon request, by calling a specified toll-free (or collect) telephone number; or on or through the company's website at a specified Internet address, or both; and

"(B) on the website of the Commission.".

SEC. 216. CUSTOMER INFORMATION FROM ACCOUNT INTERMEDIARIES.

(a) In General.—The Commission shall, by rule, require that each account intermediary of a registered investment company provide to such company, with respect to each account serviced by the intermediary, such information as is necessary for the company to enforce its investment, trading, and fee policies.

(b) Requirements.—The information provided by a registered investment company under subsection (a) shall include, at a minimum—

(1) the name under which the account is opened with the intermediary;

(2) the taxpayer identification number of such person;

(3) the mailing address of such person; and

(4) individual transaction data for all purchases, redemptions, transfers, and exchanges by or on behalf of such person.

(c) Privacy of Information.—The information provided under subsection (a), and the use thereof, shall be subject to all Federal and State laws with regard to privacy and proprietary information.

SEC. 217. ADVERTISING.

(a) Performance Advertising.—The Commission shall promulgate such rules as the Commission determines necessary with respect to the advertising of a registered investment company regarding—

(1) unrepresentative short-term performance;

(2) performance based upon an undisclosed or improbable event; and

(3) performance based upon incomplete or misleading data.

(b) Dollar and Time-Weighted Returns.—

(1) In general.—Subject to paragraph (2), the Commission shall, by rule, require each registered investment company to disclose, in its annual report and any prospectus delivered to shareholders, dollar-weighted returns and time-weighted returns for each of—

(A) the preceding fiscal year;

(B) the preceding 5 fiscal years;

(C) the preceding 10 fiscal years; and

(D) the life of the company.

(2) Exception.—The Commission may omit or require additional disclosures required under paragraph (1) for such time periods as the Commission determines necessary.

(3) Commission use of benchmarks.—The Commission may require, in the interest of facilitating non-misleading disclosures, that any performance-related advertising by a registered investment company be accompanied by such benchmarks as the Commission may deem appropriate.

(c) Subsidized Yields.—The Commission shall, by rule, require that any registered investment company that discloses in any publication a subsidized yield to disclose in the same publication the amount and duration of such subsidy.

TITLE III—FUND REGULATION AND OVERSIGHT

SEC. 310. PROHIBITION OF ASSET-BASED DISTRIBUTION EXPENSES.

(a) Repeal of Rule 12b–1.—

(1) In general.—Beginning 180 days after the date of enactment of this Act (or such earlier time as the Commission may elect), as in effect on the date of enactment of this Act, section 270.12b–1 of chapter II of title 17 of the Code of Federal Regulations, promulgated under section 12 of the Investment Company Act of 1940 (15 U.S.C. 80a–12), is repealed, and shall have no force or effect.

(2) Preservation of actions.—Paragraph (1) shall have no effect on any case pending or penalty imposed under section 270.12b–1 of the Code of Federal Regulations prior to the date of repeal under paragraph (1).

(b) Payment of Distribution Expenses from Management Fee.—Section 12 of the Investment Company Act of 1940 (15 U.S.C. 80a–12) is amended by adding at the end the following:

"(h) Payment of Distribution Expenses.—Notwithstanding any provision of subsection (b), or any rule or regulation promulgated thereunder, distribution expenses incurred by an investment adviser may be paid out of the management fee received by the investment adviser.".

(c) Sums Expended Promoting Sale of Securities.—The Commission shall, by rule—

(1) require that any sums expended by the investment adviser of a registered investment company to promote or facilitate the sale of the securities of such company be disclosed to the board of directors of the company;

(2) require that such sums be accounted for and identified in the expense ratio of any such company; and

(3) authorize the board of directors of any such company to prohibit its investment adviser from using any compensation received from the company for distribution expenses that the board determines not to be in the best interest of the shareholders of the company.

(d) Prohibition of Asset-Based Fees.—Section 12 of the Investment Company Act of 1940 (15 U.S.C. 80a–12), as amended by subsection (a), is amended by adding at the end the following:

"(i) Asset-Based Fees.—

"(1) In general.—It shall be unlawful for any registered investment company to pay asset-based fees to any broker or dealer in connection with the offer or sale of the securities of such investment company.

"(2) Definition of asset-based fees.—The Commission shall, by rule, define the term 'asset-based fees' for purposes of this subsection.".

SEC. 311. PROHIBITION ON REVENUE SHARING, DIRECTED BROKERAGE, AND SOFT DOLLAR ARRANGEMENTS.

(a) In General.—The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended by inserting after section 12 the following:

"SEC. 12A. PROHIBITION ON REVENUE SHARING, DIRECTED BROKERAGE, AND SOFT DOLLAR ARRANGEMENTS.

"(a) Revenue Sharing Arrangements.—It shall be unlawful for any investment adviser to enter into a revenue sharing arrangement with any broker or dealer with respect to the securities of a registered investment company.

"(b) Directed Brokerage Arrangements.—It shall be unlawful for any registered investment company, or any affiliate of such company, to enter into a directed brokerage arrangement with a broker or dealer.

"(c) Soft-Dollar Arrangements.—It shall be unlawful for any registered investment company or registered investment adviser to enter into a soft-dollar arrangement with any broker or dealer.

"(d) Regulations Respecting Section 28(e) of the Securities Exchange Act of 1934.—The Commission shall, by rule, narrow the soft-dollar safe harbor under section 28(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)(1)) to promote such parity as the Commission determines appropriate, and in the best interests of shareholders of a registered investment company, between registered investment companies governed by section 12A, and companies not covered by section 12A.

"(e) Definitions.—

"(1) In general.—In this section—

"(A) the term 'directed brokerage arrangement' means the direction of discretionary brokerage by an investment company or an affiliate of that company, to a broker or dealer in exchange for services other than trade executions;

"(B) the term 'revenue sharing arrangement' means any direct or indirect payment made by an investment adviser (or any affiliate of an investment adviser) to a broker or dealer for the purpose of promoting the sales of securities of a registered investment company, other than any payment made directly by a shareholder as a commission for the purchase of such securities;

"(C) the term 'soft-dollar arrangement' means payments to a broker or dealer for best trade executions in exchange for, or which generate credits for, services or products other than trade executions; and

"(D) the term 'trade executions' has the meaning given that term by the Commission, by rule;

"(2) REGULATIONS.—The Commission may, by rule, refine the definitions under paragraph (1), define such other terms as the Commission determines necessary, and otherwise tailor the proscriptions set forth under this section to achieve the purposes of—

"(A) protecting the best interests of shareholders of a registered investment company;

"(B) minimizing or eliminating conflicts with the best interests of shareholders of a registered investment company;

"(C) enhancing market negotiation for and price competition in trade execution services, and products and services previously obtained under arrangements prohibited by this section;

"(D) ensuring the transparency of transactions for trade executions, and products and services previously obtained under arrangements prohibited by this section, and disclosure to shareholders of costs associated with trade executions, and products and services previously obtained under arrangements prohibited by this section, that is simplified, clear, and comprehensible; and

"(E) providing reasonable safe harbors for conduct otherwise consistent with such purposes.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 28(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)(1)) is amended by striking "This section is exclusive" and inserting "Except as provided under section 12A of the Investment Company Act of 1940, this section is exclusive".

SEC. 312. MARKET TIMING.

(a) IN GENERAL.—The Commission shall, by rule, require—

(1) the disclosure in any registration statement filed with the Commission by a registered investment company of the market timing policies of that company and the procedures adopted to enforce such policies; and

(2) that any registered investment company that declines to adopt restrictions on market timing disclose such fact in the registration statement of the company, and in any advertising or other publicly available documents, as the Commission determines necessary.

(b) FUNDAMENTAL INVESTMENT POLICY.—The policies required to be disclosed under paragraph (1) shall be deemed "fundamental investment policies" for purposes of sections 8(b)(3) and 13(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-8(b)(3) and 80a-13(a)(3)).

SEC. 313. ELIMINATION OF STALE PRICES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Commission shall prescribe, by rule or regulation, standards concerning the obligation of registered investment companies under the Investment Company Act of 1940, to apply and use fair value methods of determination of net asset value when market quotations are unavailable or do not accurately reflect the fair market value of the portfolio securities of such a company, in order to prevent dilution of the interests of long-term shareholders or as necessary in the public interest or for the protection of shareholders.

(b) CONTENT.—The rule or regulation prescribed under subsection (a) shall identify, in addition to significant events, the conditions or circumstances from which such an obligation will arise, such as the need to value securities traded on foreign exchanges, and the methods by which fair value methods shall be applied in such events, conditions, and circumstances.

SEC. 314. PROHIBITION OF SHORT TERM TRADING; MANDATORY REDEMPTION FEES.

(a) SHORT-TERM TRADING PROHIBITED.—Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by adding at the end the following:

"(k) SHORT-TERM TRADING PROHIBITED.—

"(1) PROHIBITION.—It shall be unlawful for any officer, director, partner, or employee of a registered investment company, any affiliated person, investment adviser, or principal underwriter of such company, or any officer, director, partner, or employee of such an affiliated person, investment adviser, or principal underwriter, to engage in any short-term transaction, in any securities issued by such company, or any affiliate of such company.

"(2) LIMITATION.—This subsection does not prohibit any transaction in a money market fund, or in funds, the investment policy of which expressly permits short-term transactions, or such other category of registered investment company as the Commission shall specify, by rule.

"(3) DEFINITION.—For purposes of this subsection, the term 'short-term transaction' has the meaning given that term by the Commission, by rule.".

(b) MANDATORY REDEMPTION FEES.—The Commission shall, by rule, require any registered investment company that does not allow for market timing practices to charge a redemption fee upon the short-term redemption of any securities of such company. In determining the application of mandatory redemption fees, shares shall be considered in the reverse order of their purchase.

(c) INCREASED REDEMPTION FEES PERMITTED FOR SHORT-TERM TRADING.—Not later than 90 days after the date of enactment of this Act, the Commission shall permit a registered investment company to charge redemption fees in excess of 2 percent upon the redemption of any securities of such company that are redeemed within such period after their purchase as the Commission specifies in such rule to deter short term trading that is unfair to the shareholders of such company.

(d) DEADLINE FOR RULES.—The Commission shall prescribe rules to implement section 17(k) of the Investment Company Act of 1940, as added by subsection (a) of this section, not later than 90 days after the date of enactment of this Act.

SEC. 315. PREVENTION OF AFTER-HOURS TRADING.

(a) ADDITIONAL RULES REQUIRED.—The Commission shall issue rules to prevent transactions in the securities of any registered investment company in violation of section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a-22), including after-hours trades that are executed at a price based on a net asset value that was determined as of a time prior to the actual execution of the transaction.

(b) TRADES COLLECTED BY INTERMEDIARIES.—The Commission shall determine the circumstances under which to permit, subject to rules of the Commission and an annual independent audit of such trades, the execution of after-hours trades that are provided to a registered investment company by a broker, dealer, retirement plan administrator, insurance company, or other intermediary, after the time as of which the net asset value was determined.

SEC. 316. BAN ON JOINT MANAGEMENT OF MUTUAL FUNDS AND HEDGE FUNDS.

(a) AMENDMENT.—Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended by adding at the end the following:

"(h) BAN ON JOINT MANAGEMENT OF MUTUAL FUNDS AND HEDGE FUNDS.—

"(1) PROHIBITION OF JOINT MANAGEMENT.—It shall be unlawful for any individual to serve or act as the portfolio manager or investment adviser of a registered open-end investment company if such individual also serves or acts as the portfolio manager or investment adviser of an investment company that is not registered or of such other categories of companies as the Commission shall prescribe by rule in order to prohibit conflicts of interest, such as conflicts in the selection of the portfolio securities.

"(2) EXCEPTIONS.—Notwithstanding paragraph (1), the Commission may, by rule, regulation, or order, permit joint management by a portfolio manager in exceptional circumstances when necessary to protect the interest of shareholders, provided that such rule, regulation, or order requires—

"(A) enhanced disclosure by the registered open-end investment company to shareholders of any conflicts of interest raised by such joint management; and

"(B) fair and equitable policies and procedures for the allocation of securities to the portfolios of the jointly managed companies, and certification by the members of the board of directors who are not interested persons of such registered open-end investment company, in the periodic report to shareholders, or other appropriate disclosure document, that such policies and procedures of such company are fair and equitable.

"(3) DEFINITION.—For purposes of this subsection, the term 'portfolio manager' means the individual or individuals who are designated as responsible for decision-making in connection with the securities purchased and sold on behalf of a registered open-end investment company, but shall not include individuals who participate only in making research recommendations or executing transactions on behalf of such company.".

(b) DEADLINE FOR RULES.—The Commission shall prescribe rules to implement section 15(h) of the Investment Company Act of 1940, as added by subsection (a) of this section, not later than 90 days after the date of enactment of this Act.

SEC. 317. SELECTIVE DISCLOSURES.

(a) IN GENERAL.—The Commission shall promulgate such rules as the Commission determines necessary to prevent the selective disclosure by a registered investment company of material information relating to the portfolio of securities held by such company.

(b) REQUIREMENTS.—The rules promulgated under subsection (a) shall treat selective disclosures of material information by a registered investment company in substantially the same manner as selective disclosures by issuers of securities registered under section 12 of the Securities Exchange Act of 1934 under the rules of the Commission.

TITLE IV—STUDIES

SEC. 410. STUDY OF ADVISER CONFLICT OF INTEREST.

(a) IN GENERAL.—The Commission shall conduct a study of—

(1) the consequences of the inherent conflicts of interest confronting investment advisers employed by registered investment companies;

(2) the extent to which legislative or regulatory measures could minimize such conflicts of interest; and

(3) the extent to which legislative or regulatory measures could incentivize internal management of a registered investment company.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 411. STUDY OF COORDINATION OF ENFORCEMENT EFFORTS.

(a) IN GENERAL.—The Comptroller General of the United States, with the cooperation of the Commission, shall conduct a study of the coordination of enforcement efforts between—

(1) the headquarters of the Commission;

(2) the regional offices of the Commission; and

(3) State regulatory and law enforcement agencies.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 412. STUDY OF COMMISSION ORGANIZATIONAL STRUCTURE.

(a) IN GENERAL.—The Comptroller General of the United States, with the cooperation of the Commission, shall conduct a study of—

(1) the current organizational structure of the Commission with respect to the regulation of investment companies;

(2) whether the organizational structure and resources of the Commission sufficiently credit the importance of oversight of investment companies to the 95 million investors in such companies within the United States;

(3) whether certain organizational features of that structure, such as the separation of regulatory and enforcement functions, are sufficient to promote the optimal understanding of the current practices of investment companies; and

(4) whether a separate regulatory entity would improve or impair effective oversight.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 413. TRENDS IN ARBITRATION CLAUSES.

(a) IN GENERAL.—The Commission shall conduct a study on the trends in arbitration clauses between brokers, dealers, and investors since December 31, 1995, and alternative means to avert the filing of claims in Federal or State courts.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 414. HEDGE FUND REGULATION.

(a) IN GENERAL.—The Commission shall conduct a study of whether additional regulation of alternative investment vehicles, such as hedge funds, is appropriate to deter the recurrence of trading abuses, manipulation of registered investment companies by unregistered investment companies, or other distortions that may harm investors in registered investment companies.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 415. INVESTOR EDUCATION AND THE INTERNET.

(a) IN GENERAL.—The Commission shall conduct a study of—

(1) the means of enhancing the role of the Internet in educating investors and providing timely information regarding laws, regulations, enforcement proceedings, and individual registered investment companies;

(2) the feasibility of mandating that each registered investment company maintain a website on which shall be posted filings of the registered investment company with the Commission and any other material information related to the registered investment company; and

(3) the means of ensuring that the EDGAR database maintained by the Commission is user-friendly and contains a search engine that facilitates the expeditious location of material information.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

S. 2059

SUMMARY OF KEY PROVISIONS OF THE MUTUAL FUND REFORM ACT OF 2004

The Mutual Fund Reform Act of 2004 makes fund governance truly accountable, requires genuinely transparent total fund costs, enhances comprehension and comparison of fund fees, confronts trading abuses, creates a culture of compliance, eliminates hidden transactions that mislead investors and drive up costs—and saves billions of dollars for the 95 million Americans who invest in mutual funds. MFRA strives above all to preserve the attractiveness of mutual funds as a flexible and investor-friendly vehicle for long-term, diversified investment.

TITLE 1: TRULY FIDUCIARY FUND GOVERNANCE

The Mutual Fund Reform Act of 2004 puts the interests of investors first by:

Ensuring independent and empowered boards of directors;

Clarifying and making specific fund directors' foremost fiduciary duty to shareholders;

Strengthening the fund advisers' fiduciary duty regarding negotiating fees and providing fund information; and

Instituting Sarbanes-Oxley-style provisions for independent accounting and auditing, codes of ethics, chief compliance officers, compliance certifications, and whistleblower protections.

TITLE 2: MEANINGFUL FUND TRANSPARENCY

The Mutual Reform Act of 2004 empowers both investors and free markets with clear, comprehensible fund transaction information by:

Standardizing computation and disclosure of (i) fund expenses and (ii) transaction costs, which yield a total investment cost ratio, and tell investors actual dollar costs;

Providing disclosure and definitions of all types of costs and requiring that the SEC approve imposition of any new types of costs;

Disclosing portfolio managers' compensation and stake in fund;

Disclosing broker compensation at the point of sale;

Disclosing and explaining portfolio turnover ratios to investors; and

Disclosing proxy voting policies and record.

TITLE 3: STRAIGHTFORWARD FUND TRANSACTIONS

The Mutual Fund Reform Act of 2004 vastly simplifies disclosure regime by:

Eliminating asset-based distribution fees (Rule 12b-1 fees), the original purpose of which has been lost and the current use of which is confusing and misleading—and amending the Investment Company Act of 1940 to permit the use of the adviser's fee for distribution expenses, which locates the incentive to keep distribution expenses reasonable exactly where it belongs—with the fund adviser;

Prohibiting shadow transactions—such as revenue sharing, directed brokerage, and soft-dollar arrangements—that are riddled with conflicts of interest, serve no reasonable business purpose, and drive up costs;

"Unbundling" commissions, such that research and other services, heretofore covered by hidden soft-dollar arrangements, will be the subject of separate negotiation and a freer and fairer market;

Requiring enforceable market timing policies and mandatory redemption fees—as well as provision by omnibus account intermediaries of basic customer information to funds to enable funds to enforce their market timing, redemption fee, and breakpoint discount policies; and

Requiring fair value pricing and strengthening late trading rules.

MUTUAL FUND REFORM ACT OF 2004

The Mutual Fund Reform Act of 2004 (MFRA) restores truly fiduciary fund governance, simplifies fund fees, confronts trading abuses, creates a culture of compliance, and eliminates the conflict-riddled shadow transactions that drive up costs. The essence of the legislation is not any regulatory regime it creates, but the market forces it liberates. Obscurity is the enemy of a free market. Too little information—and too much incomprehensible information—equally undermine informed investor decision-making. The Mutual Fund Reform Act lifts the veil off mislabeled and misleading transactions, ensures genuine transparency, and promotes true price competition.

With 95 million American stakeholders, mutual funds are truly America's investment vehicle of choice. MFRA strives above all to preserve the attractiveness of mutual funds as a flexible and investor-friendly vehicle for long-term, diversified investment. That goal requires a careful balancing of accountability and incentive—or carrot and stick. Federal and state governments cannot police, much less micromanage, over 8,000 funds. The overriding duty to shareholders rests primarily with the funds themselves, and secondarily with the funds' service providers—each guided by a clearer statement of purpose and priority, incentivized by a more robust and transparent market that rewards low cost and good performance—because it can truly identify them—and accountable for failures that privilege fund managers' or brokers' interests over shareholders.

Vanguard Founder and industry savant John Bogle calls the Mutual Fund Reform Act of 2004 "the gold standard in putting mutual fund shareholders back in the driver's seat."The Consumer Federation of America says the Mutual Fund Reform Act of 2004 "will save mutual fund investors potentially tens of billions of dollars a year by wringing out excess costs." The Securities and Exchange Commission's (SEC) recent spate of regulatory initiatives is a testament to Washington's will in redressing the scandals and excessive fees that erode America's retirement and college savings. But the SEC cannot take the range of initiatives that are necessary to rationalize an industry governed by 64-year-old legislation. It is time for Congress to take the step that truly empowers America's investors and invigorates market forces. It is time for reforms that finally put investors first.

MFRA is divided into four titles: Title 1 (Fund Governance); Title 2 (Fund Transparency); Title 3 (Fund Regulation and Oversight); and Title 4 (Studies). The provisions under each title are analyzed below.

TITLE 1: FUND GOVERNANCE

Independent directors

The Mutual Fund Reform Act empowers a truly independent board of directors to exercise its essential "watchdog" role as the original Investment company Act of 1940 envisioned. An inherent tendency to defer to authority—or to parties with more information—must be countered with both numbers and authority for the board to reliably flex its independent muscle in the best interests of shareholders. Thus, at least 75% of the board must be independent—including the chair.

That independence must be self-perpetuating. Thus, independent directors will nominate new directors and adopt qualification standards for such nomination.

Close relationships with fund advisers, or other significant service providers, can easily compromise independence. Thus, the legislation tightens the definition of independence to exclude individuals with material business or close family relationships with such service providers. Further, the legislation directs the SEC to study whether substantial aggregate compensation from a fund adviser, especially when directors serve on multiple boards, compromises independence.

Directors' fiduciary duty

Building on the ringing declaration in the Investment Company Act's Preamble, section 36(a) refers specifically to the fiduciary duty of directors—but it has been a relatively empty reference. Merely to recite "fiduciary duty," it appears, will not ensure fidelity to it. Directors need direction—and content—in discharging their fiduciary duties. MFRA supplies both. MFRA amends the Investment Company Act to make expressly clear that the directors' fiduciary duty obliges them to act in the best interests of shareholders.

A "fiduciary" duty is supposed to be a rigorous one—yet its content has been unenforced guesswork. Mindful of the industry's complexity, NFRA thus directs the SEC to provide directors with specific guidance on the content of their fiduciary duty. Such content will include, at a minimum, determining the extent to which independent and reliable sources of information are sufficient to discharge director responsibilities, negotiating management and advisory fees with due regard for the actual cost of services, including economies of scale, evaluating management quality and considering potentially superior alternatives, evaluating the quality, comprehensiveness, and clarity of disclosures to shareholders regarding costs, evaluating any distribution or marketing plan of the company, including its costs and benefits, evaluating the size of the fund's portfolio and its suitability to the interests of shareholders, implementing and monitoring policies and procedures to ensure compliance with applicable securities laws, and implementing and monitoring policies with respect to predatory trading practices, such as market timing.

Investment advisers' fiduciary duty

After Wharton School and SEC studies in the 1960s found that mutual fund shareholders pay excessive fees because they lack bargaining power, the SEC recommended to Congress that it require that fees be "reasonable." That did not happen. Instead, in 1970, Congress imposed a "fiduciary" duty on fund advisers with respect to fees. As with the directors' "fiduciary" duty, however, the term lost any meaningful moorning in client-first professional stewardship. Indeed, in a watershed judicial interpretation of the adviser's "fiduciary" duty under section 36(b), the Second Circuit deemed the duty satisfied unless the adviser charged "a fee that is so disproportionately large that it bears no reasonable relationship to the services rendered and could not have been the product of arm's-length bargaining." Gartenberg v. Merrill Lynch Asset Mgt., Inc., 694 F.2d 923 (2d Cir. 1982). Against such a startling hurdle, no plaintiff ever wins an excessive fee case—and the SEC has declined to hold fund directors accountable for failing adequately to review adviser fee agreements (under section 36(a)).

Once again, merely invoking the phrase "fiduciary" will not ensure fair stewardship. MFRA makes clear that the fund adviser's fiduciary duty with respect to fees "may require reasonable reference to actual costs of the adviser and economies of scale." Advisers are entitled to a fair profit—and nothing in MFRA "caps" or "legislates" fees, or otherwise imposes a "price control." But MFRA does ensure that accountability is fairly allocated in the interests of shareholders.

MFRA also addresses another fiduciary deficit in the relationship between fund adviser and fund director. Conscienti independent directors may experience ckless intimidation and misdirection tryi o penetrate the adviser's monopoly on tical fund information. Indeed, as Fund moc-racy founder Mercer Bullard not hree years ago, under the current regim fund directors who try t do their jobs m lo so at their own risk. In 1997, the directo f the Navellier Aggressi Small-Cap fun complained to the SE that the fund's viser, Louis Navellier, had refused to provid information they needed to evaluate his services. . . . Intent on proving that no good deed goes unpunished, Navellier dragged the fund's directors through years of litigation," which was finally resolved in the directors' favor.

Subjecting directors to the sufferance of fund advisers turns the fiduciary duties of both on their heads. MFRA cures this damaging imbalance by specifying that fund advisers owe a specific fiduciary duty to provide information that is material to fund governance. In other words, directors will no longer be obliged to think of every possible question necessary to obtain essential information—much less be bullied by resistant advisers.

Termination of fund adviser

When fund managers cease to perform as effective stewards of the investments entrusted to them, they should be subject to the market discipline facing most Americans on the job—termination. Independent directors, exercising their fiduciary duties in the best interests of shareholders, should have the latitude to replace fund managers without undue fear of reprisal, spurious litigation, and other tactics by recalcitrant advisers. MFRA accordingly directs the SEC to issue regulations that facilitate the process by which independent directors, upon critical evaluation of fund management, terminate the service of fund management in the exercise of their fiduciary duties without undue exposure to financial or litigation risk.

Independent accounting and auditing

Last December, Business Week magazine called for Congress to "reverse the embarrassing exemption it gave to the mutual-fund industry from the Sarbanes-Oxley corporate reform law's requirement that outside auditors evaluate internal controls." MFRA requires an audit committee, with requirements that track Sarbanes-Oxley provisions, and selection by that committee of an independent accountant.

Compliance provisions

MFRA, like S.1971 introduced by Senators Corzine and Dodd, draws significant inspiration from the lessons of the corporate scandals that gave rise to the Sarbanes-Oxley Act of 2002. While those corporate scandals triggered a massive public outcry, it is noteworthy that the total cost to the American public was far less than the trading abuses and excessive fees in the $7 trillion mutual fund industry. Thus, MFRA engenders a culture of compliance—employing tools from the landmark Sarbanes-Oxley Act.

MFRA requires adoption—by funds, investment advisers, and principal underwriters—of a code of ethics, which is reasonably designed to prevent violation of securities laws. This code must be disclosed to the public and reviewed annually. MFRA further requires appointment of a chief compliance officer, whose compensation is set by independent directors, who reports directly to independent directors, who may be an employee of the fund adviser, but who may be terminated only with the consent of the independent directors.

MFRA requires certain certifi ions to ensure careful monitoring an ccountability. And finally, mindful of singular contribution of whistleblowers lumination of the current scandals, M installs rigorous protections against r tion for disclosing violations of secur laws or codes of ethics.

TITLE 2: FUND TRANSPAR

Cost consolidation and cl

For the market to discipline excessively high-cost funds, investors must know total costs in comprehensive and accessible disclosures. Current regulations require disclosure of a fund's "expense ratio"—but that figure excludes significant costs borne directly by investors. These largely hidden "transaction costs" occur when the fund buys and sells securities in its portfolio. As the SEC recently noted in its Concept Release on transaction costs, "for many funds, the amount of transaction costs incurred during a typical year is substantial. One study estimates that commissions and spreads alone cost the average equity fund as much as 75 basis points." In other words, transaction costs may sometimes double the cost of investment. Additional transaction costs, such as market impact and opportunity costs, may cost even more.

MFRA enhances cost disclosure in several ways. First, MFRA requires standardized computation and disclosure of two cost ratios: the first is the expense ratio, designed to capture fund operating expenses, and the second is the transaction cost ratio, designed to capture the true costs of portfolio management. These two ratios must then be combined and disclosed as a single "investment cost ratio." MFRA recognizes that certain transaction costs, such as commissions and bid-ask spreads, are indisputable candidates for disclosure in the "transaction cost ratio"—while others, such as market impact and opportunity costs, may more precisely reflect simply the principal price a manager is willing to pay (or accept) for securities, and thus may not, in the ultimate judgment of the SEC, warrant computation and disclosure as part of the transaction cost ratio.

Additionally, MFRA assists investors confronting voluminous fund information with clear, simple, and at-least annual actual dollar cost disclosure. Including actual cost disclosure in the one document that investors do routinely review—their own statement—simplifies cost analysis for all investors and promotes genuine cost competition.

Some say that mutual fund reform invites the proverbial "rock on jello"—and that a wily industry will react to reasonable restraints of one type of cost by simply shifting the cost to a new label. MFRA stabilizes the mutual fund fee structure. The SEC is directed to standardize all allowable types or categories of fees, expenses, loads, or charges borne by fund shareholders. New costs cannot be created without an SEC determination that the new cost is in the best interests of shareholders of (i) a particular fund, (ii) certain types of funds, or (iii) funds generally. Everyone, including (or perhaps especially) the mutual fund industry, acknowledges the critical importance of restoring investor trust. By stabilizing the fee structure—and building in safeguards against cynical manipulation of complex fee structures—MFRA takes the long stride toward ensuring sustained investor confidence.

Finally, MFRA addresses financial literacy by requiring clear explanation and definition of all types of fees, charges, expenses, loads, commissions, and payments—as well as where investors may find additional information about them.

Advisor compensation and ownership of fund shares

The Sarbanes-Oxley Act turned the spotlight on executive compensation—not merely to satisfy casual investor curiosity but to deter conflicts of interest and distorted incentives. MFRA does the same—albeit only with respect to portfolio management. If, as a consequence of disclosure, fund managers feel more motivated to earn their compensation, so much the better for investors. It may likewise be relevant whether fund managers are invested in the very funds they manage—and investors are entitled to know. Finally, insider transactions in the fund must be disclosed to the board of directors. Insider transactions are not per se problematic—quite the contrary, it may be a strong positive to have fund managers invested in the funds they manage. But to help deter potential abuses, the board should be informed of insider transactions. (In Title 3, MFRA prohibits short-term insider transactions to prevent abusive rapid trading by insiders.)

Broker confirmations

MFRA requires point-of-sale disclosure of the source and compensation to be received by the broker in connection with the transaction. Such disclosure is standard with other financial instruments—and broker/dealers can do the same for mutual fund investors. Significantly, however, as discussed below, MFRA vastly simplifies broker disclosures by prohibiting certain conflict-riddled broker-compensation practices—such as revenue sharing, directed brokerage and soft-dollar arrangements—that artificially inflate broker commissions and introduce distorted sales incentives.

Breakpoint discounts

Breakpoint discounts are essentially "volume discounts"—reductions in sales charges for purchases beyond certain thresholds. The policies for applying breakpoint discounts, however, can be complicated. For example, an investor may be entitled to a breakpoint discount based on total shares purchased over a period of time, or from different accounts or together with other family members.

The National Association of Securities Dealers (the self-regulatory organization of brokers and dealers) estimated that more than $86 million in breakpoint discounts were not correctly applied by broker/dealers in 2001 and 2002, which indicates investor overcharges in one out of every five eligible transactions.

MFRA requires more prominent disclosure of information and policies about breakpoint discounts, so that investors are better equipped to help themselves. Perhaps more importantly as discussed below under Customer Information from Account Intermediaries, MFRA bridges one critical gap in the uniform application of breakpoint discount policies.

Portfolio turnover ratio

Many investors do not understand that the benign, or even enticing, term—"actively managed"—may conceal inordinately high transaction costs. When fund managers buy and sell securities in the fund portfolio, they incur transaction costs, such as commissions, bid-ask spread costs, market impact costs and opportunity costs. All of these costs diminish performance. To be sure, some actively managed funds do very well. But investors have a right to know, in straightforward terms, just how "actively" the portfolio is managed. The portfolio turnover ratio is a good indicator. MFRA requires prominent disclosure of the portfolio turnover ratio, as well as explanation of its meaning and implications for cost and performance. Thus, MFRA takes no legislative position on the propriety of active or passive management—but merely equips investors with clearer and more comprehensible information so that they can make decisions based upon their own investment objectives.

Proxy voting policies and record

Mutual funds are a seven-trillion-dollar industry—and control nearly one-third of U.S. equity voting power. See Alan R. Palmiter, Mutual Fund Voting of Portfolio Shares: Why Not Disclose? 23 Cardozo L. Rev. 1419, 1421 (March 2002). That is an impressive stake in U.S. corporate governance. Such enormous power is ill-suited to the shadows. MFRA requires disclosure of the fund's proxy voting record, as well as any proxy voting policies that may better equip investors to align their mutual fund purchasing with their corporate governance preferences.

Customer information from account intermediaries

Rules against market timing, application of breakpoint discounts, imposition of redemption fees on short-term trading—all of these salutary practices work only if the fund knows the identify and trading activity of its investors. But many financial intermediaries, including broker/dealers, convey aggregate trading information to funds through "omnibus accounts," consisting of multiple anonymous fund customers. Failure of a fund to know its own investors seriously impairs fair and uniform enforcement of its trading policies.

As Niels Holch, Executive Director of the Coalition of Mutual Fund Investors, stated in a December 12, 2003 letter to the SEC, "individual, long-term shareholders will not be guaranteed equal and fair application of fund policies, procedures, fees and charges, unless and until each mutual fund is provided information from its intermediaries about the identity of all shareholders in omnibus accounts and the individual transactions engaged in by those shareholders."

MFRA requires that intermediaries convey to funds the basic customer identification and trading activity information needed to enforce fund policies fairly and uniformly. However, such information may only be used to enforce fund policies, and all proprietary rights to such customer information under state and federal law are preserved.

Advertising

Mutual funds fairly compete for investor attention and purchase. Indeed, because a certain percentage of investors can be expected to sell their shares every year, mutual funds want to meet these redemptions with new purchases so that "net redemptions" do not force funds to sell off too many portfolio assets. Advertising is one way to stimulate demand. However, some funds engage in questionable claims. Performance advertising, in particular, is fertile territory for misleading investors. Former SEC Chief Economist Susan Woodward put the matter bluntly in a recent Wall street Journal op-ed: "A fund's past performance provides zero guidance about its future performance."

MFRA directs the SEC to address several aspects of performance advertising, including unrepresentative short-term performance, performance based upon undisclosed non-recurring or improbable events, and performance based upon technically accurate but incomplete or misleading data.

Truthful and non-misleading advertising is a right guaranteed by the United States Constitution. MFRA respects that right—with requisite emphasis on "non-misleading."

TITLE 3: FUND REGULATION AND OVERSIGHT

MFRA is truly structural reform. It does not merely mandate yet more "disclosure" in an industry already saturated with voluminous disclosure rules. MFRA's essence is not the regulatory regime that it creates, but the free market forces that it liberates. MFRA fuels a competitive mutual fund market by making its transactions honest and comprehensible. Market distortions occur when market players can obscure their activities and mislead consumers. Examples addressed in MFRA include 12b-1 fees, revenue sharing, soft-dollar arrangements, and directed brokerage. MFRA lifts the veil of mislabeled and misleading transactions, creates true transparency and promotes meaningful competition. Merely demanding more disclosure—while salutary up to a point—risks encyclopedic and incomprehensible data dumps on investors.

A more honest and straightforward, and thus more vibrantly competitive, mutual fund market well serves the 95 million Americans who entrust their savings to mutual funds—and not incidentally, well serves the robustness of the mutual fund industry itself. Mercer Bullar, founder of Fund Democracy and sponsor of the recent Fund Summit in Oxford, Mississippi—where 11 lawmakers, regulators, and industry leaders convened to debate the direction of the industry—said of his panelists that they all share the aspiration for "America's favorite retirement vehicle, a great institution, a great industry, to provide the best service it can for America's investors." That aspiration permeates the Mutual Fund Reform Act of 2004. And central to that aspiration is the recognition that scandal, cynicism, and revolt are inevitable consequences of confusing and opaque cost schemes.

Time magazine notes, for example, that investors have been flocking to "separately managed accounts"—customized investment vehicles with minimum investment requirements. One noteworthy virtue, writes Time, of separately managed accounts: "fee transparency. Typically, separate-account mangers charge a flat annual fee of 1.5% to 2.5% of assets. In most cases there are none of the loads, redemption fees, 12b–1 marketing fees, trading commissions, or soft-dollar costs that proliferate in the mutual-fund world and drive annual expenses far higher than disclosed levels." The vexation here is not merely with the "hiddenness" of many of these costs—but with the very existence of such a confusing and cynical welter of ways to siphon investors' money. MFRA is a decisive answer to that vexation—and an answer that well serves all Americans, not only the ones who can afford the minimum investment requirements of separately managed accounts and hedge funds.

Asset-based distribution expenses (Rule 12b–1)

A sales load was once an honest sales load. Then came Rule 12b–1. Designed in 1980 by the SEC, Rule 12b–1 permitted funds to use fund assets, temporarily, for distribution and market—to (1) stimulate purchases and thus redress temporary net redemptions, and (2) increase the size of the fund so that cost savings from economies of scale could be passed along to investors. The theory was sound. But Rule 12b–1 has wandered far from its original moorings. It has become a permanent fixture of most fee schedules, and can cost investors up to 1% of their investment every year. Over the life of a retirement plan, that 1% can cost an investor 35% to 40% of his or her retirement income. And it does not appear that investors have benefited from economies of scale.

Nearly two-thirds of 12b–1 fees end up in the hands of brokers. In other words, 12b–1 fees have become disguised loads.

Fund management properly includes fund distribution. MFRA accordingly places the distribution duty where it belongs. MFRA gets funds out of the distribution business by prohibiting asset-based distribution fees (such as 12b–1 fees)—but, importantly, amends the Investment Company Act of 1940 to make clear that fund advisers may use their adviser fees for distribution expenses. What happens when fund advisers use their own profits—instead of tapping directly into investors' money—for distribution expenses? Distribution expenses become very reasonable.

In negotiating their fees with an empowered and independent board, advisers will now have to make the case that their costs necessarily include specified distribution expenses. And once advisers receive their fee, distribution expenses will, dollar for dollar, reduce adviser profits. That dynamic locates the incentive to keep distribution expenses reasonable precisely where it belongs. And MFRA incorporates one additional structural check on unreasonable distribution expenses—one that goes to the heart of the inherent conflict between fund managers and fund shareholders. If the board of directors determines that certain distribution expenses are not in the best interests of existing shareholders, then the board may stipulate that no part of the adviser's fee may be used for that expense. A distribution expense designed solely to pump up the asset base of an already large fund, for example, and not otherwise necessary to meet net redemptions, would obviously well-serve the adviser, who collects a percentage of net assets, but not necessarily existing shareholders.

Importantly, MFRA does not prohibit distribution expenses or sales charges. Charging a load (subject to NASD rules) is fully justified—but call it a load, make it account-based and don't disguise it in a permanent asset-based distribution fee.

Indefensible brokerage practices

There is a reflexive preference in approaching our markets for demanding "disclosure" as a total solution—and sometimes as a total substitute for clear ethical and practical judgments. But some practices cannot be rationally defended. And some clear rules enrich and enliven our markets. We do not tell football players that they can clip, hold, or jump offside as long as they do so openly. We should not tell fund advisers and broker-dealers that they may misuse investor money with soft-dollar arrangements, revenue sharing and directed brokerage as long as they file reports. "Disclosure" of these practices merely precipitates an even more confusing blizzard of incomprehensible information—and even further alienates average investors from meaningful participation in the mutual fund market. As former SEC Chairman Arthur Levitt aptly remarked, "[t]he law of unintended results has come into play: Our passion for full disclosure has created fact-bloated reports, and prospectuses that are more redundant than revealing." Three practices—soft dollar arrangements, revenue sharing, and directed brokerage—ought not clutter any mutual fund prospectus. And neither funds nor fund advisers should oe spending time and money crafting elaborate disclosures and justifications of ultimately indefensible practices. By simply prohibiting these practices, MFRA vastly simplifies the disclosure regime, and benefits all stakeholders.

Revenue sharing

Kiplinger.com commentator Steven Goldberg calls revenue sharing "the fund industry's most insidious practice . . . It sounds benign, but it boils down to mutual fund payola, giving brokers, financial planners or other financial advisers a little extra compensation if they sell a load fund to you. That is, a little something extra over and above the load you're already paying." A "little something"? Annual revenue sharing payments to brokerage firms total an estimated $2 billion. And investors listening to a broker's "advice" may not realize that the broker's "Preferred List" of mutual funds is a function of this payola.

Moreover, revenue-sharing, like nearly two-thirds of 12b–1 money, goes to brokers, as a presumptive "distribution" expense—yet revenue sharing effectively circumvents the elaborate rules capping 12b–1 fees at no more than 1% of assets. The only difference is that revenue sharing payments are made by the fund adviser, out of the adviser's fee—which of course comes from the fund assets. Consumer Federation of America, along with several consumer groups that have endorsed MFRA, note the negative impact of revenue sharing, despite the fact that such payments come from the adviser rather than directly from fund assets: "At best, by eating into the manager's bottom line, the payments may reduce the likelihood that the management fee will be reduced in response to economies of scale. At worst, fund managers will pass along those costs to shareholders in a form that is even less transparent than directed brokerage payments."

Revenue sharing aggravates the conflicted interests of both brokers and fund advisers at the expense of fund shareholders. On the one hand, brokers get payola out of the fund adviser's management fee—and peddle funds they're paid to peddle without the requisite regard for the investor's best interests. On the other hand, fund advisers collectively give away $2 billion of their evidently abundant fees to promote yet further sales of fund shares, which increases fund assets, which increases the adviser's fee, which makes more money available for payola. MFRA breaks this investor-hostile circular enrichment, and restores rational solicitude for investors' money.

Soft dollar arrangements

Under soft dollar arrangements, brokers inflate their commissions on portfolio trades and give credits to fund managers in return. These credits are then used for research services, software, hardware, and other manager "overhead"—which directly and immediately benefit fund managers, but only indirectly, if at all, benefit the shareholders who pay for them. Moreover, these direct costs to shareholders are not even reflected in the expense ratio, because commissions—as with all transaction costs—are excluded from the expense ratio. Thus, by using surreptitious soft dollars, instead of honest hard dollars, the industry effectively hides yet another significant cost of mutual fund investment.

Soft dollars also effectively suppress entire markets. Soft dollar arrangements distort the markets in both trade executions and products and services "purchased" with soft dollars—because there is little or no meaningful price negotiation or competition in these markets. Why would there be? Fund advisers use investors' money, through artificially inflated brokerage commissions, and competition inevitably and severely suffers when demand is driven by someone else's money.

Managers should pay for their overhead out of their management fee instead of forcing shareholders to pick up the tab through artificially inflated brokerage commissions. MFRA effectively "unbundles" the commission dollar. All stakeholders can then more readily assess the true cost of trade execution. And industry research and other unbundled services, now purchased with hard dollars through traditional negotiation, will acquire more authentic market values. Some services will thrive; others will crater. That happens when the market is healthy and transparent, and the demand side cannot spend someone else's money.

MFRA's treatment of soft dollar arrangements, like its treatment of 12b-1 fees, is inspired not by intent to regulate private transactions—but to label such transactions honestly. Just as a load is a load, and should be charged as such, so research expense should be the fruit of competitive negotiation for research—not the backdoor largesse of forcing investors to pay inflated brokerage commissions.

John Montgomery of Bridgeway Funds perfectly summarized the justification for banning soft dollars (as opposed to mandating yet more elaborate "disclosures") when he testified before the House Capital Markets Subcommittee in March 2003: "The bottom lines: Congress should not work to improve disclosure of soft dollars: it should simply stop the practice altogether. Ultimately, this will improve the quality of decisions made on things soft dollars buy, save shareholders some money, and greatly reduce the time that advisers, auditors, regulators, and lawyers spend trying to document the fairness of a firm's practice."

Directed brokerage

Directed brokerage is the practice by a customer (such as a mutual fund or affiliated person) of directing brokerage business to a particular broker or dealer in exchange for services other than trade executions. Examples of such services include sales support (as with revenue sharing), or administrative services. Directed brokerage seems benign—but the effect is yet a further hidden cost to investors, in the form of higher brokerage costs. Once brokerage is "directed" by a customer, the manager's ability to obtain better or less expensive execution from a different broker is disabled.

Last December, Louis Harvey, president of Dalbar Inc., a Boston-based research company, told Investment News that the practice of directed commissions obscures what best execution actually costs. Thus, funds pay more than retail investors to buy and sell stock. "If the practice is done away with, it will be replaced by competitive forces."

In recognition of the indefensibility of the practice, several funds announced recently that they are ceasing directed brokerage arrangements. The industry's leading trade association, the Investment Company Institute, likewise recently advocated prohibiting directed brokerage.

Late trading

Late trading is already illegal. The policy problem with late trading is not with the law, but with the practice of processing some orders after the calculation of "net asset value" (NAV), and thus share price, for that day. Typically, mutual funds calculate their NAVs as of 4:00 p.m. EST, the closing time of the major U.S. stock exchanges. The SEC's Rule 22c–1 requires funds to calculate NAV at least once a day. All orders to buy or sell mutual fund shares received on a particular day are executed at the same price. Under Rule 22c–1, orders to buy or sell mutual fund shares must be executed at a price based on the NAV next calculated after receipt of the order. The Rule therefore requires that orders for most funds received after 4:00 p.m. be executed using the next day's price.

"Late trading" refers to the practice of submitting an order to buy or redeem fund shares after the 4:00 p.m. pricing time yet receiving that day's price rather than the price set at 4:00 p.m. the following day, or placing a conditional order prior to 4:00 p.m. that is either confirmed or canceled after 4:00 p.m. A late trader typically seeks to trade profitably on developments after 4:00 p.m., such as earnings announcements or events in overseas markets. As noted, late trading is already illegal.

But when is an order to buy or sell "received" under Rule 22c–1—when the fund receives the order, or when an intermediary (such as a retail broker or a 401k administrator) receives the order? To date, the SEC has interpreted "receipt" as used in Rule 22c–1 to include receipt of an order to buy or sell mutual fund shares by retail brokers and other intermediaries. Investors may thus place orders to buy or sell fund shares through broker-dealers, through retirement accounts and through variable insurance carriers, confident that they will receive that day's price for the shares. According to some estimates, mutual funds receive over half of their orders in the form of aggregated orders provided by intermediaries after 4:00 p.m. The SEC is currently reexamining its rules.

MFRA directs the SEC to enforce the current strict terms of Rule 22c–1—but gives the SEC the authority to fashion rules that accommodate investors transacting through their preferred intermediaries. For example, if it can be verified that intermediaries received their orders from their customers before 4:00 p.m.—and the intermediaries have systems in place that ensure compliance and permit independent verification—then the rules developed by the SEC may permit processing of such orders by the mutual fund after the 4:00 p.m. close. MFRA's ultimate purpose is two-fold: (1) preserve the appeal of mutual funds as a flexible and investor-friendly vehicle for long-term investment; and (2) prevent the unfair dilution of mutual fund value by short-term predators.

Market timing

"I have no interest in building a business around market timers, but at the same time I do not want to turn away $10–20m," wrote Richard Garland, then head of Janus Capital Groups international business to a colleague. Thus did Mr. Garland succinctly describe the sirenic tug that triggered the current industry scandals.

"Market timing" refers to a form of trading mutual fund shares in which short-term investors seek to exploit a perceived difference between the fund's calculated NAV and the actual underlying value of the fund's portfolio holdings. As earlier noted, funds must calculate their NAV and set their share price at least once a day—typically at 4 p.m. EST. Sometimes, the closing price of a portfolio security at 4:00 p.m. EST may not reflect its current market value. For example, an event may occur or news may be released after 4:00 p.m. that can reasonably be expected to have an impact on a security's price when trading resumes. Securities that trade overseas are especially fertile ground for market timers, because many hours may elapse between the close of trading in an overseas market and the calculation of the fund's NAV.

Market timers seek to reap quick profits in mutual fund shares from these arbitrage opportunities. A market timer seeks to purchase a fund's shares based on events occurring before the fund's NAV calculation. For example, a market timer might guess that rising prices in the U.S. securities markets indicate likely higher prices in overseas markets the next day. The market timer would purchase mutual fund shares that reflect stale closing prices in overseas markets. The market timer would then redeem the fund's shares the next day, when the fund's next NAV calculation would reflect the presumably higher prices in overseas markets. The market timer seeks to make a quick and relatively risk-free profit.

Market timing is not specifically illegal—hence the conundrum facing many fund advisers and other industry players. But many mutual funds discourage market timing, often resolutely, because timers take their profits directly out of the value of shares held by long-term investors—i.e., the very category of the 95 million American mutual fund investors most likely to have entrusted retirement and college savings to mutual funds. Sale of fund shares at an artificially low price based on stale information dilutes the ownership interest of existing shareholders. Similarly, redemption of fund shares at an artificially high price dilutes the interest of remaining shareholders.

Some question whether market timing strategies really work. Importantly, however, merely the perception that market timing works, and is available, encourages rapid trading, which burdens funds regardless of whether the underlying timing strategy works. A fund forced to meet multiple redemptions from rapid trading activity may be obliged to keep more fund assets in cash or sell more portfolio securities to meet such redemptions—which increases the fund's transactions costs at the expense of existing shareholders.

As noted earlier, MFRA's overriding purpose with respect to trading abuses is two-fold: (1) preserve the appeal of mutual funds as a flexible and investor-friendly vehicle for long-term investment; and (2) prevent the unfair dilution of mutual fund value by short-term predators. MFRA thus addresses the problem of market timing with solicitude for the long-term investor, and steers market timing away from the mutual funds. MFRA provisions include:

Requiring explicit disclosure in fund offering documents of market timing policies and specific procedures to enforce policies and requiring that such a policy be deemed a "fundamental investment policy" (which cannot, under the Investment Company Act of 1940, be changed without a shareholder vote).

Requiring that any fund that declines to adopt enforceable restrictions on market timing must so advise prospective investors in its prospectus, advertising, and otherwise as determined by the SEC.

Requiring regular fair value pricing so that NAV more fairly reflects actual portfolio value, and opportunities for predatory arbitrage are diminished.

Requiring mandatory redemption fees for short-term trading (which fees are deposited back into fund assets, thus benefiting all shareholders, while discouraging arbitrage by increasing its cost).

Permitting (but not requiring) redemption fees exceeding two percent for short-term transactions that are unfair to shareholders.

TITLE 4: STUDIES

Learning from experiences: Further study

MFRA seeks to perpetuate the dialogue and to preserve the wisdom gathered from hard experience. Several studies are directed:

A study and report by the SEC on the consequences of the inherent conflict of interest confronting fund advisers, the extent to which legislative or regulatory measures could minimize this conflict of interest, and the extent to which legislative or regulatory measures could incentivize internal management of mutual funds.

A study and report by the General Accounting Office (GAO) on coordination of enforcement efforts between SEC headquarters.

SEC regional offices, and state regulatory and law enforcement entities.

A study and report by GAO on the SEC's current organizational structure with respect to investment company regulation, and whether that organizational structure sufficiently credits the importance of mutual fund oversight to the 95 million mutual fund investors in America, and whether certain features of that organizational structure, such as the separation of regulatory and enforcement functions, conduce to optimal regulatory understanding of current practices.

A study and report by the SEC on trends and causes in arbitration claims since 1995, and means to avert claims.

A study and report by the SEC on whether additional regulation of alternative investment vehicles, such as hedge funds, is appropriate to deter recurrence of trading abuses, manipulation of regulated investment companies by unregulated investment companies, or other distortion that may harm investors in shares of registered investment companies.

A study by the SEC, coupled with regulatory and acquisition initiatives as appropriate, designed to enhance the role of the internet in educating investors and providing timely information about laws, regulations, enforcement proceedings and individual funds. Further, the SEC should study the feasibility of mandating that funds have websites, and disclosure thereupon of material filings and fund information. Further, the SEC should take necessary steps to ensure that its EDGAR system is user-friendly and contains a search-engine that facilitates expeditious location of material information in the SEC's database.

By Mr. REID:

S. 2060. A bill to permit certain local law enforcement officers to carry firearms on aircraft; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, I rise today to introduce legislation to make it easier for local law enforcement officers to travel across the country. Whether on official travel or personal travel. Federal law enforcement officers are allowed to carry firearms with them throughout their travel. The legislation I am introducing today would extend the same privilege—and responsibility—to local law enforcement officers.

Ever since the horrific terrorist attacks that occurred on September 11, we have seen how our local emergency responders, including local law enforcement officers, play a vital role in protecting not just their local communities, but the entire Nation. We think of local law enforcement officers as the Nation's first responders, but they are also the Nation's early preventers. They are the first to identify local crimes that could turn into national attacks. They are the first to report suspicious behavior that could thwart a future terrorist attack. Stopping a terrorist threat before it becomes an attack is the best way to keep our Nation safe. That effort relies upon the eyes, ears and experience of our Nation's law enforcement officers.

A terrorist attack in any city is a national concern. Local law enforcement officers are a crucial element of the plan to protect our Nation. I appreciate the help of Detective David Kallas and General Counsel John Dean Harper for bringing this issue to my attention. This bill will help give them and their law enforcement colleagues the standing they deserve as they continue to protect our hometowns and the Nation.

By Mr. CONRAD (for himself, Mr. GRAHAM of Florida, Mr. ROCKEFELLER, Mr. AKAKA, and Mr. JOHNSON):

S. 2063. A bill to require the Secretary of Veterans Affairs to carry out a demonstration projects on priorities in the scheduling of appointments of veterans for health care through the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CONRAD. Mr. President, as I visit with veterans in North Dakota and here in Washington, too often I hear that waiting periods for medical care, and particularly for specialty care, are too long. We owe an unbelievable debt to American's veterans, and it is just not right that they cannot get the medical care they need when they need it. The legislation I am introducing today begins to address this problem.

Last month, as Ranking Member of the Senate Budget committee, I scheduled a field hearing in Bismarck, ND, to listen to the concerns of veterans regarding funding for the VA. Because more than fifty percent of veterans in North Dakota live in highly rural areas with limited access to VA medical facilities, I was particularly concerned about funding for VA medical care and the continuing reports from veterans regarding access to care and delays in the scheduling of appointments for medical care, especially speciality care.

Last September, I expressed similar concerns in testimony to the VA CARES Commission during field hearings in Minneapolis. I emphasized to Commission members that many North Dakota veterans have to travel hundreds of miles to access health care from the Fargo VA Medical Center or another FA facility in VISN 23 and that the VA must do more to ensure timely access for appointments and other VA medical services.

Reports in the national press make clear, however, that significant problems remain in the scheduling of appointments for medical care, particularly specialty care. Further complicating matters, there are many questions regarding the reliability of VA data on waiting list for appointments and the causes for the waiting periods according to reports in 2003 by the Department of Veterans Affairs Office of Inspector General and in 2000 by the General Accounting Office.

In North Dakota, several veterans service officers have reported a number of veterans waiting months for eye care, orthopedics and one veteran waiting almost ten months for back surgery. Another veteran, from the Bismarck area, was required to travel to Iowa for cancer treatment.

In view of these continuing concerns, I am today introducing legislation that would require the VA to undertake a two year pilot demonstration to study the implementation, cost and impact on VA services of several recent directives by the VA relating to the scheduling of medical appointments. The demonstration would be undertaken in three VISN networks, one highly rural, one rural, and one urban, that represent a cross-section of VA providers.

Under the demonstration, the VA would offer participating veterans, both new enrollees and established patients, service-connected and non-service connected, an appointment for primary care evaluation, hospitalization including specialty care or outpatient care within a 30 day period. If the VA facility is unable to provide the medical care within the designated period, the Department would make arrangements for the care at another VA facility or non-VA facility. Every effort, however, would be made to provide the medical care for the veteran through the VA healthcare network.

Finally, because of concerns regarding the accuracy of VA data on appointment periods, the bill requires the VA to report to Congress by FY 2007 on waiting periods for health care appointments, primary care and speciality care services. The VA would be required to report on the waiting periods for appointments by VA facility and VISN, include a breakdown of waiting periods by speciality, and submit recommendations to Congress for addressing the shortages of medical personnel. Finally, the legislation requests the Secretary, on the basis of the two year demonstration, to report to Congress by FY 2007 on the costs associated with implementation of the VA directive in the three VISNs and to report on the estimated cost to fully implement the directive throughout the VA system.

I am very pleased that my distinguished colleagues, Ranking Member of the Senate Committee on Veterans Affairs, Senator BOB GRAHAM and Senators JAY ROCKEFELLER, TIM JOHNSON and DANIEL AKAKA are joining me in sponsoring this legislation. I am also honored to have the strong support of the Disabled American Veterans and the AMVETS for this legislative proposal. I want to express my appreciation to Dave Gorman, DAV Executive Director; Joseph Violante, DAV National Legislative Director; Mike Dobmeier, former National Commander of the DAV and Rick Jones, AMVETS, National Legislative Director for their support.

It is critical that Congress and the Administration address the concerns of our veterans on the issue of waiting periods for medical care before adjourning of the 108th Congress. Veterans returning from Iraq, Afghanistan and from other peacekeeping deployments around the globe should not have to wait months for needed medical care. The needs of injured military personnel are great and the VA system will play a key role in their recovery. I encourage the Senate Committee on Veterans Affairs to review this legislation carefully and to act favorably on the measure before Congressional adjournment this fall.

I ask unanimous consent that the text of this legislation along with the letters of endorsement from the Disabled American Veterans and the AMVETS be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMONSTRATION PROJECT ON PRIORITIES IN SCHEDULING OF APPOINTMENTS OF VETERANS FOR HEALTH CARE THROUGH THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PROJECT REQUIRED.—The Secretary of Veterans Affairs shall carry out a demonstration project to assess the feasibility and advisability of providing for priorities in the scheduling of appointments of veterans for health care through the Department of Veterans Affairs in accordance with the following:

(1) The Department of Veterans Affairs Waiting Time for Appointments goals (30-30-20) of 2000.

(2) The provisions of the Veterans Health Administration directive entitled "Priority For Outpatient Medical Services and Inpatient Hospital Care" (VHA Directive 2002-059).

(3) The provisions of the Veterans Health Administration directive entitled "Priority Scheduling for Outpatient Medical Services and Inpatient Hospital Care for Service Connected Veterans" (VHA Directive 2003-062), dated October 23, 2003.

(b) PERIOD OF PROJECT.—The Secretary shall carry out the demonstration project during the two-year period beginning on October 1, 2004.

(c) LOCATIONS OF PROJECT.—(1) The Secretary shall carry out the demonstration project throughout each of three Veterans Integrated Service Networks (VISNs) selected by the Secretary for purposes of the project.

(2) In selecting Veterans Integrated Service Networks under paragraph (1), the Secretary shall ensure that the project is carried out in urban, rural, and highly rural areas.

(d) PROJECT REQUIREMENTS AND AUTHORITIES.—(1) Except as provided in paragraphs (2) and (3), in carrying out the demonstration project the Secretary shall schedule appointments for veterans for outpatient medical services and inpatient hospital care through the Department in accordance with the goals and directives referred to in subsection (a).

(2) The veterans covered by the demonstration project shall include any veterans residing in a Veterans Integrated Service Network covered by the project, whether new or current enrollees with the Department and including veterans with service-connected disabilities and veterans with non-service-connected disabilities.

(3) The Secretary shall schedule each appointment under the demonstration project in a Department facility unless, as determined by the Secretary—

(A) the cost of scheduling the appointment in a Department facility exceeds the cost of scheduling the appointment in a non-Department facility to an unreasonable degree; or

(B) the scheduling of the appointment in a non-Department facility is required for medical or other reasons.

(4) In carrying out the demonstration project, the Secretary may utilize the Preferred Pricing Program (PPP) of the Department, or similar programs or authorities, in the locations covered by the project.

(5) In this subsection, the terms "Department facility" and "non-Department facility" have the meaning given such terms in section 1701 of title 38, United States Code.

(e) ANNUAL REPORTS ON WAITING TIMES FOR APPOINTMENTS FOR CARE AND SERVICES.—(1) Not later than January 31 each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the waiting times of veterans for appointments for health care and services from the Department during the preceding year.

(2) Each report under paragraph (1) shall specify, for the year covered by the report, the following:

(A) A tabulation of the waiting time of veterans for appointments with the Department for each category of primary or specialty care or services furnished by the Department, broken out by particular Department facility and by Veterans Integrated Service Network.

(B) An identification of the categories of specialty care or services for which there are lengthy delays for appointments at particular Department facilities or throughout particular Veterans Integrated Service Networks, and, for each category so identified, recommendations for the reallocation of personnel, financial, and other resources to address such delays.

(f) REPORT ON PROJECT.—The report under subsection (e) in 2007 shall also include information on the demonstration project under this section. That information shall include—

(1) a description of the project, including the, Veterans Integrated Service Networks selected for the project, the number of veterans covered by the project, the number and timeliness of appointments scheduled under the project, and the costs of carrying out the project;

(2) an assessment of the feasibility and advisability of implementing the project nationwide; and

(3) such other information with respect to the project as the Secretary considers appropriate.

DISABLED AMERICAN VETERANS,
Washington, DC, February 4, 2004.

Hon. KENT CONRAD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CONRAD: On behalf of the more than one million members of the Disabled American Veterans (DAV), we are pleased to support your proposed legislation to assess the feasibility and advisability of providing priorities in the scheduling of appointments through the Department of Veterans Affairs (VA) in accordance with VA's own access directives and goals.

The highest priority for VA health care must always be the core group of veterans the system was designed to treat: service-connected disabled veterans, the medically indigent, and those with special needs and catastrophic disabilities. As you are aware, in the past year, the Secretary of Veterans Affairs has issued two directives relating to priority care and the scheduling of appointments for service-connected veterans. In addition, VA has set access standards for patient appointments and struggled with improving its access goals of 30-30-20 for primary and specialty care appointments; specifically, access to non-urgent primary care appointments within 30 days, non-urgent appointments with a specialist within 30 days of the date of referral, and being seen by a provider at VA health care facilities within 20 minutes of a patient's scheduled appointment. Despite VA's efforts, we continue to hear reports from veterans of lengthy delays in getting appointments for both primary and specialty health care and services.

Through a pilot project in three Veterans Integrated Service Networks representing urban, rural, and highly rural areas, your bill seeks to improve access for veterans seeking VA health care and to evaluate the personnel, cost, and other resources necessary for VA to meet its own access goals. The annual reporting requirements about delay times for primary and specialty care appointments nationwide, and recommendations for the allocation of personnel, financial, and other resources needed to address such delays are essential and will help Congress and VA better understand the actual resources necessary to meet veterans health care needs in a timely manner.

It has been abundantly clear for some time that our government needs to develop long-term solutions to the funding problems facing the veterans health care system. This proposed measure will help begin to address this issue. The DAV and the other major veterans groups are united in our support for legislation that would guarantee an adequate level of funding for the VA medical system as the key to ensuring timely access to quality health care for our nation's veterans. The Congress and the Administration must make the commitment to provide the necessary resources to fulfill the obligation to care for America's sick and disabled vetrans—now and in the future.

Thank you for your continued interest in this issue, and for sponsoring this important legislation. We greatly appreciate your efforts on behalf of our nation's sick and disabled veterans.

Sincerely,

ALAN W. BOWERS,
National Commander.

AMVETS,
Lantham, MD, February 9, 2004.

Hon. KENT CONRAD,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: It is our understanding that you plan to offer legislation that would help reduce the time veterans must wait for a VA doctor's appointment. AMVETS, a nationwide veterans service organization, is pleased to support your proposal.

The need for reducing the time veterans wait for medical exams is well documented. A report issued last year by the President's task force on improving veterans health care delivery said there were nearly 300,000 veterans waiting for medical services at the start of 2003.

While progress is being made to gain more timely care for veterans, the Secretary's decision to halt enrollment of certain veterans for the remainder of the year and into the next fiscal year is another clear indicator that VA cannot meet its own standard for scheduling and appointment within 30 days.

Your proposal would establish a two-year pilot program in three Veterans Integrated Service Networks—a highly rural VISN, a rural VISN, and an urban VISN—to improve access for veterans seeking care and determine how much such standards would cost in terms of resources and impact on other VA medical services.

In effect, the bill provides a valuable tool to use for reducing waiting times and responding to the healthcare needs of veterans. Moreover, it would provide vital information on the actual resource needs necessary to ensure veterans earned benefits are provided in a timely manner.

We are grateful for your leadership in proposing this legislation, and we thank you for supporting the men and women who have served America's Armed Forces.

Sincerely,

RICHARD A. JONES,
National Legislative Director.

Mr. GRAHAM. Mr. President, I rise today with my friend, Senator CONRAD, in support of legislation to ensure that the Department of Veterans Affairs meets appropriate health care access standards.

With more than 60,000 veterans nationwide still on waiting lists to see a doctor—in some cases for more than a year—we must take measures to combat this problem. Right now, at the Gainesville VA Hospital in my home State of Florida, there are 1,085 veterans that have been waiting 6 months or longer to see a primary care doctor. And at the Fort Myers Outpatient Clinic, almost 600 veterans must wait at least a year to see an eye doctor. While VA has made improvements over the past year, I remain skeptical of their ability to rectify the problem. My concerns were exacerbated by a May 2003 Inspector General report which concluded that VA needed to improve their accuracy in tracking patients on waiting lists.

The legislation Senator CONRAD and I are introducing today would establish three pilot programs that seek to improve the timeliness of veterans' access to VA health care services. The programs would first require VA to meet the access standards they set for themselves at 30 days for a primary care appointment and 30 days for a specialty care appointment. If VA cannot schedule an appointment for a patient within this timeline, then they must provide for the service elsewhere, such as through contracts with local private health care facilities.

This initiative would merely put VA's already existing access standards into law, reinforcing VA's own targets and sending a message that we are willing to work with VA to help combat this problem. It has been over a year now that the Department has dealt with waiting lists and has yet to eliminate them. We cannot continue to sit back and criticize—we have provided the funding VA needs, and now we must also try to assist them in other ways.

Most importantly, the pilot program would be cost-neutral because it grants the Secretary discretion to defer from the access requirements if the cost of outside care exceeds that of VA's. Therefore, there will be no detriment to the VA system for providing timely access to needed health care services. I know my colleagues agree that our Nation's veterans deserve quality health care within a reasonable time frame, and I urge them to support this legislation.

AMENDMENTS SUBMITTED & PROPOSED

SA 2281. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 2282. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2283. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2284. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2285. Mr. INHOFE proposed an amendment to the bill S. 1072, supra.

SA 2286. Mr. WARNER (for himself, Mrs. CLINTON, Mr. DEWINE, and Mrs. MURRAY) proposed an amendment to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra.

SA 2287. Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2288. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2289. Mr. DAYTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2290. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2291. Mr. DAYTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2292. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2293. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2294. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2295. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2296. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2281. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 756, between lines 3 and 4, insert the following:

SEC. 1409. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

SA 2282. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 5507 and insert the following:

SEC. 5507. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS; CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

(a) UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended—

(A) by striking "$100" in subparagraph (A) and inserting "$190", and

(B) by striking "$175" in subparagraph (B) and inserting "$190".

(2) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) of the Internal Revenue Code of 1986 (relating to inflation adjustment) is amended—

(A) by striking the last sentence,

(B) by striking "1999" and inserting "2003", and

(C) by striking "1998" and inserting "2002".

(3) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

(b) Clarification of Federal Employee Benefits.—Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting "and" after the semicolon;

(B) in paragraph (3) by striking "; and" and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

"(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;".

SA 2283. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TERMINATION OF DETERMINATIONS OF GRANDFATHER RIGHTS.

(a) In General.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(h) Grandfather Rights.—

"(1) General rule.—After the 270th day following the date of enactment of this subsection, a State may not allow, on a segment of the Interstate System, the operation of a vehicle or combination (other than a longer combination vehicle) exceeding an Interstate weight limit unless the operation is specified on the list published under paragraph (2).

"(2) List of vehicles and combinations.—

"(A) Proceeding.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that the Department of Transportation, any other Federal agency, or a State has determined on or before June 1, 2003, could be lawfully operated within such State—

"(i) on July 1, 1956;

"(ii) in the case of the overall gross weight of any group of 2 or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974; or

"(iii) under a special rule applicable to a State under subsection (a).

"(B) Limitations.—

"(i) Actual and lawful operations required.—An operation of a vehicle or combination may be included on the list published under subparagraph (A) only if the vehicle or combination was in actual and lawful operation in the State on a regular or periodic basis on or before June 1, 2003.

"(ii) State authority not sufficient.—An operation of a vehicle or combination may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the vehicle or combination at some prior date by permit or otherwise.

"(C) Publication of final list.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall publish a final list of vehicles and combinations described in subparagraph (A).

"(3) Limitation on statutory construction.—This subsection does not prevent a State from reducing the gross vehicle weight limitation, the single and tandem axle weight limitations, or the overall maximum gross weight on a group of 2 or more consecutive axles applicable to portions of the Interstate System in the State for operations on the list published under paragraph (2)(C) but in no event may any such reduction result in a limitation that is less than an Interstate weight limit.

"(4) Applicability of existing requirements.—All vehicles and combinations included on the list published under paragraph (2) shall be subject to all routing-specific, commodity-specific, and weight-specific designations in force in a State on June 1, 2003.

"(5) Interstate weight limit defined.—In this subsection, the term 'Interstate weight limit' means the 80,000 pound gross vehicle weight limitation, the 20,000 pound single axle weight limitation (including enforcement tolerances), the 34,000 pound tandem axle weight limitation (including enforcement tolerances), and the overall maximum gross weight (including enforcement tolerances) on a group of 2 or more consecutive axles produced by application of the formula in subsection (a).".

(b) Conforming Amendment.—The fourth sentence of section 127(a) of title 23, United States Code, is amended by striking "the State determines".

SEC. . NONDIVISIBLE LOAD PROCEEDING.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

"(i) Nondivisible Loads.—

"(1) Proceeding.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to define the term 'vehicles and loads which cannot be easily dismantled or divided' as used in subsection (a) and section 31112 of title 49.

"(2) List of commodities.—

"(A) In general.—The definition developed under paragraph (1) shall include a list of commodities (or classes or types of commodities) that do not qualify as nondivisible loads.

"(B) Limitation.—The list of commodities developed under paragraph (1) shall not be interpreted to be a comprehensive list of commodities that do not qualify as nondivisible loads.

"(3) Regulations.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall issue final regulations setting forth the determination of the Secretary made under paragraph (1). The Secretary shall update the regulations as necessary.

"(4) Applicability.—Regulations issued under paragraph (2) shall apply to all vehicles and loads operating on the National Highway System.

"(5) State requirements.—A State may establish any requirement that is not inconsistent with regulations issued under paragraph (2).

"(6) Statement of policy.—The purpose of this subsection is to promote conformity with Interstate weight limits to preserve publicly funded infrastructure and protect motorists by limiting maximum vehicle weight on key portions of the Federal-aid highway system.".

SEC. . WAIVERS OF WEIGHT LIMITATIONS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

"(j) Waivers During Periods of National Emergency.—

"(1) In general.—Notwithstanding any other provision of this section or section 126, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section or section 126 with respect to a highway route during a period of national emergency in order to respond to the effects of the national emergency.

"(2) Applicability.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.".

SEC. . VEHICLE WEIGHT LIMITATIONS—NATIONAL HIGHWAY SYSTEM.

(a) In General.—Title 23, United States Code, is amended by inserting after section 125 the following:

"§ 126. Vehicle weight limitations—National Highway System

"(a) Non-Interstate Highways on NHS.—

"(1) In general.—After the 270th day following the date of enactment of this section, any Interstate weight limit that applies to vehicles and combinations (other than longer combination vehicles) operating on the Interstate System in a State under section 127 shall also apply to vehicles and combinations (other than longer combination vehicles) operating on non-Interstate segments of the National Highway System in such State, unless such segments are subject to lower State weight limits as provided for in subsection (d).

"(2) Existing highways.—

"(A) In general.—Notwithstanding paragraph (1), in the case of a non-Interstate segment of the National Highway System that is open to traffic on June 1, 2003, a State may allow the operation of any vehicle or combination (other than a longer combination vehicle) on such segment that the Secretary determines under subsection (b) could be lawfully operated on such segment on June 1, 2003.

"(B) Applicability of State laws and regulations.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

"(3) New highways.—Subject to subsection (d)(1), the gross vehicle weight limitations and axle loading limitations applicable to all vehicles and combinations (other than longer combination vehicles) on a non-Interstate segment of the National Highway System that is not open to traffic on June 1, 2003, shall be the Interstate weight limit.

"(b) Listing of Vehicles and Combinations.—

"(1) In general.—The Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that could be lawfully operated on a non-Interstate segment of the National Highway System on June 1, 2003.

"(2) Requirements.—In publishing a list of vehicles and combinations under paragraph (1), the Secretary shall identify—

"(A) the gross vehicle weight limitations and axle loading limitations in each State applicable, on June 1, 2003, to vehicles and combinations (other than longer combination vehicles) on non-Interstate segments of the National Highway System; and

"(B) operations of vehicles and combinations (other than longer combination vehicles), exceeding State gross vehicle weight limitations and axle loading limitations identified under subparagraph (A), which were in actual and lawful operation on a regular or periodic basis (including seasonal operations) on June 1, 2003.

"(3) Limitation.—An operation of a vehicle or combination may not be included on the list published under paragraph (1) on the basis that a State law or regulation could have authorized such operation at some prior date by permit or otherwise.

"(4) Publication of final list.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of vehicles and combinations described in paragraph (1).

"(5) Updates.—The Secretary shall update the list published under paragraph (1) as necessary to reflect new designations made to the National Highway System.

"(c) Applicability of Limitations.—The limitations established by subsection (a) shall apply to any new designation made to the National Highway System and remain in effect on those non-Interstate highways that cease to be designated as part of the National Highway System.

"(d) Limitations on Statutory Construction.—

"(1) State enforcement of more restrictive weight limits.—This section does not prevent a State from maintaining or imposing a weight limitation that is more restrictive than the Interstate weight limit on vehicles or combinations (other than longer combination vehicles) operating on a non-Interstate segment of the National Highway System.

"(2) State actions to reduce weight limits.—This section does not prevent a State from reducing the State's gross vehicle weight limitation, single or tandem axle weight limitations, or the overall maximum gross weight on 2 or more consecutive axles on any non-Interstate segment of the National Highway System.

"(e) Longer Combination Vehicles.—

"(1) Prohibition.—

"(A) In general.—After the 270th day following the date of enactment of this section, a longer combination vehicle may continue to operate on a non-Interstate segment of the National Highway System only if the operation of the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation on June 1, 2003, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2003.

"(B) Applicability of state laws and regulations.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

"(2) Listing of vehicles and combinations.—

"(A) In general.—Not later than 60 days after the date of enactment of this section, the Secretary shall initiate a proceeding to determine and publish a list of longer combination vehicles that could be lawfully operated on non-Interstate segments of the National Highway System on June 1, 2003.

"(B) Limitation.—A longer combination vehicle may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of such vehicle at some prior date by permit or otherwise.

"(C) Publication of final list.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of longer combination vehicles described in subparagraph (A).

"(D) Updates.—The Secretary shall update the list published under subparagraph (A) as necessary to reflect new designations made to the National Highway System.

"(3) Limitation on statutory construction.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a longer combination vehicle; except that such restrictions or prohibitions shall be consistent with the requirements of section 127 of this title and sections 31112 through 31114 of title 49, United States Code.

"(f) Model Schedule of Fines.—

"(1) In general.—The Secretary, in consultation with the States, shall establish a model schedule of fines to be assessed for violations of this section.

"(2) Purpose.—The purpose of the schedule of fines shall be to ensure that fines are sufficient to deter violations of the requirements of this section and to permit States to recover costs associated with damages caused to the National Highway System by the operation of such vehicles.

"(3) Adoption by states.—The Secretary shall encourage but not require States to adopt the schedule of fines.

"(g) Definitions.—In this section, the following definitions apply:

"(1) Interstate weight limit.—The term 'Interstate weight limit' has the meaning given such term in section 127(h).

"(2) Longer combination vehicle.—The term 'longer combination vehicle' has the meaning given such term in section 127(d).".

(b) Enforcement of Requirements.—Section 141(a) of title 23, United States Code, is amended—

(1) by striking "the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System" and inserting "the National Highway System, including the Interstate System,"; and

(2) by striking "section 127" and inserting "sections 126 and 127".

(c) Conforming Amendment.—The analysis for title 23, United States Code, is amended by inserting after the item relating to section 125 the following:

"126. Vehicle weight limitations—National Highway System.".

SA 2284. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1072 to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 748, strike line 3 and insert the following:

SEC. 1403. HIGHER-RISK IMPAIRED DRIVERS.

On page 748, line 4, insert "(a) License Suspension Definition.—" before "Section".

On page 748, between lines 19 and 20, insert the following:

(b) Other Definitions.—Section 164 of title 23, United States Code, is further amended—

(1) by striking subsection (a)(5) and inserting the following:

"(5) Higher-risk impaired driver law.—

"(A) In general.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that an individual described in subparagraph (B) shall—

"(i) receive a driver's license suspension for not less than 1 year, including a complete ban on driving for not less than 90 days and for the remainder of the license suspension period and prior to the issuance of a probational hardship or work permit license, be required to install a certified alcohol ignition interlock device;

"(ii) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 90 days and for the remainder of the license suspension period require the installation of a certified alcohol ignition interlock device on the vehicle;

"(iii) be subject to an assessment by a certified substance abuse official of the State that assesses the individual's degree of abuse of alcohol and assigned to a treatment program or impaired driving education program as determined by the assessment;

"(iv) be imprisoned for not less than 10 days, have an electronic monitoring device for not less than 100 days, or be as signed to a DUI/DWI specialty facility for not less than 30 days;

"(v) be fined a minimum of $1,000, with the proceeds of such funds to be used by the State or local jurisdiction for impaired driving related prevention, enforcement, and prosecution programs, or for the development or maintenance of a tracking system of offenders driving while impaired;

"(vi) if the arrest resulted from involvement in a crash, pay court-mandated restitution to the victims of the crash;

"(vii) be placed on probation by the court for a period of not less than 2 years;

"(viii) if diagnosed with a substance abuse problem, during the first year of the probation period referred to in clause (vii), attend a treatment program for a period of 12 consecutive months sponsored by a State certified substance abuse treatment agency and meet with a case manager at least once each month; and

"(ix) be required by the court to attend a victim impact panel, if such a panel is available.

"(B) Individuals to whom penalties apply.—An individual is described in this subparagraph if that individual—

"(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a minimum of 10 consecutive years;

"(ii) is convicted of a driving while intoxicated or driving under the influence with a blood alcohol concentration of 0.15 percent or greater; or

"(iii) is convicted of a driving-while-suspended offense if the suspension was the result of a conviction for driving under the influence.";

(2) by adding at the end of subsection (a) the following:

"(6) Special DUI/DWI facility.—The term 'special DUI/DWI facility' means a facility that houses and treats offenders arrested for driving while impaired and allows such offenders to work or attend school.

"(7) Victim impact panel.—The term 'victim impact panel' means a group of impaired driving victims who speak to offenders about impaired driving for the purpose of trying to change attitudes and behaviors in order to deter impaired driving recidivism."; and

(3) by striking subsection (b) and inserting the following:

"(b) Imposition of Higher-Risk Impaired Driver Law Requirement.—

"(1) In general.—Notwithstanding any provision of section 104 to the contrary, as a condition of receiving the full amount of funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b), a State shall enact and enforce a higher-risk impaired driver law.

"(2) ENFORCEMENT BY WITHHOLDING FUNDS.—On October 1st of the following fiscal years, the Secretary shall withhold the applicable percentage of the amount required to be apportioned for Federal-aid highways to a State on that date under each of paragraphs (1), (3), and (4) of section 104(b) if the State has not enacted or is not enforcing a higher-risk impaired driver law:

"(A) For fiscal year 2008, the applicable percentage is 2 percent.

"(B) For fiscal year 2009, the applicable percentage is 4 percent.

"(C) For fiscal year 2010, the applicable percentage is 6 percent.

"(D) For fiscal years 2011 and thereafter, the applicable percentage is 8 percent.".

SA 2285. Mr. INHOFE proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

Strike all after the enacting clause.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General definitions.
Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Minimum guarantee.
Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.
Sec 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal facilities.
Sec. 1205. Designation of Daniel Patrick Moynihan Interstate Highway.
Sec. 1206. State-by-State comparison of highway construction costs.

Subtitle C—Finance

Sec. 1301. Federal share.
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.
Sec. 1306. State infrastructure banks.
Sec. 1307. Public-private partnerships pilot program.
Sec. 1308. Wagering.

Subtitle D—Safety

Sec. 1401. Highway safety improvement program.
Sec. 1402. Operation lifesaver.
Sec. 1403. License suspension.
Sec. 1404. Bus axle weight exemption.
Sec. 1405. Safe routes to schools program.
Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
Sec. 1409. Identity authentication standards.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
Sec. 1503. Integration of natural resource concerns into transportation project planning.
Sec. 1504. Public involvement in transportation planning and projects.
Sec. 1505. Project mitigation.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

Sec. 1511. Transportation project development process.
Sec. 1512. Assumption of responsibility for categorical exclusions.
Sec. 1513. Surface transportation project delivery pilot program.
Sec. 1514. Regulations.

CHAPTER 3—MISCELLANEOUS

Sec. 1521. Critical real property acquisition.
Sec. 1522. Planning capacity building initiative.

Subtitle F—Environment

Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
Sec. 1602. National scenic byways program.
Sec. 1603. Recreational trails program.
Sec. 1604. Exemption of Interstate System.
Sec. 1605. Standards.
Sec. 1606. Use of high occupancy vehicle lanes.
Sec. 1607. Bicycle transportation and pedestrian walkways.
Sec. 1608. Idling reduction facilities in Interstate rights-of-way.
Sec. 1609. Toll programs.
Sec. 1610. Federal reference method.
Sec. 1611. Addition of particulate matter areas to CMAQ.
Sec. 1612. Addition to CMAQ-eligible projects.
Sec. 1613. Improved interagency consultation.
Sec. 1614. Evaluation and assessment of CMAQ projects.
Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.
Sec. 1616. Transition to new air quality standards.
Sec. 1617. Reduced barriers to air quality improvements.
Sec. 1618. Air quality monitoring data influenced by exceptional events.
Sec. 1619. Conforming amendments.
Sec. 1620. Highway stormwater discharge mitigation program.
Sec. 1621. Exemption from certain hazardous materials transportation requirements.

Subtitle G—Operations

Sec. 1701. Transportation systems management and operations.
Sec. 1702. Real-time system management information program.
Sec. 1703. Contracting for engineering and design services.
Sec. 1704. Off-duty time for drivers of commercial vehicles.
Sec. 1705. Designation of transportation management areas.

Subtitle H—Federal-Aid Stewardship

Sec. 1801. Future Interstate System routes.
Sec. 1802. Stewardship and oversight.
Sec. 1803. Design-build contracting.
Sec. 1804. Program efficiencies—finance.
Sec. 1805. Set-asides for interstate discretionary projects.
Sec. 1806. Federal lands highways program.
Sec. 1807. Highway bridge program.
Sec. 1808. Appalachian development highway system.
Sec. 1809. Multistate corridor program.
Sec. 1810. Border planning, operations, technology, and capacity program.
Sec. 1811. Puerto Rico highway program.
Sec. 1812. National historic covered bridge preservation.
Sec. 1813. Transportation and community and system preservation program.
Sec. 1814. Parking pilot programs.
Sec. 1815. Interstate oasis program.
Sec. 1816. Tribal-State road maintenance agreements.
Sec. 1817. National forest system roads.
Sec. 1818. Territorial highway program.
Sec. 1819. Magnetic levitation transportation technology deployment program.
Sec. 1820. Donations and credits.
Sec. 1821. Disadvantaged business enterprises.
Sec. 1822. Emergency relief.

Subtitle I—Technical Corrections

Sec. 1901. Repeal or update of obsolete text.
Sec. 1902. Clarification of date.
Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
Sec. 1904. Inclusion of Buy America requirements in title 23.
Sec. 1905. Technical amendments to nondiscrimination section.

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

Sec. 2001. Authorization of appropriations.
Sec. 2002. Obligation ceiling.
Sec. 2003. Notice.

Subtitle B—Research and Technology

Sec. 2101. Research and technology program.
Sec. 2102. Study of data collection and statistical analysis efforts.
Sec. 2103. Centers for surface transportation excellence.
Sec. 2104. Motorcycle crash causation study grants.

Subtitle C—Intelligent Transportation System Research

Sec. 2201. Intelligent transportation system research and technical assistance program.

TITLE III—PUBLIC TRANSPORTATION

Sec. 3001. Short title.
Sec. 3002. Amendments to title 49, United States Code; updated terminology.
Sec. 3003. Policies, findings, and purposes.
Sec. 3004. Definitions.
Sec. 3005. Metropolitan transportation planning.
Sec. 3006. Statewide transportation planning.
Sec. 3007. Transportation management areas.
Sec. 3008. Private enterprise participation.
Sec. 3009. Urbanized area formula grants.
Sec. 3010. Planning programs.
Sec. 3011. Capital investment program.
Sec. 3012. New freedom for elderly persons and persons with disabilities.

Sec. 3013. Formula grants for other than urbanized areas.
Sec. 3014. Research, development, demonstration, and deployment projects.
Sec. 3015. Transit cooperative research program.
Sec. 3016. National research programs.
Sec. 3017. National transit institute.
Sec. 3018. Bus testing facility.
Sec. 3019. Bicycle facilities.
Sec. 3020. Suspended light rail technology pilot project.
Sec. 3021. Crime prevention and security.
Sec. 3022. General provisions on assistance.
Sec. 3023. Special provisions for capital projects.
Sec. 3024. Contract requirements.
Sec. 3025. Project management oversight and review.
Sec. 3026. Project review.
Sec. 3027. Investigations of safety and security risk.
Sec. 3028. State safety oversight.
Sec. 3029. Sensitive security information.
Sec. 3030. Terrorist attacks and other acts of violence against public transportation systems.
Sec. 3031. Controlled substances and alcohol misuse testing.
Sec. 3032. Employee protective arrangements.
Sec. 3033. Administrative procedures.
Sec. 3034. Reports and audits.
Sec. 3035. Apportionments of appropriations for formula grants.
Sec. 3036. Apportionments for fixed guideway modernization.
Sec. 3037. Authorizations.
Sec. 3038. Apportionments based on growing States formula factors.
Sec. 3039. Job access and reverse commute grants.
Sec. 3040. Over-the-road bus accessibility program.
Sec. 3041. Alternative transportation in parks and public lands.
Sec. 3042. Obligation ceiling.
Sec. 3043. Adjustments for the Surface Transportation Extension Act of 2003.
Sec. 3044. Intermodal passenger facilities.

TITLE IV—SURFACE TRANSPORTATION SAFETY

Sec. 4001. Short title.

Subtitle A—Highway Safety

PART 1—HIGHWAY SAFETY GRANT PROGRAM

Sec. 4101. Short Title; amendment of title 23, United States Code.
Sec. 4102. Authorization of appropriations.
Sec. 4103. Highway safety programs.
Sec. 4104. Highway safety research and outreach programs.
Sec. 4105. National Highway Safety Advisory Committee technical correction.
Sec. 4106. Occupant protection grants.
Sec. 4107. School bus driver training.
Sec. 4108. Emergency medical services.
Sec. 4109. Repeal of authority for alcohol traffic safety programs.
Sec. 4110. Impaired driving program.
Sec. 4111. State traffic safety information system improvements.
Sec. 4112. NHTSA accountability.
Sec. 4113. Effective dates.

PART 2—SPECIFIC VEHICLE SAFETY-RELATED RULINGS

Sec. 4151. Amendment of title 49, United States Code.
Sec. 4152. Load capacity labeling for light trucks.
Sec. 4153. Vehicle crash ejection prevention.
Sec. 4154. Vehicle backover avoidance technology study.
Sec. 4155. Vehicle backover data collection.
Sec. 4156. Aggressivity and incompatibility reduction standard.
Sec. 4157. Improved crashworthiness.
Sec. 4158. 15-passenger vans.
Sec. 4159. Tires.
Sec. 4160. Safety belt use reminders.
Sec. 4161. Missed deadlines reports.
Sec. 4162. Grants for improving child passenger safety programs.
Sec. 4163. Bus crash testing.
Sec. 4164. Authorization of appropriations.

Subtitle II—Motor Carrier Safety and Unified Carrier Registration

Sec. 4201. Short title; amendment of title 49, United States Code.
Sec. 4202. Required completion of overdue reports, studies, and rulemakings.
Sec. 4203. Contract authority.

PART 1—MOTOR CARRIER SAFETY

Sec. 4221. Minimum guarantee.
Sec. 4222. Authorization of appropriations.
Sec. 4223. Motor carrier safety grants.
Sec. 4224. CDL working group.
Sec. 4225. CDL learner's permit program.
Sec. 4226. Hobbs Act.
Sec. 4227. Penalty for denial of access to records.
Sec. 4228. Medical program.
Sec. 4229. Operation of commercial motor vehicles by individuals who use insulin to treat diabetes mellitus.
Sec. 4230. Financial responsibility for private motor carriers.
Sec. 4231. Increased penalties for out-of-service violations and false records.
Sec. 4232. Elimination of commodity and service exemptions.
Sec. 4233. Intrastate operations of interstate motor carriers.
Sec. 4234. Authority to stop commercial motor vehicles.
Sec. 4235. Revocation of operating authority.
Sec. 4236. Pattern of safety violations by motor carrier management.
Sec. 4237. Motor carrier research and technology program.
Sec. 4238. Review of commercial zone exemption provision.
Sec. 4239. International cooperation.
Sec. 4240. Performance and registration information system management.
Sec. 4241. Commercial vehicle information systems and networks deployment.
Sec. 4242. Outreach and education.
Sec. 4243. Operation of restricted property-carrying units on national highway system.
Sec. 4244. Operation of longer combination vehicles on national highway system.
Sec. 4245. Application of safety standards to certain foreign motor carriers.
Sec. 4246. Background checks for mexican and canadian drivers hauling hazardous materials.
Sec. 4247. Exemption of drivers of utility service vehicles.
Sec. 4248. Operation of commercial motor vehicles transporting agricultural commodities and farm supplies.
Sec. 4249. Safety performance history screening.
Sec. 4250. Compliance review audit.

PART 2—UNIFIED CARRIER REGISTRATION

Sec. 4261. Short title.
Sec. 4262. Relationship to other laws.
Sec. 4263. Inclusion of motor private and exempt carriers.
Sec. 4264. Unified carrier registration system.
Sec. 4265. Registration of motor carriers by States.
Sec. 4266. Identification of vehicles.
Sec. 4267. Use of ucr agreement revenues as matching funds.
Sec. 4268. Clerical amendments.

Subtitle C—Household Goods Movers

Sec. 4301. Short title; amendment of title 49, United States Code.
Sec. 4302. Findings; sense of Congress.
Sec. 4303. Definitions.
Sec. 4304. Payment of rates.
Sec. 4305. Household goods carrier operations.
Sec. 4306. Liability of carriers under receipts and bills of lading.
Sec. 4307. Dispute settlement for shipments of household goods.
Sec. 4308. Enforcement of regulations related to transportation of household goods.
Sec. 4309. Working group for development of practices and procedures to enhance federal-state relations.
Sec. 4310. Consumer handbook on dot website.
Sec. 4311. Information about household goods transportation on carriers' websites.
Sec. 4312. Consumer complaints.
Sec. 4313. Review of liability of carriers.
Sec. 4314. Civil penalties relating to household goods brokers.
Sec. 4315. Civil and criminal penalty for failing to give up possession of household goods.
Sec. 4316. Progress report.
Sec. 4317. Additional registration requirements for motor carriers of household goods.

Subtitle D—Hazardous Materials Transportation Safety and Security

Sec. 4401. Short title.
Sec. 4402. Amendment of title 49, United States Code.

PART 1—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

Sec. 4421. Purpose.
Sec. 4422. Definitions.
Sec. 4423. General regulatory authority.
Sec. 4424. Limitation on issuance of hazmat licenses.
Sec. 4425. Representation and tampering.
Sec. 4426. Transporting certain highly radioactive material.
Sec. 4427. Hazmat employee training requirements and grants.
Sec. 4428. Registration.
Sec. 4429. Shipping papers and disclosure.
Sec. 4430. Rail tank cars.
Sec. 4431. Highway routing of hazardous material.
Sec. 4432. Unsatisfactory safety ratings.
Sec. 4433. Air transportation of ionizing radiation material.
Sec. 4434. Training curriculum for the public sector.
Sec. 4435. Planning and training grants; emergency preparedness fund.
Sec. 4436. Special permits and exclusions.
Sec. 4437. Uniform forms and procedures.
Sec. 4438. International uniformity of standards and requirements.
Sec. 4439. Hazardous materials transportation safety and security.
Sec. 4440. Enforcement.

Sec. 4441. Civil penalties.
Sec. 4442. Criminal penalties.
Sec. 4443. Preemption.
Sec. 4444. Relationship to other laws.
Sec. 4445. Judicial review.
Sec. 4446. Authorization of appropriations.
Sec. 4447. Additional civil and criminal penalties.

PART 2—OTHER MATTERS

Sec. 4461. Administrative authority for research and special programs administration.
Sec. 4462. Mailability of hazardous materials.
Sec. 4463. Criminal matters.
Sec. 4464. Cargo inspection program.
Sec. 4465. Information on hazmat registrations.
Sec. 4466. Report on applying hazardous materials regulations to persons who reject hazardous materials.

PART 3—SANITARY FOOD TRANSPORTATION

Sec. 4481. Short title.
Sec. 4482. Responsibilities of the Secretary of Health and Human Services.
Sec. 4483. Department of Transportation requirements.
Sec. 4484. Effective date.

Subtitle E—Recreational Boating Safety

Sec. 4501. Short title.

PART 1—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

Sec. 4521. Amendment of Federal aid in Fish Restoration Act.
Sec. 4522. Authorization of appropriations.
Sec. 4523. Division of annual appropriations.
Sec. 4524. Maintenance of projects.
Sec. 4525. Boating infrastructure.
Sec. 4526. Requirements and restrictions concerning use of amounts for expenses for administration.
Sec. 4527. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
Sec. 4528. Multistate conservation grant program.

PART 2—CLEAN VESSEL ACT AMENDMENTS

Sec. 4541. Grant program.

PART 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

Sec. 4561. State matching funds requirement.
Sec. 4562. Availability of allocations.
Sec. 4563. Authorization of appropriations for State recreational boating safety programs.
Sec. 4564. Maintenance of effort for State recreational boating safety programs.

PART 4—MISCELLANEOUS

Sec. 4581. Technical correction to Homeland Security Act.

Subtitle F—Rail Transportation

PART 1—AMTRAK

Sec. 4601. Authorization of appropriations.
Sec. 4602. Establishment of corporation.

PART 2—RAILROAD TRACK MODERNIZATION

Sec. 4631. Short title.
Sec. 4632. Capital grants for railroad track.
Sec. 4633. Regulations.
Sec. 4634. Study of grant-funded projects.
Sec. 4635. Authorization of appropriations.

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

Sec. 4661. Capital grants for rail line relocation projects.
Sec. 4662. Federal bonds for transportation infrastructure.

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

Sec. 5000. Short title; amendment of 1986 code; table of contents.

Subtitle A—Trust Fund Reauthorization

Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.
Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
Sec. 5003. Modification of adjustments of apportionments.

Subtitle B—Volumetric Ethanol Excise Tax Credit

Sec. 5101. Short title.
Sec. 5102. Alcohol and biodiesel excise tax credit and extension of alcohol fuels income tax credit.
Sec. 5103. Biodiesel income tax credit.

Subtitle C—Fuel Fraud Prevention

Sec. 5200. Short title.

PART I—AVIATION JET FUEL

Sec. 5211. Taxation of aviation-grade kerosene.
Sec. 5212. Transfer of certain amounts from the Airport and Airway Trust Fund to the Highway Trust Fund to reflect highway use of jet fuel.

PART II—DYED FUEL

Sec. 5221. Dye injection equipment.
Sec. 5222. Elimination of administrative review for taxable use of dyed fuel.
Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
Sec. 5224. Termination of dyed diesel use by intercity buses.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

Sec. 5231. Authority to inspect on-site records.
Sec. 5232. Assessable penalty for refusal of entry.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

Sec. 5241. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones.
Sec. 5244. Penalties for failure to register and failure to report.
Sec. 5245. Information reporting for persons claiming certain tax benefits.

PART V—IMPORTS

Sec. 5251. Tax at point of entry where importer not registered.
Sec. 5252. Reconciliation of on-loaded cargo to entered cargo.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 5261. Tax on sale of diesel fuel whether suitable for use or not in a diesel-powered vehicle or train.
Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
Sec. 5263. Taxable fuel refunds for certain ultimate vendors.
Sec. 5264. Two-party exchanges.
Sec. 5265. Modifications of tax on use of certain vehicles.
Sec. 5266. Dedication of revenues from certain penalties to the Highway Trust Fund.
Sec. 5267. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.

PART VII—TOTAL ACCOUNTABILITY

Sec. 5271. Total accountability.
Sec. 5272. Excise tax reporting.
Sec. 5273. Information reporting.

Subtitle D—Definition of Highway Vehicle

Sec. 5301. Exemption from certain excise taxes for mobile machinery.
Sec. 5302. Modification of definition of off-highway vehicle.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

Sec. 5401. Dedication of gas guzzler tax to Highway Trust Fund.
Sec. 5402. Repeal certain excise taxes on rail diesel fuel and inland waterway barge fuels.

PART II—AQUATIC EXCISE TAXES

Sec. 5411. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.

PART III—AERIAL EXCISE TAXES

Sec. 5421. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
Sec. 5424. Certain sightseeing flights exempt from taxes on air transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

Sec. 5431. Repeal of special occupational taxes on producers and marketers of alcoholic beverages.
Sec. 5432. Suspension of limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands.

PART V—SPORT EXCISE TAXES

Sec. 5441. Custom gunsmiths.
Sec. 5442. Modified taxation of imported archery products.
Sec. 5443. Treatment of tribal governments for purposes of Federal wagering excise and occupational taxes.

PART VI—OTHER PROVISIONS

Sec. 5451. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
Sec. 5452. Credit for taxpayers owning commercial power takeoff vehicles.
Sec. 5453. Credit for auxiliary power units installed on diesel-powered trucks.

Subtitle F—Miscellaneous Provisions

Sec. 5501. Motor Fuel Tax Enforcement Advisory Commission.

Sec. 5502. National Surface Transportation Infrastructure Financing Commission.
Sec. 5503. Treasury study of fuel tax compliance and interagency cooperation.
Sec. 5504. Expansion of Highway Trust Fund expenditure purposes to include funding for studies of supplemental or alternative financing for the Highway Trust Fund.
Sec. 5505. Treasury study of highway fuels used by trucks for non-transportation purposes.
Sec. 5506. Delta regional transportation plan.
Sec. 5507. Treatment of employer-provided transit and van pooling benefits.
Sec. 5508. Study of incentives for production of biodiesel.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGERS AUTOMOBILES

Sec. 5601. Expansion of limitation on depreciation of certain passenger automobiles.

PART II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

Sec. 5611. Clarification of economic substance doctrine.
Sec. 5612. Penalty for failing to disclose reportable transaction.
Sec. 5613. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 5614. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 5615. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 5616. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 5617. Disclosure of reportable transactions.
Sec. 5618. Modifications to penalty for failure to register tax shelters.
Sec. 5619. Modification of penalty for failure to maintain lists of investors.
Sec. 5620. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 5621. Understatement of taxpayer's liability by income tax return preparer.
Sec. 5622. Penalty on failure to report interests in foreign financial accounts.
Sec. 5623. Frivolous tax submissions.
Sec. 5624. Regulation of individuals practicing before the Department of Treasury.
Sec. 5625. Penalty on promoters of tax shelters.
Sec. 5626. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 5627. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 5628. Authorization of appropriations for tax law enforcement.

PART III—OTHER CORPORATE GOVERNANCE PROVISIONS

Sec. 5631. Affirmation of consolidated return regulation authority.
Sec. 5632. Signing of corporate tax returns by chief executive officer.
Sec. 5633. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 5634. Disallowance of deduction for punitive damages.
Sec. 5635. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.
Sec. 5636. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.

PART III—ENRON-RELATED TAX SHELTER PROVISIONS

Sec. 5641. Limitation on transfer or importation of built-in losses.
Sec. 5642. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 5643. Repeal of special rules for FASITs.
Sec. 5644. Expanded disallowance of deduction for interest on convertible debt.
Sec. 5645. Expanded authority to disallow tax benefits under section 269.
Sec. 5646. Modification of interaction between subpart F and passive foreign investment company rules.

PART IV—PROVISIONS TO DISCOURAGE EXPATRIATION

Sec. 5651. Tax treatment of inverted corporate entities.
Sec. 5652. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 5653. Excise tax on stock compensation of insiders of inverted corporations.
Sec. 5654. Reinsurance of United States risks in foreign jurisdictions.

PART V—PROVISION TO REPLENISH THE GENERAL FUND

Sec. 5661. Modification to corporate estimated tax requirements.

TITLE VI—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

Sec. 6101. Sense of the Senate on overall Federal budget.
Sec. 6102. Discretionary spending categories.
Sec. 6103. Level of obligation limitations.

SEC. 2. GENERAL DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Transportation.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 3. DEFINITIONS FOR TITLE 23.

Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this title:

"(1) APPORTIONMENT.—The term 'apportionment' includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.

"(2) CARPOOL PROJECT.—

"(A) IN GENERAL.—The term 'carpool project' means any project to encourage the use of carpools and vanpools.

"(B) INCLUSIONS.—The term 'carpool project' includes a project—

"(i) to provide carpooling opportunities to the elderly and individuals with disabilities;

"(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;

"(iii) to acquire vehicles for carpool use;

"(iv) to designate highway lanes as preferential carpool highway lanes;

"(v) to provide carpool-related traffic control devices; and

"(vi) to designate facilities for use for preferential parking for carpools.

"(3) CONSTRUCTION.—

"(A) IN GENERAL.—The term 'construction' means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.

"(B) INCLUSIONS.—The term 'construction' includes—

"(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);

"(ii) resurfacing, restoration, and rehabilitation;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(v) elimination of hazards of railway grade crossings;

"(vi) elimination of roadside obstacles;

"(vii) improvements that directly facilitate and control traffic flow, such as—

"(I) grade separation of intersections;

"(II) widening of lanes;

"(III) channelization of traffic;

"(IV) traffic control systems; and

"(V) passenger loading and unloading areas;

"(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

"(I) scales (fixed and portable);

"(II) scale pits;

"(III) scale installation; and

"(IV) scale houses;

"(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;

"(x) operating costs relating to traffic monitoring, management, and control;

"(xi) operational improvements; and

"(xii) transportation system management and operations.

"(4) COUNTY.—The term 'county' includes—

"(A) a corresponding unit of government under any other name in a State that does not have county organizations; and

"(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

"(5) FEDERAL-AID HIGHWAY.—

"(A) IN GENERAL.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter.

"(B) EXCLUSIONS.—The term 'Federal-aid highway' does not include a highway classified as a local road or rural minor collector.

"(6) FEDERAL-AID SYSTEM.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

"(7) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means—

"(A) a forest highway;

"(B) a recreation road;

"(C) a public Forest Service road;

"(D) a park road;

“(E) a parkway;

“(F) a refuge road;

“(G) an Indian reservation road; and

“(H) a public lands highway.

“(8) FOREST HIGHWAY.—The term 'forest highway' means a forest road that is—

“(A) under the jurisdiction of, and maintained by, a public authority; and

“(B) is open to public travel.

“(9) FOREST ROAD OR TRAIL.—

“(A) IN GENERAL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

“(B) INCLUSIONS.—The term 'forest road or trail' includes—

“(i) a classified forest road;

“(ii) an unclassified forest road;

“(iii) a temporary forest road; and

“(iv) a public forest service road.

“(10) FREIGHT TRANSPORTATION GATEWAY.—

“(A) IN GENERAL.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

“(B) INCLUSIONS.—The term 'freight transportation gateway' includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

“(11) HIGHWAY.—The term 'highway' includes—

“(A) a road, street, and parkway;

“(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

“(C) a portion of any interstate or international bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

“(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project that meets the requirements of section 148.

“(13) INDIAN RESERVATION ROAD.—

“(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

“(B) AREAS.—The areas referred to in subparagraph (A) are—

“(i) an Indian reservation;

“(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

“(iii) an Indian or Alaska Native village, group, or community.

“(14) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

“(15) MAINTENANCE.—

“(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

“(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

“(i) the surface, shoulders, roadsides, and structures of a highway; and

“(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

“(16) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(17) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

“(18) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

“(19) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

“(A) labor costs;

“(B) administrative costs;

“(C) costs of utilities and rent;

“(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

“(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

“(i) an integrated traffic control system;

“(ii) an incident management program; and

“(iii) a traffic control center.

“(20) OPERATIONAL IMPROVEMENT.—

“(A) IN GENERAL.—The term 'operational improvement' means—

“(i) a capital improvement for installation or implementation of—

“(I) a transportation system management and operations program;

“(II) traffic and transportation security surveillance and control equipment;

“(III) a computerized signal system;

“(IV) a motorist information system;

“(V) an integrated traffic control system;

“(VI) an incident management program;

“(VII) equipment and programs for transportation response to manmade and natural disasters; or

“(VIII) a transportation demand management facility, strategy, or program; and

“(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

“(B) EXCLUSIONS.—The term 'operational improvement' does not include—

“(i) a resurfacing, restorative, or rehabilitative improvement;

“(ii) construction of an additional lane, interchange, or grade separation; or

“(iii) construction of a new facility on a new location.

“(21) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

“(22) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

“(23) PROJECT.—The term 'project' means—

“(A)(i) an undertaking to construct a particular portion of a highway; or

“(ii) if the context so implies, a particular portion of a highway so constructed; and

“(B) any other undertaking eligible for assistance under this title.

“(24) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and recipient of funds under this title.

“(25) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

“(26) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

“(A) that is open to public travel;

“(B) for which title and maintenance responsibility is vested in the Federal Government; and

“(C) that has been designated a public road by the Forest Service.

“(27) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

“(28) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

“(A) a forest road that is—

“(i) under the jurisdiction of, and maintained by, a public authority; and

“(ii) open to public travel; and

“(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

“(i) under the jurisdiction of, and maintained by, a public authority; and

“(ii) open to public travel.

“(29) PUBLIC ROAD.—The term 'public road' means any road or street that is—

“(A) under the jurisdiction of, and maintained by, a public authority; and

“(B) open to public travel.

“(30) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

“(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

“(B) for which title is vested in the Federal Government.

“(31) REFUGE ROAD.—The term 'refuge road' means a public road—

“(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

“(B) for which title and maintenance responsibility is vested in the United States Government.

“(32) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

“(33) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

“(34) STATE.—The term 'State' means—

“(A) a State;

“(B) the District of Columbia; and

“(C) the Commonwealth of Puerto Rico.

“(35) STATE FUNDS.—The term 'State funds' includes funds that are—

“(A) raised under the authority of the State (or any political or other subdivision of a State); and

“(B) made available for expenditure under the direct control of the State transportation department.

“(36) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

"(37) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

"(38) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

"(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

"(E) Landscaping and other scenic beautification.

"(F) Historic preservation.

"(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

"(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

"(I) Control and removal of outdoor advertising.

"(J) Archaeological planning and research.

"(K) Environmental mitigation—

"(i) to address water pollution due to highway runoff; or

"(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

"(L) Establishment of transportation museums.

"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

"(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

"(40) URBAN AREA.—The term 'urban area' means—

"(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

"(B) an urban place designated by the Bureau of the Census that—

"(i) has a population of 5,000 or more;

"(ii) is not located within any urbanized area; and

"(iii) is located within boundaries that—

"(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

"(41) URBANIZED AREA.—The term 'urbanized area' means an area that—

"(A) has a population of 50,000 or more;

"(B) is designated by the Bureau of the Census; and

"(C) is located within boundaries that—

"(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.".

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $5,442,371,792 for fiscal year 2004;
(B) $6,425,168,342 for fiscal year 2005;
(C) $6,683,176,289 for fiscal year 2006;
(D) $6,702,365,186 for fiscal year 2007;
(E) $7,036,621,314 for fiscal year 2008; and
(F) $7,139,130,081 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $6,593,922,257 for fiscal year 2004;
(B) $7,815,590,130 for fiscal year 2005;
(C) $8,125,241,450 for fiscal year 2006;
(D) $8,148,531,791 for fiscal year 2007;
(E) $8,554,231,977 for fiscal year 2008; and
(F) $8,678,591,297 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $4,650,754,076 for fiscal year 2004;
(B) $5,507,287,150 for fiscal year 2005;
(C) $5,713,860,644 for fiscal year 2006;
(D) $5,730,266,418 for fiscal year 2007;
(E) $6,016,042,650 for fiscal year 2008; and
(F) $6,103,714,622 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $6,877,178,900 for fiscal year 2004;
(B) $8,107,950,527 for fiscal year 2005;
(C) $8,417,741,127 for fiscal year 2006;
(D) $8,441,910,349 for fiscal year 2007;
(E) $8,862,919,976 for fiscal year 2008; and
(F) $8,992,134,975 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $1,880,092,073 for fiscal year 2004;
(B) $2,192,716,180 for fiscal year 2005;
(C) $2,270,239,273 for fiscal year 2006;
(D) $2,276,757,639 for fiscal year 2007;
(E) $2,390,302,660 for fiscal year 2008; and
(F) $2,425,236,569 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,187,426,572 for fiscal year 2004;
(B) $1,325,828,388 for fiscal year 2005;
(C) $1,377,448,548 for fiscal year 2006;
(D) $1,381,403,511 for fiscal year 2007;
(E) $1,450,295,996 for fiscal year 2008; and
(F) $1,471,607,029 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $590,000,000 for each of fiscal years 2004 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;
(ii) $325,000,000 for fiscal year 2005;
(iii) $350,000,000 for fiscal year 2006;
(iv) $375,000,000 for fiscal year 2007;
(v) $400,000,000 for fiscal year 2008; and
(vi) $425,000,000 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;
(ii) $310,000,000 for fiscal year 2005; and
(iii) $320,000,000 for each of fiscal years 2006 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $30,000,000 for each of fiscal years 2004 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $300,000,000 for each of fiscal years 2004 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $40,000,000 for each of fiscal years 2004 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $112,500,000 for fiscal year 2004;
(B) $135,000,000 for fiscal year 2005;
(C) $157,500,000 for fiscal year 2006;
(D) $180,000,000 for fiscal year 2007;
(E) $202,500,000 for fiscal year 2008; and
(F) $225,000,000 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $112,500,000 for fiscal year 2004;
(B) $135,000,000 for fiscal year 2005;
(C) $157,500,000 for fiscal year 2006;
(D) $180,000,000 for fiscal year 2007;
(E) $202,500,000 for fiscal year 2008; and
(F) $225,000,000 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $34,000,000 for fiscal year 2004;
(B) $35,000,000 for fiscal year 2005;
(C) $36,000,000 for fiscal year 2006;
(D) $37,000,000 for fiscal year 2007; and
(E) $39,000,000 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title $2,000,000,000 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $38,000,000 for each of fiscal years 2004 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of

Puerto Rico highway program under section 173 of that title—

(A) $140,000,000 for fiscal year 2004;

(B) $145,000,000 for fiscal year 2005;

(C) $149,000,000 for fiscal year 2006;

(D) $154,000,000 for fiscal year 2007;

(E) $160,000,000 for fiscal year 2008; and

(F) $163,000,000 for fiscal year 2009.

(16) Public-Private Partnerships Pilot Program.—For the public-private partnerships pilot program under section 109(c)(3) of that title, $10,000,000 for each of fiscal years 2004 through 2009.

SEC. 1102. OBLIGATION CEILING.

(a) General Limitation.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $33,643,326,300 for fiscal year 2004;

(2) $37,900,000,000 for fiscal year 2005;

(3) $39,100,000,000 for each of fiscal years 2006 and 2007;

(4) $39,400,000,000 for fiscal year 2008; and

(5) $44,400,000,000 for fiscal year 2009.

(b) Exceptions.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to $639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; and

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2004 through 2009, only in an amount equal to $439,000,000 per fiscal year).

(c) Distribution of Obligation Authority.—For each of fiscal years 2004 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the sums authorized to be appropriated for that section for the fiscal year;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $439,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) Redistribution of Unused Obligation Authority.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2004 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) Applicability of Obligation Limitations to Transportation Research Programs.—

(1) In general.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) Exception.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) Redistribution of Certain Authorized Funds.—

(1) In general.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) Ratio.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) Availability.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) Special Rule.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) Adjustment in Obligation Limit.

(1) In general.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) Distribution.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) Limitations on Obligations for Administrative Expenses.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed

(1) $450,000,000 for fiscal year 2004;

(2) $465,000,000 for fiscal year 2005;

(3) $480,000,000 for fiscal year 2006;

(4) $495,000,000 for fiscal year 2007;

(5) $510,000,000 for fiscal year 2008; and

(6) $525,000,000 for fiscal year 2009.

(j) National Highway System Component.—Section 104(b)(1) of title 23, United States Code, is amended by striking "$36,400,000" and insert "$50,000,000".

SEC. 1103. APPORTIONMENTS.

(a) Administrative Expenses.—

(1) In general.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) Administrative Expenses.—

"(1) In general.—There are authorized to be appropriated from the Highway Trust

Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

"(A) $450,000,000 for fiscal year 2004;

"(B) $465,000,000 for fiscal year 2005;

"(C) $480,000,000 for fiscal year 2006;

"(D) $495,000,000 for fiscal year 2007;

"(E) $510,000,000 for fiscal year 2008; and

"(F) $525,000,000 for fiscal year 2009.

"(2) Purposes.—The funds authorized by this subsection shall be used—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(3) Availability.—The funds made available under paragraph (1) shall remain available until expended.".

(2) Conforming amendments.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking "the deduction authorized by subsection (a) and";

(B) in the first sentence of subsection (e)(1), by striking ", and also" and all that follows through "this section"; and

(C) in subsection (i), by striking "deducted" and inserting "made available".

(b) Metropolitan Planning.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Set-aside.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2), by striking "per centum" and inserting "percent";

(3) in paragraph (3)—

(A) by striking "The funds" and inserting the following:

"(A) In general.—The funds"; and

(B) by striking "These funds" and all that follows and inserting the following:

"(B) Unused funds.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) by adding at the end the following:

"(6) Federal share.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.".

(c) Alaska Highway.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "1998 through 2002" and inserting "2004 through 2009".

SEC. 1104. EQUITY BONUS PROGRAM.

(a) In General.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Equity bonus program

"(a) Program.—

"(1) In general.—Subject to subsections (c) and (d), for each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) Specific programs.—The programs referred to in subsection (a) are—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the highway safety improvement program under section 148;

"(F) the congestion mitigation and air quality improvement program under section 149;

"(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

"(H) the infrastructure performance and maintenance program under section 139;

"(I) the equity bonus program under this section;

"(J) the Appalachian development highway system program under subtitle IV of title 40;

"(K) the recreational trails program under section 206;

"(L) the safe routes to schools program under section 150; and

"(M) the rail-highway grade crossing program under section 130.

"(b) State Percentage.—

"(1) In general.—The percentage referred to in subsection (a) for each State shall be—

"(A) 95 percent of the quotient obtained by dividing—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

"(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, or a median household income of less than $35,000, as reported in that decennial census, the greater of—

"(i) the percentage under paragraph (1); or

"(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

"(2) Specific programs.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004)—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the recreational trails program under section 206;

"(F) the high priority projects program under section 117;

"(G) the minimum guarantee provided under this section;

"(H) revenue aligned budget authority amounts provided under section 110;

"(I) the congestion mitigation and air quality improvement program under section 149;

"(J) the Appalachian development highway system program under subtitle IV of title 40; and

"(K) metropolitan planning programs under section 104(f).

"(c) Special Rules.—

"(1) Minimum combined allocation.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

"(2) No negative adjustment.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(3) Minimum share of tax payments.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(d) Limitation on Adjustments.—

"(1) In general.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

"(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

"(2) Percentages.—The percentages referred to in paragraph (1)(B) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent;

"(E) for fiscal year 2008, 145 percent; and

"(F) for fiscal year 2009, 250 percent.

"(e) Programmatic Distribution of Funds.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

"(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

"(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

"(f) Metro Planning Set Aside.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(g) Authorization of Appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2004 through 2009."

(b) Conforming Amendments.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Equity bonus program."

(2) Section 104(a)(1) of title 23, United States Code, is amended by striking "minimum guarantee" and inserting "equity bonus".

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking "2000" and inserting "2006";

(B) in paragraph (1), by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))"; and

(C) in paragraph (2)—

(i) by striking "If the amount" and inserting the following:

"(A) In general.—Except as provided in subparagraph (B), if the amount";

(ii) by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc)";

(iii) by striking "the succeeding" and inserting "that";

(iv) by striking "and the motor carrier safety grant program"; and

(v) by adding at the end the following:

"(B) Limitation.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.";

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

"(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; bears to";

(3) in subsection (c), by inserting "the highway safety improvement program," after "the surface transportation program,"; and

(4) by striking subsections (e), (f), and (g).

Subtitle B—New Programs

SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"§ 139. Infrastructure performance and maintenance program

"(a) Establishment.—The Secretary shall establish and implement an infrastructure performance and maintenance program in accordance with this section.

"(b) Eligible Projects.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(2) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(c) Period of Availability.—

"(1) Obligation within 180 days.—

"(A) In general.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) Unobligated funds.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) Obligation by end of fiscal year.—

"(A) In general.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) Unobligated funds.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) Redistribution of Allocated Funds and Obligation Authority.—

"(1) In general.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

"(B) reallocate the funds and redistribute the obligation authority to those States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) Equity bonus.—The calculation and distribution of funds under section 105 shall be adjusted as a result of the allocation of funds under this subsection.

"(e) Federal Share Payable.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. Infrastructure performance and maintenance program.".

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

(a) Declaration of Policy.—Section 101 of title 23, United States Code, is amended—

(1) by striking "(b) It is hereby declared to be" and inserting the following:

"(b) Declaration of Policy.—

"(1) Acceleration of construction of Federal-aid highway systems.—Congress declares that it is";

(2) in the second paragraph, by striking "It is hereby declared" and inserting the following:

"(2) Completion of interstate system.—Congress declares"; and

(3) by striking the last paragraph and inserting the following:

"(3) Transportation needs of 21st Century.—Congress declares that—

"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

"(ii) flow of interstate and international commerce and freight transportation; and

"(iii) travel movements essential for national security;

"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

"(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

"(G) the connection between land use and infrastructure is significant;

"(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

"(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.".

(b) National Surface Transportation System Study.—

(1) In general.—The Secretary shall—

(A) conduct a complete investigation and study of the current condition and future needs of the surface transportation system of the United States, including—

(i) the National Highway System;

(ii) the Interstate System;

(iii) the strategic highway network;

(iv) congressional high priority corridors;

(v) intermodal connectors;

(vi) freight facilities;

(vii) navigable waterways;

(viii) mass transportation;

(ix) freight and intercity passenger rail infrastructure and facilities; and

(x) surface access to airports; and

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes.

(2) Specific issues.—In conducting the investigation and study, the Secretary shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system, including funding needs and potential approaches to provide funds.

(3) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined appropriate by the Secretary to ensure a diverse range of views.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make readily available to the public, a report on the results of the investigation and study conducted under this subsection.

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§ 325. Freight transportation gateways

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) STATE RESPONSIBILITIES.—

"(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) FREIGHT TRANSPORTATION COORDINATOR.—

"(A) IN GENERAL.—Each State shall designate a freight transportation coordinator.

"(B) DUTIES.—The coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economic interests;

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) INNOVATIVE FINANCE STRATEGIES.—

"(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

"(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

"(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

"(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

"(B) may involve the combining of private and public funds.".

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

"(12) Intermodal freight transportation projects in accordance with section 325(d)(2).".

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

"(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

"(ii) strategic highway network connectors to strategic military deployment ports; and

"(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

"(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

"(i) the product obtained by multiplying—

"(I) the total amount of funds apportioned to the State under section 104(b)(1); by

"(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

"(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

"(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

"(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

"(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.".

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), except as otherwise provided in section 120, the Federal share of the total cost of the project shall be 90 percent.".

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking "The" and inserting the following:

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of those qualifying highways to include—

"(A) strategic highway network connectors to strategic military deployment ports; and

"(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).".

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"325. Freight transportation gateways.".

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§ 147. Construction of ferry boats and ferry terminal facilities

"(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(b) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of construction of ferry boats and ferry terminals under this section shall be 80 percent.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal facilities.".

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SEC. 1205. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.

(a) DESIGNATION.—Interstate Highway 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the "Daniel Patrick Moynihan Interstate Highway".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in subsection (a) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the "Administrator") shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO–04–113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator);

(B) a description of the competitive bidding procedures used in each State; and

(C) a determination by Administrator as to whether the competitive bidding procedures described under subparagraph (B) are effective.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

Section 120 of title 23, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(a) INTERSTATE SYSTEM PROJECTS.—

"(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.";

(2) in subsection (b)—

(A) by striking "Except as otherwise" and inserting the following:

"(1) IN GENERAL.—Except as otherwise";

(B) by striking "shall be—" and all that follows and inserting "shall be 80 percent of the cost of the project."; and

(C) by adding at the end the following:

"(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under paragraph (1).";

(3) by striking subsection (d) and inserting the following:

"(d) INCREASED FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

"(A) nontaxable Indian land;

"(B) public land (reserved or unreserved);

"(C) a national forest; or

"(D) a national park or monument.

"(2) AMOUNT.—

"(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

"(i) is equal to the percentage that—

"(I) the area of all land described in paragraph (1) in a State; bears to

"(II) the total area of the State; but

"(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

"(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.".

SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

"(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

"(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

"(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—

"(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or

"(II) a State transportation department consents to the transfer of funds;

"(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and

"(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.

"(B) ADMINISTRATION.—

"(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.

"(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.

"(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.

"(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.

"(B) ADMINISTRATION.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.

"(C) APPORTIONMENT.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.

"(D) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

"(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.".

SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "category" and "offered into the capital markets";

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

(3) in paragraph (8) (as redesignated by paragraph (2))—

(A) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(B) by striking subparagraph (D) and inserting the following:

"(D) a project that—

"(i)(I) is a project for—

"(aa) a public freight rail facility or a private facility providing public benefit;

"(bb) an intermodal freight transfer facility;

"(cc) a means of access to a facility described in item (aa) or (bb);

"(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or

"(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods;

"(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

"(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port."; and

(4) in paragraph (10) (as redesignated by paragraph (2)) by striking "bond" and inserting "credit".

(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

"(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.";

(B) in paragraph (3)(A)—

(i) in clause (i), by striking "$100,000,000" and inserting "$50,000,000"; and

(ii) in clause (ii), by striking "50" and inserting "20"; and

(C) in paragraph (4)—

(i) by striking "Project financing" and inserting "The Federal credit instrument"; and

(ii) by inserting before the period at the end the following: "that also secure the project obligations"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "criteria" the second place it appears and inserting "requirements"; and

(B) in paragraph (2)(B), by inserting "(which may be the Federal credit instrument)" after "obligations".

(c) SECURED LOANS.—Section 183 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "of any project selected under section 182." at the end;

(ii) in subparagraphs (A) and (B), by inserting "of any project selected under section 182" after "costs" ; and

(iii) in subparagraph (B), by striking the semicolon at the end and inserting a period; and

(B) in paragraph (4)—

(i) by striking "funding" and inserting "execution"; and

(ii) by striking "rating," and all that follows and inserting a period;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of—

"(A) 33 percent of the reasonably anticipated eligible project costs; or

"(B) the amount of the senior project obligations.";

(B) in paragraph (3)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(C) in paragraph (4), by striking "marketable"; and

(3) in subsection (c)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and .

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (A), by striking "during the 10 years"; and

(ii) in subparagraph (B)(ii), by striking "loan" and all that follows and inserting "loan.".

(d) LINES OF CREDIT.—Section 184 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking "interest, any debt service reserve fund, and any other available reserve" and inserting "interest (but not including reasonably required financing reserves)";

(B) in paragraph (4), by striking "marketable United States Treasury securities as of the date on which the line of credit is obligated" and inserting " United States Treasury securities as of the date of execution of the line of credit agreement"; and

(C) in paragraph (5)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "scheduled";

(ii) by inserting "be scheduled to" after "shall"; and

(iii) by striking "be fully repaid, with interest," and inserting "to conclude, with full repayment of principal and interest,"; and

(B) by striking paragraph (3).

(e) PROGRAM ADMINISTRATION.—Section 185 of title 23, United States Code, is amended to read as follows:

"§ 185. Program administration

"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

"(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

"(c) SERVICER.—

"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

"(2) DUTIES.—The servicer shall act as the agent for the Secretary.

"(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(f) FUNDING.—Section 188 of title 23, United States Code, is amended to read as follows:

"§ 188. Funding

"(a) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $130,000,000 for each of fiscal years 2004 through 2009.

"(2) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $2,000,000 for each of fiscal years 2004 through 2009.

"(3) COLLECTED FEES AND SERVICES.—In addition to funds provided under paragraph (2)—

"(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

"(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

"(4) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.".

(g) REPEAL.—Section 189 of title 23, United States code, is repealed.

(h) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

"185. Program administration.";

and

(2) by striking the item relating to section 189.

SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.

(a) IN GENERAL.—Chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"§ 31708. Facilitation of international registration plans and international fuel tax agreements

"The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"31708. Facilitation of international registration plans and international fuel tax agreements.".

SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND AND FINANCE THE NEEDS OF THE SURFACE TRANSPORTATION SYSTEM.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System" (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 11 members, of whom—

(A) 3 members shall be appointed by the President;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 2 members shall be appointed by the minority leader of the House of Representatives;

(D) 2 members shall be appointed by the majority leader of the Senate; and

(E) 2 members shall be appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed under paragraph (1) shall have experience in or represent the interests of—

(A) public finance, including experience in developing State and local revenue resources;

(B) surface transportation program administration;

(C) organizations that use surface transportation facilities;

(D) academic research into related issues; or

(E) other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(4) TERMS.—A member shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(6) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(8) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(9) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) conduct a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) conduct the study in a manner that builds on—

(i) findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(ii) other relevant prior research;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State Departments of Transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to support the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(2) SPECIFIC MATTERS.—The study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(3) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been done by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board; and

(D) other entities and persons.

(4) FACTORS.—In developing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in non-taxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(5) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(d) POWERS.—

(1) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(4) DONATIONS.—The Commission may accept, use, and dispose of donations of services or property.

(e) COMMISSION PERSONNEL MATTERS.—

(1) MEMBERS.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) CONTRACTOR.—The Commission may contract with an appropriate organization, agency, or entity to conduct the study required under this section, under the strategic guidance of the Commission.

(3) ADMINISTRATIVE SUPPORT.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(4) DETAIL OF DEPARTMENT PERSONNEL.—

(A) IN GENERAL.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(5) COOPERATION.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(f) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(3) AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for fiscal year 2004.

(h) TERMINATION.—

(1) IN GENERAL.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under subsection (c)(5).

(2) RECORDS.—Not later than the termination date for the Commission, all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SEC. 1306. STATE INFRASTRUCTURE BANKS.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking "Missouri," and all that follows through "for the establishment" and inserting "Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment".

SEC. 1307. PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.

Section 109(c) of title 23, United States Code, is amended by adding at the end the following:

"(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary may undertake a pilot program to demonstrate the advantages of public-private partnerships for critical capital development projects, including highway, bridge, and freight intermodal connector projects authorized under this title.

"(B) PROJECTS.—In carrying out the program, the Secretary shall—

"(i) select not less than 10 qualified public-private partnership projects that are authorized under applicable State and local laws; and

"(ii) use funds made available to carry out the program to provide to sponsors of the projects assistance for development phase activities described in section 181(1)(A), to enhance project delivery and reduce overall costs.".

SEC. 1308. WAGERING.

(a) IN GENERAL.—Chapter 35 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 4901 of the Internal Revenue Code is amended to read as follows:

"SEC. 4901. PAYMENT OF TAX.

"All special taxes shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.".

(2) Section 4903 of such Code is amended by striking ", other than the tax imposed by section 4411,".

(3) Section 4905 of such Code is amended to read as follows:

"SEC. 4905. LIABILITY IN CASE OF DEATH OR CHANGE OF LOCATION.

"When any person who has paid the special tax for any trade or business dies, his spouse or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. When any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register kept in the office of the official in charge of the internal revenue district at the place to which he removes, without the payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the Secretary, under regulations to be prescribed by the Secretary.".

(4) Section 4907 of such Code is amended by striking ", except the tax imposed by section 4411.".

(5) Section 6103(i)(8)(A) of such Code is amended—

(A) by striking ", except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other" and inserting "disclose any", and

(B) by striking "such other officer" and inserting "such officer".

(6) Section 6103(o) of such Code is amended to read as follows:

"(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.".

(7)(A) Subchapter B of chapter 65 of such Code is amended by striking section 6419 (relating to excise tax on wagering).

(B) The table of section of subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6419.

(8) Section 6806 of such Code is amended by striking "under subchapter B of chapter 35, under subchapter B of chapter 36," and inserting "under subchapter B of chapter 36".

(9) Section 7012 of such Code is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(10)(A) Subchapter B of chapter 75 of such Code is amended by striking section 7262 (relating to violation of occupational tax laws relating to wagering-failure to pay special tax).

(B) The table of sections of subchapter B of chapter 75 of such Code is amended by striking the item relating to section 7262.

(11) Section 7272 of such Code, as amended by section 5244 of this Act, is amended to read as follows:

"SEC. 7272. PENALTY FOR FAILURE TO REGISTER.

"Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of $50 ($10,000 in the case of a failure to register under section 4101).".

(12) Section 7613(a) is amended by striking "or other data in the case of" and all that follows and inserting "or other data in the case of alcohol, tobacco, and firearms taxes, see subtitle E.".

(13) The table of chapters of subtitle D of such Code is amended by striking the item relating to chapter 35.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to wagers placed after the date of the enactment of this Act.

(2) SPECIAL TAXES.—In the case of amendments made by this section relating to special taxes imposed by subchapter B of chapter 35, the amendments made by this section shall take effect on July 1, 2004.

Subtitle D—Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

"§ 148. Highway safety improvement program

"(a) DEFINITIONS.—In this section:

"(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

"(i) corrects or improves a hazardous road location or feature; or

"(ii) addresses a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

"(i) an intersection safety improvement;

"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

"(v) an improvement for pedestrian or bicyclist safety;

"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

"(II) construction of a railway-highway crossing safety feature; or

"(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

"(vii) construction of a traffic calming feature;

"(viii) elimination of a roadside obstacle;

"(ix) improvement of highway signage and pavement markings;

"(x) installation of a priority control system for emergency vehicles at signalized intersections;

"(xi) installation of a traffic control or other warning device at a location with high accident potential;

"(xii) safety-conscious planning;

"(xiii) improvement in the collection and analysis of crash data;

"(xiv) planning, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

"(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

"(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

"(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters; or

"(ii) enforce highway safety laws.

"(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

"(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) persons responsible for administering section 130 at the State level;

"(vi) representatives conducting Operation Lifesaver;

"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

"(viii) motor vehicle administration agencies; and

"(ix) other major State and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, or local crash data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, public roads;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency; and

"(H) is consistent with the requirements of section 135(f).

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

"(B) produces a program of projects or strategies to reduce identified safety problems;

"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

"(D) submits tc the Secretary an annual report that—

"(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

"(ii) contains an assessment of—

"(I) potential remedies to hazardous locations identified;

"(II) estimated costs associated with those remedies; and

"(III) impediments to implementation other than cost associated with those remedies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads;

"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall be—

"(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

"(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

"(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

"(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.".

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and

(II) by striking "80 percent" and inserting "90 percent";

(ii) in subparagraph (B), by striking "tobe" and inserting "to be";

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking "(d)(2)" each place it appears and inserting "(d)(1)".

(4) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

"148. Highway safety improvement program.".

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting "under" after "State's apportionment"; and

(ii) in subsection (b)—

(I) in the first sentence, by striking "the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)" and inserting "section 104(f) or 133(d)(2)"; and

(II) in the second sentence, by striking "or 133(d)(2)".

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and

(2) by adding at the end the following:

"(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(c) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by inserting before "At least" the following: "For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.".

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and

(B) by striking "not later than April 1 of each year" and inserting "every other year".

(3) EXPENDITURE OF FUNDS.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) EXPENDITURE OF FUNDS.—Funds made available to carry out this section shall be available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g).".

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

SEC. 1402. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended—

(1) by striking "subsection (b)(3)" and inserting "subsection (b)(5)"; and

(2) by striking "$500,000" and inserting "$600,000".

SEC. 1403. LICENSE SUSPENSION.

Section 164(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) LICENSE SUSPENSION.—The term 'license suspension' means—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 90 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.".

SEC. 1404. BUS AXLE WEIGHT EXEMPTION.

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

"(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION.—

"(1) IN GENERAL.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

"(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

"(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

"(2) STATE ACTION.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.".

SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 149 the following:

"§ 150. Safe routes to schools program

"(a) DEFINITIONS.—In this section:

"(1) PRIMARY AND SECONDARY SCHOOL.—The term 'primary and secondary school' means a school that provides education to children in any of grades kindergarten through 12.

"(2) PROGRAM.—The term 'program' means the safe routes to schools program established under subsection (b).

"(3) VICINITY OF A SCHOOL.—The term 'vicinity of a school' means the area within 2 miles of a primary or secondary school.

"(b) ESTABLISHMENT.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

"(c) PURPOSES.—The purposes of the program shall be—

"(1) to enable and to encourage children to walk and bicycle to school;

"(2) to encourage a healthy and active lifestyle by making walking and bicycling to school safer and more appealing transportation alternatives; and

"(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

"(d) ELIGIBLE RECIPIENTS.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

"(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

"(1) INFRASTRUCTURE-RELATED PROJECTS.—

"(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

"(i) sidewalk improvements;

"(ii) traffic calming and speed reduction improvements;

"(iii) pedestrian and bicycle crossing improvements;

"(iv) on-street bicycle facilities;

"(v) off-street bicycle and pedestrian facilities;

"(vi) secure bicycle parking facilities;

"(vii) traffic signal improvements; and

"(viii) pedestrian-railroad grade crossing improvements.

"(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

"(i) any public road in the vicinity of a school; or

"(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

"(2) BEHAVIORAL ACTIVITIES.—

"(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

"(i) public awareness campaigns and outreach to press and community leaders;

"(ii) traffic education and enforcement in the vicinity of schools; and

"(iii) student sessions on bicycle and pedestrian safety, health, and environment.

"(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

"(f) FUNDING.—

"(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use $70,000,000 to carry out this section.

"(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

"(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

"(4) FEDERAL SHARE.—Except as provided in sections 120 and 130, the Federal share of the cost of a project or activity funded under this section shall be 90 percent.

"(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

"150. Safe routes to school program.".

SEC. 1406. PURCHASES OF EQUIPMENT.

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

"§ 152. Purchases of equipment

"(a) IN GENERAL.—Subject to subsection (b), a State carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences.

"(b) APPLICABILITY.—This section shall apply to—

"(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of $75,000; and

"(2) aerial work platforms with a purchase price in excess of $25,000.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

"152. Purchases of equipment.".

SEC. 1407. WORKZONE SAFETY.

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625) is amended by adding at the end the following:

"(7) Recommending all federally-assisted projects in excess of $15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than $15,000,000.

"(8) Recommending federally-assisted projects the costs of which exceed $15,000,000 to include work zone intelligent transportation systems that are—

"(A) provided by a qualified vendor; and

"(B) monitored continuously.

"(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.

"(10) Ensuring that any recommendation made under any of paragraphs (7) through (9) provides for an exemption for applicability to a State, with respect to a project or class of projects, to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by nonapplication of the requirement to the project or class of projects.".

SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

SEC. 1409. IDENTITY AUTHENTICATION STANDARDS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Identity authentication standards

"(a) DEFINITION OF INFORMATION-BASED IDENTITY AUTHENTICATION.—In this section, the term 'information-based identity authentication' means the determination of the identity of an individual, through the comparison of information provided by a person, with other information pertaining to that individual with a system using scoring models and algorithms.

"(b) STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Homeland Security and the Federal Motor Carrier Safety Administration, shall promulgate regulations establishing minimum standards for State departments of motor vehicles regarding the use of information-based identity authentication to determine the identity of an applicant for a commercial driver's license, or the renewal, transfer or upgrading, of a commercial driver's license.

"(c) Minimum Standards.—The regulations shall, at a minimum, require State departments of motor vehicles to implement, and applicants for commercial driver's licenses, (or the renewal, transfer, or upgrading of commercial driver's licenses), to comply with, reasonable procedures for operating an information-based identity authentication program before issuing, renewing, transferring, or upgrading a commercial driver's license.

"(d) Key Factors.—In promulgating regulations under this section, the Secretary shall require that an information-based identity authentication program carried out under this section establish processes that—

"(1) use multiple sources of matching information;

"(2) enable the measurement of the accuracy of the determination of an applicant's identity;

"(3) support continuous auditing of compliance with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the program; and

"(4) incorporate industry best practices to protect significant privacy interests in the information used in the program and the appropriate safeguarding of the storage of the information.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Identity authentication standards.".

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.

(a) Metropolitan Planning.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) Selection of factors.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.".

(b) Statewide Planning.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) Selection of projects and strategies.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate for the State to consider.".

SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.

(a) In General.—Section 134(g) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) Mitigation activities.—

"(i) In general.—A long-range transportation plan shall include a discussion of—

"(I) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(II) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(ii) Consultation.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(3) by inserting after paragraph (3) the following:

"(4) Consultation.—

"(A) In general.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) Issues.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(b) Improved Consultation During State Transportation Planning.—

(1) In general.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:

"(D) Consultation, comparison, and consideration.—

"(i) In general.—The long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) Comparison and consideration.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(2) Additional requirements.—Section 135(e) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Mitigation activities.—

"(A) In general.—A long-range transportation plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) Consultation.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(5) Transportation strategies.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.".

SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking "consider the results" and inserting "consider—

"(A) the results";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;

"(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and

"(D) any other material that the Secretary determines to be appropriate.".

SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.

(a) Metropolitan Planning.—

(1) Participation by interested parties.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—

(A) by striking "Before approving" and inserting the following:

"(A) In general.—Before approving"; and

(B) by adding at the end the following:

"(B) Methods.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) Publication of long-range transportation plans.—Section 134(g)(6)(i) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: ", including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web".

(b) Statewide Planning.—

(1) Participation by interested parties.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) Methods.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) Publication of long-range transportation plans.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:

"(8) Publication of long-range transportation plans.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.".

SEC. 1505. PROJECT MITIGATION.

(a) Mitigation for National Highway System Projects.—Section 103(b)(6)(M) of title 23, United States Code, is amended—

(1) by inserting "(i)" after "(M); and

(2) by adding at the end the following:

"(ii) State habitat, streams, and wetlands mitigation efforts under section 155.".

(b) Mitigation for Surface Transportation Program Projects.—Section 133(b)(11) of title 23, United States Code, is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following:

"(B) State habitat, streams, and wetlands mitigation efforts under section 155.".

(c) State Habitat, Streams, and Wetlands Mitigation Funds.—Section 155 of title 23, United States Code, is amended to read as follows:

"§ 155. State habitat, streams, and wetlands mitigation funds

"(a) Establishment.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a 'State fund').

"(b) Purpose.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway or transit projects to—

"(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and

"(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.

"(c) Funds.—A State may deposit into a State fund part of the funds apportioned to the State under—

"(1) section 104(b)(1) for the National Highway System; and

"(2) section 104(b)(3) for the surface transportation program.

"(d) Use.—

"(1) In general.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).

"(2) Endangered species.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—

"(A) Federal or State listed threatened or endangered species of plants and animals; and

"(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).

"(e) Consistency With Applicable Requirements.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).".

(d) Conforming Amendment.—The analysis for subchapter 1 of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:

"155. State habitat, streams, and wetlands mitigation funds.".

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.

(a) In General.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:

"§ 326. Transportation project development process

"(a) Definitions.—In this section:

"(1)' Agency.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or federally recognized tribal government.

"(2) Environmental impact statement.—The term 'environmental impact statement' means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) Environmental review process.—

"(A) In general.—The term 'environmental review process' means the process for preparing, for a project—

"(i) an environmental impact statement; or

"(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

"(B) Inclusions.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) Project.—The term 'project' means any highway or transit project that requires the approval of the Secretary.

"(5) Project sponsor.—The term 'project sponsor' means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.

"(6) State transportation department.—The term 'State transportation department' means any statewide agency of a State with responsibility for transportation.

"(b) Process.—

"(1) Lead agency.—

"(A) In general.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.

"(B) Joint lead agencies.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) Concurrence of project sponsor.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.

"(2) Request for process.—

"(A) In general.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.

"(B) Grant of request; public notice.—The lead agency shall—

"(i) grant a request under subparagraph (A); and

"(ii) provide public notice of the request.

"(3) Effective date.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).

"(c) Roles and Responsibility of Lead Agency.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—

"(A) identify and invite cooperating agencies in accordance with subsection (d);

"(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);

"(C) determine the purpose and need for the project in accordance with subsection (f);

"(D) determine the range of alternatives to be considered in accordance with subsection (g);

"(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);

"(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

"(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

"(d) Roles and Responsibilities of Cooperating Agencies.—

"(1) In general.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.

"(2) Invitation.—

"(A) In general.—The lead agency shall—

"(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—

“(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and

“(II) agencies with special expertise relevant to the project;

“(ii) invite the agencies identified in clause (i) to become participating agencies in the environmental review process for that project; and

“(iii) grant requests to become cooperating agencies from agencies not originally invited.

“(B) RESPONSES.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—

“(i) shall be 30 days after the date of receipt by the agency of the invitation; but

“(ii) may be extended by the lead agency for good cause.

“(3) DECLINING OF INVITATIONS.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—

“(A) has no jurisdiction or authority with respect to the project;

“(B) has no expertise or information relevant to the project; and

“(C) does not intend to submit comments on the project.

“(4) EFFECT OF DESIGNATION.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—

“(A) supports a proposed project; or

“(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

“(5) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—

“(A) IN GENERAL.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.

“(B) DESIGNATION.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.

“(6) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

“(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

“(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

“(e) DEVELOPMENT OF FLEXIBLE PROCESS AND TIMELINE.—

“(1) COORDINATION PLAN.—

“(A) IN GENERAL.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or category of projects.

“(B) WORKPLAN.—

“(i) IN GENERAL.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.

“(ii) CONSULTATION.—In developing the workplan under clause (i), the lead agency shall consult with—

“(I) each cooperating agency for the project;

“(II) the State in which the project is located; and

“(III) if the State is not the project sponsor, the project sponsor.

“(C) SCHEDULE.—

“(i) IN GENERAL.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

“(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

“(I) the responsibilities of cooperating agencies under applicable laws;

“(II) resources available to the cooperating agencies;

“(III) overall size and complexity of a project;

“(IV) the overall schedule for and cost of a project; and

“(V) the sensitivity of the natural and historic resources that could be affected by the project.

“(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

“(E) MODIFICATION.—The lead agency may—

“(i) lengthen a schedule established under subparagraph (C) for good cause; and

“(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

“(F) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—

“(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

“(ii) made available to the public.

“(2) COMMENTS AND TIMELINES.—

“(A) IN GENERAL.—A schedule established under paragraph (1)(C) shall include—

“(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and

“(ii) except as otherwise provided under paragraph (1)—

“(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—

“(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or

“(bb) if a minimum period is not required under Federal law (including regulations), 30 days.

“(B) EXTENSION OF COMMENT PERIODS.—The lead agency may extend a period of comment established under this paragraph for good cause.

“(C) LATE COMMENTS.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.

“(D) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

“(ii) every 60 day thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

“(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).

“(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—

“(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.

“(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other objectives intended to be achieved by the project.

“(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft statement of purpose and need for a proposed project received from the public and cooperating agencies.

“(4) EFFECT ON OTHER REVIEWS.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

“(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

“(6) CONTENTS.—

“(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

“(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

“(7) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the purpose of and need for a project:

“(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

“(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

“(C) Economic development plans adopted by—

“(i) units of State, local, or tribal government; or

“(ii) established economic development planning organizations or authorities.

“(D) Environmental protection plans, including plans for the protection or treatment of—

“(i) air quality;

“(ii) water quality and runoff;

“(iii) habitat needs of plants and animals;

“(iv) threatened and endangered species;

“(v) invasive species;

“(vi) historic properties; and

“(vii) other environmental resources.

“(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

“(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

“(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

“(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

“(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

“(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

“(B) ALTERNATIVES.—The lead agency shall consider—

“(i) alternatives that meet the purpose and need of the project; and

“(ii) the alternative of no action.

“(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

“(4) EFFECT ON OTHER REVIEWS.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

“(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

“(6) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:

“(A) The overall size and complexity of the proposed action.

“(B) The sensitivity of the potentially affected resources.

“(C) The overall schedule and cost of the project.

“(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.

“(E) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

“(F) Economic development plans adopted by—

“(i) units of State, local, or tribal government; or

“(ii) established economic development planning organizations or authorities.

“(G) environmental protection plans, including plans for the protection or treatment of—

“(i) air quality;

“(ii) water quality and runoff;

“(iii) habitat needs of plants and animals;

“(iv) threatened and endangered species;

“(v) invasive species;

“(vi) historic properties; and

“(vii) other environmental resources.

“(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

“(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—

“(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—

“(A) delay completion of the environmental review process; or

“(B) result in denial of any approvals required for the project under applicable laws.

“(2) LEAD AGENCY RESPONSIBILITIES.—

“(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—

“(i) the environmental and socioeconomic resources located within the project area; and

“(ii) the general locations of the alternatives under consideration.

“(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.

“(3) COOPERATING AGENCY RESPONSIBILITIES.—

“(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.

“(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project, as determined by a cooperating agency.

“(4) ISSUE RESOLUTION.—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.

“(5) NOTIFICATION.—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—

“(A) the heads of all cooperating agencies;

“(B) the project sponsor;

“(C) the Governor involved;

“(D) the Committee on Environment and Public Works of the Senate; and

“(E) the Committee on Transportation and Infrastructure of the House of Representatives.

“(i) PERFORMANCE MEASUREMENT.—

“(1) PROGRESS REPORTS.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

“(2) MINIMUM REQUIREMENTS.—The program shall include, at a minimum—

“(A) the establishment of criteria for measuring consideration of—

“(i) State and metropolitan planning, project planning, and design criteria; and

“(ii) environmental processing times and costs;

“(B) the collection of data to assess performance based on the established criteria; and

“(C) the annual reporting of the results of the performance measurement studies.

“(3) INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.—

“(A) IN GENERAL.—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.

“(B) PUBLIC PARTICIPATION.—In conducting the survey, the Secretary shall solicit comments from the public.

“(j) ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.—

“(1) IN GENERAL.—The Secretary may approve a request by a State or recipient to provide funds made available under this title for a highway project, or made available under chapter 53 of title 49 for a mass transit project, to agencies participating in the coordinated environmental review process established under this section in order to provide the resources necessary to meet any time limits established under this section.

“(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

“(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and

“(B) if those time limits are less than the customary time necessary for that review.

“(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

“(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in any United States district court or State court.

“(2) SAVINGS CLAUSE.—Nothing in this section shall affect—

“(A) the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute; or

“(B) the responsibility of any Federal officer to comply with or enforce such a statute.”.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:

“326. Transportation project development process.”.

(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:

“§ 327. Assumption of responsibility for categorical exclusions

“(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

“(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

“(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

“(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(b) OTHER APPLICABLE FEDERAL LAWS.—

“(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

“(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

“(c) MEMORANDA OF UNDERSTANDING.—

“(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

“(2) TERM.—A memorandum of understanding—

“(A) shall have term of not more than 3 years; and

“(B) shall be renewable.

“(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

“(4) MONITORING.—The Secretary shall—

“(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

“(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

“(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

“(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:

“327. Assumption of responsibility for categorical exclusions.”.

SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:

“§ 328. Surface transportation project delivery pilot program

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the ‘program’).

“(2) ASSUMPTION OF RESPONSIBILITY.—

“(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

“(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

“(ii) the Secretary may not assign—

“(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

“(II) any responsibility imposed on the Secretary by section 134 or 135.

“(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

“(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

“(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

“(b) STATE PARTICIPATION.—

“(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.

“(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

“(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

“(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

“(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

“(3) PUBLIC NOTICE.—

“(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

“(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

“(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

“(A) the regulatory requirements under paragraph (2) have been met;

“(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

“(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

“(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

“(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

“(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

“(2) be in such form as the Secretary may prescribe;

“(3) provide that the State—

“(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

“(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

“(C) certifies that State laws (including regulations) are in effect that—

“(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

“(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

“(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

“(d) JURISDICTION.—

“(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

“(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

“(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

“(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

“(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

“(g) AUDITS.—

“(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

“(A) semiannual audits during each of the first 2 years of State participation; and

“(B) annual audits during each subsequent year of State participation.

“(2) PUBLIC AVAILABILITY AND COMMENT.—

“(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

“(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

“(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

“(i) TERMINATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

“(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

“(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

“(B) the Secretary provides to the State—

“(i) notification of the determination of noncompliance; and

“(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

“(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:

“328. Surface transportation project delivery pilot program.”.

SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking “It is hereby” and inserting the following:

“(a) DECLARATION OF POLICY.—It is”; and

(B) by adding at the end the following:

“(b) DE MINIMIS IMPACTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

“(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

“(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

“(i) the transportation program or project will have no adverse effect on the historic site; or

“(ii) there will be no historic properties affected by the transportation program or project;

“(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

“(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

“(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

“(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.”.

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking “(c) The Secretary” and inserting the following:

“(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary”; and

(B) by adding at the end the following:

“(d) DE MINIMIS IMPACTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

“(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

“(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

“(i) the transportation program or project will have no adverse effect on the historic site; or

“(ii) there will be no historic properties affected by the transportation program or project;

“(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

“(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

“(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

“(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.”.

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary and the Transportation Research Board of the National Academy of Sciences shall jointly conduct a study on the implementation of this section and the amendments made by this section.

(2) COMPONENTS.—In conducting the study, the Secretary and the Transportation Research Board shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary and the Transportation Research Board shall prepare—

(A) not earlier than the date that is 4 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than September 30, 2009, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary and the Transportation Research Board shall—

(A) submit the report and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

SEC. 1515. REGULATIONS.

Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.

CHAPTER 3—MISCELLANEOUS

SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.

Section 108 of title 23, United States Code, is amended by adding at the end the following:

"(d) CRITICAL REAL PROPERTY ACQUISITION.—

"(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.

"(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition, the Secretary determines that—

"(A) the property is offered for sale on the open market;

"(B) in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

"(C) immediate acquisition of the property is critical because—

"(i) based on an appraisal of the property, the value of the property is increasing significantly;

"(ii) there is an imminent threat of development or redevelopment of the property; and

"(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.

"(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(4) ENVIRONMENTAL REVIEW.—

"(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until all required environmental reviews for the project have been completed.

"(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a project shall not affect the consideration of project alternatives during the environmental review process.

"(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).".

SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(m) PLANNING CAPACITY BUILDING INITIATIVE.—

"(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—

"(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;

"(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;

"(C) participate in the metropolitan and statewide transportation planning programs under this title; and

"(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

"(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

"(A) the transportation elements of homeland security planning, including—

"(i) training and best practices relating to emergency evacuation;

"(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

"(iii) developing training on how planning organizations may examine security issues;

"(B) performance-based planning, including—

"(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

"(I) participate in transportation planning;

"(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

"(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

"(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

"(ii) improvement of the quality of congestion management systems, including the development of—

"(I) a measure of congestion;

"(II) a measure of transportation system reliability; and

"(III) a measure of induced demand;

"(C) safety planning, including—

"(i) development of State strategic safety plans consistent with section 148;

"(ii) incorporation of work zone safety into planning; and

"(iii) training in the development of data systems relating to highway safety;

"(D) operations planning, including—

"(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

"(ii) training and best practices relating to regional concepts of operations;

"(E) freight planning, including—

"(i) modeling of freight at a regional and statewide level; and

"(ii) techniques for engaging the freight community with the planning process;

"(F) air quality planning, including—

"(i) assisting new and existing nonattainment and maintenance areas in developing the technical capacity to perform air quality conformity analysis;

"(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

"(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

"(iv) developing materials to explain air quality issues to decisionmakers and the public; and

"(G) integration of environment and planning.

"(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

"(4) SET-ASIDE.—

"(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside $4,000,000 to carry out this subsection.

"(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

"(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.".

Subtitle F—Environment

SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, AND INVASIVE SPECIES.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

"(Q) Environmental restoration and pollution abatement in accordance with section 165.

"(R) Control of invasive plant species and establishment of native species in accordance with section 166.".

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

"(14) Environmental restoration and pollution abatement in accordance with section 165.

"(15) Control of invasive plant species and establishment of native species in accordance with section 166.".

(b) Eligible Activities.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 165. Eligibility for environmental restoration and pollution abatement

"(a) In General.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

"(b) Maximum Expenditure.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

"§ 166. Control of invasive plant species and establishment of native species

"(a) Definitions.—In this section:

"(1) Invasive plant species—The term 'invasive plant species' means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

"(2) Native plant species.—The term 'native plant species' means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

"(b) Control of Species.—

"(1) In general.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

"(A) participation in the control of invasive plant species; and

"(B) the establishment of native species.

"(2) Included activities.—The participation and establishment under paragraph (1) may include—

"(A) participation in statewide inventories of invasive plant species and desirable plant species;

"(B) regional native plant habitat conservation and mitigation;

"(C) native revegetation;

"(D) elimination of invasive species to create fuel breaks for the prevention and control of wildfires; and

"(E) training.

"(3) Contributions.—

"(A) In general.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

"(B) Condition for activities conducted in advance of project construction.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.".

(c) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. Eligibility for environmental restoration and pollution abatement.

"166. Control of invasive plant species and establishment of native species.".

SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.

(a) In General.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by striking "the roads as" and all that follows and inserting "the roads as—

"(A) National Scenic Byways;

"(B) All-American Roads; or

"(C) America's Byways.";

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "designated as" and all that follows and inserting "designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads; or

"(iii) America's Byways; and";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Byway or All-American Road" and inserting "Byway, All-American Road, or 1 of America's Byways"; and

(ii) in subparagraph (B), by striking "designation as a" and all that follows and inserting "designation as—

"(i) a National Scenic Byway;

"(ii) an All-American Road; or

"(iii) 1 of America's Byways; and"; and

(3) in subsection (c)(4), by striking "passing lane,".

(b) Research, Technical Assistance, Marketing, and Promotion.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following:

"(d) Research, Technical Assistance, Marketing, and Promotion.—

"(1) In general.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America's Byways.

"(2) Cooperation, grants, and contracts.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

"(3) Funds.—The Secretary may use not more than $2,000,000 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

"(4) Priority.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion."; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking "80 percent" and inserting "the share applicable under section 120, as adjusted under subsection (d) of that section".

SEC. 1603. RECREATIONAL TRAILS PROGRAM.

(a) Recreational Trails Program Formula.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking "Whenever" and inserting the following:

"(A) In general.—In any case in which";

(2) by striking "research and technical assistance under the recreational trails program and for the administration of the National Recreational Trails Advisory Committee" and inserting "research, technical assistance, and training under the recreational trails program"; and

(3) by striking "The Secretary" and inserting the following:

"(B) Contracts and agreements.—The Secretary".

(b) Recreational Trails Program Administration.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) Permissible uses.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

"(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

"(II) in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

"(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

"(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

"(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

"(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section."; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking "(2)(F)" and inserting "(2)(I)"; and

(ii) by adding at the end the following:

"(E) Use of youth conservation or service corps.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities."; and

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(ii) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "80 percent of" and inserting "the amount determined in accordance with section 120 for"; and

(ii) in subparagraph (B), by inserting "sponsoring the project" after "Federal agency";

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

"(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section."; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120"; and

(4) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f)."; and

(B) by striking paragraph (2) and inserting the following:

"(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section—

"(A) is intended to enhance recreational opportunity;

"(B) is not considered to be a highway project; and

"(C) is not subject to—

"(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

"(ii) section 303 of title 49.".

SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) EXEMPTION OF INTERSTATE SYSTEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.".

SEC. 1605. STANDARDS.

(a) IN GENERAL.—Section 109(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) consider the preservation, historic, scenic, natural environmental, and community values.".

(b) CONTEXT SENSITIVE DESIGN.—Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) CONTEXT SENSITIVE DESIGN.—

"(1) IN GENERAL.—The Secretary shall encourage States to design projects funded under this title that—

"(A) allow for the preservation of environmental, scenic, or historic values;

"(B) ensure the safe use of the facility;

"(C) provide for consideration of the context of the locality;

"(D) encourage access for other modes of transportation; and

"(E) comply with subsection (a).

"(2) APPROVAL BY SECRETARY.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.".

SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER REQUIREMENTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) RESPONSIBLE AGENCY.—The term 'responsible agency' means—

"(i) a State transportation department; and

"(ii) a local agency in a State that is responsible for transportation matters.

"(B) SERIOUSLY DEGRADED.—The term 'seriously degraded', with respect to a high occupancy vehicle lane, means, in the case of a high occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.

"(B) MINIMUM NUMBER OF OCCUPANTS.—Except as provided in paragraph (3), an occupancy requirement established under subparagraph (A) shall—

"(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and

"(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.

"(3) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

"(A) MOTORCYCLES.—For the purpose of this subsection, a motorcycle—

"(i) shall not be considered to be a single occupant vehicle; and

"(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—

"(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and

"(II) restricts that the use of the high occupancy vehicle lane by motorcycles.

"(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

"(i) DEFINITION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—In this subparagraph, the term 'low emission and energy-efficient vehicle' means a vehicle that has been certified by the Administrator of the Environmental Protection Agency—

"(I)(aa) to have a 45-mile per gallon or greater fuel economy highway rating; or

"(bb) to qualify as an alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211); and

"(II) as meeting Tier II emission level established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle.

"(ii) EXEMPTION FOR LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—

"(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

"(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

"(III) continuously monitors, evaluates, and reports to the Secretary on performance; and

"(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(C) TOLLING OF VEHICLES.—

"(i) IN GENERAL.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.

"(ii) APPLICABLE AUTHORITY.—In imposing a toll under clause (i), a responsible agency shall—

"(I) be subject to section 129;

"(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;

"(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;

"(IV) continuously monitor, evaluate, and report on performance of the system;

"(V) establish such policies and procedures as are necessary—

"(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and

"(bb) to enforce violations; and

"(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(D) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

"(i) DEFINITION OF DESIGNATED PUBLIC TRANSPORTATION VEHICLE.—In this subparagraph, the term 'designated public transportation vehicle' means a vehicle that—

"(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and

"(II)(aa) is owned or operated by a public entity; or

"(bb) is operated under a contract with a public entity.

"(ii) USE OF HIGH OCCUPANCY VEHICLE LANES.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—

"(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;

"(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and

"(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(E) HOV LANE MANAGEMENT, OPERATION, AND MONITORING.—

"(i) IN GENERAL.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).

"(ii) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—A responsible agency described in clause (i) shall establish, manage, and support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.

"(iii) OPERATION OF HOV LANE OR SYSTEM.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.".

SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting "pedestrian and" after "safe";

(2) in subsection (e), by striking "bicycles" each place it appears and inserting "pedestrians or bicyclists";

(3) by striking subsection (f) and inserting the following:

"(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).";

(4) by redesignating subsection (j) as subsection (k);

(5) by inserting after subsection (i) the following:

"(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

"(1) IN GENERAL.—The Secretary shall select and make grants to a national, nonprofit organization engaged in promoting bicycle and pedestrian safety—

"(A) to operate a national bicycle and pedestrian clearinghouse;

"(B) to develop information and educational programs regarding walking and bicycling; and

"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

"(2) FUNDING.—The Secretary may use funds set aside under section 104(n) to carry out this subsection.

"(3) APPLICABILITY OF TITLE 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended."; and

(6) in subsection (k) (as redesignated by paragraph (4))—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

"(4) SHARED USE PATH.—The term 'shared use path' means a multiuse trail or other path that is—

"(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and

"(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).".

(b) RESERVATION OF FUNDS.—Section 104 of title 23, United States Code (as amended by section 1522), is amended by adding at the end the following:

"(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each of fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $500,000 of the remaining funds apportioned under subsection (b)(3) for use in carrying out the bicycle and pedestrian safety grant program under section 217.".

SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

"(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a State may—

"(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not—

"(i) reduce the existing number of designated truck parking spaces at any given rest or recreation area; or

"(ii) preclude the use of those spaces by trucks employing alternative idle reduction technologies; and

"(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

"(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

"(A) to reduce idling of a truck while parked in the rest or recreation area; and

"(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.".

SEC. 1609. TOLL PROGRAMS.

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—

(1) is amended—

(A) in paragraph (1)—

(i) by striking "The Secretary" and inserting "Notwithstanding section 301, the Secretary"; and

(ii) by striking "that could not otherwise be adequately maintained or functionally improved without the collection of tolls";

(B) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project.";

(C) in paragraph (4)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the State's analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot program is the most efficient, economical, or expeditious way to advance the project;";

(ii) by striking subparagraph (B) and inserting the following:

"(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment;";

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and

(3) by striking "of title 23, United States Code" each place it appears.

(b) FAST AND SENSIBLE TOLL (FAST) LANES PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:

"(e) FAST AND SENSIBLE TOLL (FAST) LANES PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE TOLL FACILITY.—The term 'eligible toll facility' includes—

"(i) a facility in existence on the date of enactment of this subsection that collects tolls;

"(ii) a facility in existence on the date of enactment of this subsection, including a facility that serves high occupancy vehicles;

"(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds); and

"(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

"(B) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(2) ESTABLISHMENT.—Notwithstanding sections 129 and 301, the Secretary shall permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

"(A) to manage high levels of congestion;

"(B) to reduce emissions in a nonattainment area or maintenance area; or

"(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

"(3) LIMITATION ON USE OF REVENUES.—

"(A) USE.—

"(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

"(I) debt service for debt incurred on 1 or more highway or transit projects carried out under this title or title 49;

"(II) a reasonable return on investment of any private financing;

"(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

"(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under this title or title 49.

"(B) REQUIREMENTS.—

"(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(iii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

"(C) AGREEMENT.—

"(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

"(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

"(iii) DEBT.—

"(I) IN GENERAL.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

"(II) NOTICE.—On retirement of the debt of a tolled facility, the applicable State, public authority, or private entity designated by a State shall provide notice to the public of that retirement.

"(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

"(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

"(A) a description of the congestion or air quality problems sought to be addressed under the program;

"(B) a description of—

"(i) the goals sought to be achieved under the program; and

"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

"(C) such other information as the Secretary may require.

"(5) AUTOMATION.—Fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

"(6) INTEROPERABILITY.—

"(A) RULE.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

"(ii) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

"(I) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

"(II) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

"(III) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

"(B) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under subparagraph (A), as appropriate.

"(7) REPORTING.—

"(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

"(i) develop and publish performance goals for each FAST lane project;

"(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

"(I) effects on travel, traffic, and air quality;

"(II) distribution of benefits and burdens;

"(III) use of alternative transportation modes; and

"(IV) use of revenues to meet transportation or impact mitigation needs.

"(B) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) not later than 1 year after the date of enactment of this subsection, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

"(ii) not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for FAST lane programs.

"(8) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out pre-implementation studies and post-implementation evaluations of projects planned or implemented under this subsection $11,000,000 for each of fiscal years 2004 through 2009.

"(B) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds were authorized.

"(C) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the Federal share of the cost of any project carried out under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.

"(D) PROGRAM PROMOTION.—Notwithstanding any other provision of this section, the Secretary shall use an amount not to exceed 2 percent of the funds made available under subparagraph (A)—

"(i) to make grants to promote the purposes of the program under this subsection;

"(ii) to provide technical support to State and local governments or other public or private entities involved in implementing or considering FAST lane programs; and

"(iii) to conduct research on variable pricing that will support State or local efforts to initiate those pricing requirements.

"(E) EFFECT ON OTHER APPORTIONMENTS AND ALLOCATIONS.—Revenues collected from tolls established under this subsection shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

"(9) COMPLIANCE.—The Secretary shall ensure that any project or activity carried out under this section complies with requirements under section 106 of this title and section 307 of title 49.

"(10) VOLUNTARY USE.—Nothing in this subsection requires any highway user to use a FAST lane.

"(11) ENVIRONMENTAL REQUIREMENTS.—Nothing in this subsection affects any environmental requirement applicable to the construction or operation of an eligible toll facility under this title or any other provision of law.''.

(c) Conforming Amendments.—

(1) In general.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) Continuation of program.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

SEC. 1610. FEDERAL REFERENCE METHOD.

(a) In General.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:

''(e) Field Study.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Administrator shall—

''(1) conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

''(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

''(3) develop a method of measuring the composition of coarse particles; and

''(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

''(A) the Committee on Commerce of the House of Representatives; and

''(B) the Committee on Environment and Public Works of the Senate.''.

SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph B—

(A) in the matter preceding clause (i), by striking ''ozone or carbon monoxide'' and inserting ''ozone, carbon monoxide, or fine particulate matter ($PM_{2.5}$)'';

(B) by striking clause (i) and inserting the following:

''(i) 1.0, if at the time of apportionment, the area is a maintenance area;'';

(C) in clause (vi), by striking ''or'' after the semicolon; and

(D) in clause (vii)—

(i) by striking ''area as described in section 149(b) for ozone,'' and inserting ''area for ozone (as described in section 149(b) or for PM-2.5''; and

(ii) by striking the period at the end and inserting a semicolon;

(2) by adding at the end the following:

''(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

''(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM-2.5 standard.'';

(3) by striking subparagraph (C) and inserting the following:

''(C) Additional adjustment for carbon monoxide areas.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.'';

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

(5) by inserting after subparagraph (C) the following:

''(D) Additional adjustment for PM 2.5 areas.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM-2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.''.

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) Eligible Projects.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel.''.

(b) States Receiving Minimum Apportionment.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(g) Interagency Consultation.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.''.

SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(h) Evaluation and Assessment of Projects.—

''(1) In general.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

''(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

''(B) ensure the effective implementation of the program.

''(2) Database.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

''(3) Consideration.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.''.

SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) Metropolitan Planning.—

(1) Development of long-range transportation plan.—Section 134(g)(1) of title 23, United States Code, is amended by striking ''periodically, according to a schedule that the Secretary determines to be appropriate,'' and inserting ''every 4 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d))).''.

(2) Metropolitan transportation improvement program.—Section 134(h) of title 23, United States Code, is amended

(A) in paragraph (1)(D), by striking ''2 years'' and inserting ''4 years''; and

(B) in paragraph (2)(A), by striking ''3-year'' and inserting ''4-year''.

(3) Statewide transportation improvement program.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after ''program'' the following: ''(which program shall cover a period of 4 years and be updated every 4 years)''.

(4) Final regulations.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) Synchronized Conformity Determination.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking ''(2) Any transportation plan'' and inserting the following:

''(2) Transportation plans and programs.—Any transportation plan'';

(B) in subparagraph (C)(iii), by striking the period at the end and inserting a semicolon;

(C) in subparagraph (D)—

(i) by striking "Any project" and inserting "any transportation project"; and

(ii) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

"(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003);

"(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

"(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.";

(2) in paragraph (4)(B)(ii), by striking "but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and" and inserting "but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

"(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

"(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and";

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models.";

(4) by adding at the end the following:

"(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

"(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

"(i) The first 10-year period of any such transportation plan.

"(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

"(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

"(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

"(8) DEFINITIONS.—In this subsection:

"(A) REGIONALLY SIGNIFICANT PROJECT.—

"(i) IN GENERAL.—The term 'regionally significant project' means a transportation project that is on a facility that serves a regional transportation need, including—

"(I) access to and from the area outside of the region;

"(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

"(III) most transportation terminals.

"(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term 'regionally significant project' includes, at a minimum—

"(I) all principal arterial highways; and

"(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

"(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered 'regionally significant projects'.

"(iv) EXCLUSIONS.—The term 'regionally significant project' does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(B) SIGNIFICANT REVISION.—The term 'significant revision' means—

"(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

"(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

"(C) TRANSPORTATION PROJECT.—The term 'transportation project' includes only a project that is—

"(i) a regionally significant project; or

"(ii) a project that makes a significant revision to an existing project."; and

(5) in the matter following paragraph (3)(B), by inserting "transportation" before "project" each place it appears.

SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

"(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

"(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, in accordance with clauses (i) and (ii) and as selected through the consultation process required under paragraph (4)(D)(i), with—

"(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

"(ii) other such tests as the Administrator shall determine to ensure that—

"(I) the transportation plan or program—

"(aa) is consistent with the most recent estimates of mobile source emissions;

"(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

"(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(II) the transportation project—

"(aa) comes from a conforming transportation plan and program described in this subparagraph; and

"(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

"(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.".

SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

"(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

"(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

"(ii) the substitute control measures are implemented—

"(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

"(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

"(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

"(iv) the substitute and additional control measures were developed through a collaborative process that included—

"(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

"(II) consultation with the Administrator; and

"(III) reasonable public notice and opportunity for comment; and

"(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

"(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

"(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

"(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan; or

"(ii) a revision of the implementation plan.

"(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

"(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.".

SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through "after notice and opportunity for public hearing" and inserting the following:

"SEC. 319. AIR QUALITY MONITORING.

"(a) IN GENERAL.—After notice and opportunity for public hearing"; and

(2) by adding at the end the following:

"(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

"(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

"(A) IN GENERAL.—The term 'exceptional event' means an event that—

"(i) affects air quality;

"(ii) is not reasonably controllable or preventable;

"(iii) is—

"(I) a natural event; or

"(II) an event caused by human activity that is unlikely to recur at a particular location; and

"(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

"(B) EXCLUSIONS.—The term 'exceptional event' does not include—

"(i) stagnation of air masses or meteorological inversions;

"(ii) a meteorological event involving high temperatures or lack of precipitation; or

"(iii) air pollution relating to source noncompliance.

"(2) REGULATIONS.—

"(A) PROPOSED REGULATIONS.—Not later than March 1, 2005, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

"(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

"(3) PRINCIPLES AND REQUIREMENTS.—

"(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

"(i) the principle that protection of public health is the highest priority;

"(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

"(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

"(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

"(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

"(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

"(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

"(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

"(iii) there is a public process for determining whether an event is exceptional; and

"(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

"(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

"(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

"(B) Areas affected by PM-10 natural events, May 30, 1996.

"(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.".

SEC. 1619. CONFORMING AMENDMENTS.

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking "(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate" and inserting the following:

"(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—

"(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,";

(3) in subparagraph (A)—

(A) in the second sentence, by striking "No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate" and inserting the following:

"(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,"; and

(B) in the third sentence, by striking "A suit" and inserting the following:

"(C) CIVIL ACTION TO COMPEL PROMULGATION.—A civil action"; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

"(E) INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (D)(i).".

SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.

(a) HIGHWAY STORMWATER MITIGATION PROJECTS.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

"(5) HIGHWAY STORMWATER DISCHARGE MITIGATION PROJECTS.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.".

(b) HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(a)), is amended by adding at the end the following:

"§ 167. Highway stormwater discharge mitigation program

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ELIGIBLE MITIGATION PROJECT.—The term 'eligible mitigation project' means a practice or technique that—

"(A) improves stormwater discharge water quality;

"(B) attains preconstruction hydrology;

"(C) promotes infiltration of stormwater into groundwater;

"(D) recharges groundwater;

"(E) minimizes stream bank erosion;

"(F) promotes natural filters;

"(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

"(H) reduces flooding caused by highway stormwater discharge.

"(3) FEDERAL-AID HIGHWAY AND ASSOCIATED FACILITY.—The term 'Federal-aid highway and associated facility' means—

"(A) a Federal-aid highway; or

"(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

"(4) HIGHWAY STORMWATER DISCHARGE.—The term 'highway stormwater discharge' means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

"(5) HIGHWAY STORMWATER DISCHARGE MITIGATION.—The term 'highway stormwater discharge mitigation' means—

"(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

"(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

"(6) PROGRAM.—The term 'program' means the highway stormwater discharge mitigation program established under subsection (b).

"(b) ESTABLISHMENT.—The Secretary shall establish a highway stormwater discharge mitigation program—

"(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

"(2) to enhance groundwater recharge.

"(c) PRIORITY OF PROJECTS.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(d) GUIDANCE.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

"(2) REQUIREMENTS FOR GUIDANCE.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b), is amended by inserting after the item relating to section 166 the following:

"167. Highway stormwater discharge mitigation program.".

SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term "eligible person" means an agricultural producer that has gross agricultural commodity sales that do not exceed $500,000.

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports a fertilizer, pesticide, propane, gasoline, or diesel fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation).

Subtitle G—Operations

SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of title 23, United States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

"(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

"(17) RUSH HOUR CONGESTION RELIEF.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State may spend the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

"(B) USE OF FUNDS.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

"(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

"(ii) to purchase or lease telecommunications equipment for first responders;

"(iii) to purchase or lease towing and recovery services;

"(iv) to pay contractors for towing and recovery;

"(v) to rent vehicle storage areas adjacent to roadways;

"(vi) to fund service patrols, equipment, and operations;

"(vii) to purchase incident detection equipment;

"(viii) to carry out training.".

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of title 23, United States Code, is amended by inserting "improve transportation systems management and operations," after "intersections,".

(c) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

"§ 168. Transportation systems management and operations

"(a) IN GENERAL.—The Secretary shall carry out a transportation systems management and operations program to—

"(1) ensure efficient and effective transportation systems management and operations on Federal-aid highways through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

"(A) managers and operators of major modes of transportation;

"(B) public safety officials; and

"(C) the general public; and

"(2) manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of highway and transit facilities for travelers, and carriers.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

"(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

"(B) encourage States to—

"(i) establish a system of basic real-time monitoring for the surface transportation system; and

"(ii) provide the means to share the data gathered under clause (i) among—

"(I) highway, transit, and public safety agencies;

"(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

"(III) private-sector entities; and

"(IV) the general public.

"(2) ACTIVITIES.—Activities to be carried out under paragraph (1) include—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

"(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

"(i) emergency evacuation and response;

"(ii) traffic incident management;

"(iii) technology deployment; and

"(iv) traveler information systems delivery.

"(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

"(d) GUIDANCE; REGULATIONS.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

"(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

"(B) system hardware;

"(C) software; and

"(D) software integration services.

"(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

"(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

"(A) traffic incident management;

"(B) technology deployment;

"(C) emergency management and response;

"(D) traveler information; and

"(E) congestion relief.".

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

"168. Transportation systems management and operations.".

SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

"§ 169. Real-time system management information program

"(a) IN GENERAL.—The Secretary shall carry out a real-time system management information program to—

"(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

"(2)(A) identify long-range real-time highway and transit monitoring needs; and

"(B) develop plans and strategies for meeting those needs;

"(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

"(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

"(A) improve the security of the surface transportation system;

"(B) address congestion problems;

"(C) support improved response to weather events; and

"(D) facilitate the distribution of national and regional traveler information.

"(b) Data Exchange Formats.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

"(c) Statewide Incident Reporting System.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

"(1) monitoring an incident;

"(2) providing accurate traveler information on the incident; and

"(3) responding to the incident as appropriate.

"(d) Regional ITS Architecture.—

"(1) In general.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

"(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

"(B) the systems needed to meet those needs.

"(2) Data exchange formats.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

"(A) exchanged between jurisdictions; and

"(B) shared with the traveling public.

"(e) Eligible Funding.—Subject to project approval by the Secretary, a State may—

"(1) use funds available to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

"(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

"169. Real-time system management information program.".

SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking "title 40" and all that follows through the period and inserting "title 40.";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(4) by striking subparagraph (G).

SEC. 1704. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL VEHICLES.

Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended by adding at the end the following: "No additional off-duty time for a driver of such a vehicle shall be required in order for the driver to operate the vehicle.".

SEC. 1705. DESIGNATION OF TRANSPORTATION MANAGEMENT AREAS.

(a) Funding.—Section 134(d)(3)(C)(ii) of title 23, United States Code, is amended by striking subclause (II) and inserting the following:

"(II) Funding.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe Region under this title and chapter 53 of title 49, 1 percent of all funds distributed under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.".

(b) Special Designation.—Section 134(i)(1) of title 23, United States Code, is amended by adding at the end the following:

"(C) Special designation.—

"(i) In general.—The urbanized areas of Oklahoma City, Oklahoma, and Norman, Oklahoma, shall be designated as a single transportation management area.

"(ii) Allocation.—The allocation of funds to the Oklahoma City-Norman Transportation Management Area designated under clause (i) shall be based on the aggregate population of the 2 urbanized areas referred to in that clause, as determined by the Bureau of the Census.".

Subtitle H—Federal-Aid Stewardship

SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking "12" and inserting "25"; and

(2) in clause (iii)—

(A) in subclause (I), by striking "in the agreement between the Secretary and the State or States"; and

(B) by adding at the end the following:

"(III) Existing agreements.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.".

SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) In General.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

"(e) Value Engineering Analysis.—

"(1) Definition of value engineering analysis.—

"(A) In general.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

"(i) providing the needed functions safely, reliably, and at the lowest overall cost; and

"(ii) improving the value and quality of the project.

"(B) Inclusions.—The recommendations referred to in subparagraph (A) include, with respect to a project—

"(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

"(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

"(2) Analysis.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

"(A) each project on the Federal-Aid System with an estimated total cost of $25,000,000 or more;

"(B) a bridge project with an estimated total cost of $20,000,000 or more; and

"(C) any other project the Secretary determines to be appropriate.

"(3) Major projects.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

"(4) Requirements.—Analyses described in paragraph (1) for a bridge project shall

"(A) include bridge substructure requirements based on construction material; and

"(B) be evaluated—

"(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(ii) using an analysis of life-cycle costs and duration of project construction."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) Oversight Program.—

"(1) Program.—

"(A) In general.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds made available under this title.

"(B) Minimum requirements.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

"(2) Financial integrity.—

"(A) Financial management systems.—

"(i) In general.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

"(ii) Review areas.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

"(B) Project costs.—The Secretary shall—

"(i) develop minimum standards for estimating project costs; and

"(ii) periodically evaluate practices of the States for—

"(I) estimating project costs;

"(II) awarding contracts; and

"(III) reducing project costs.

"(C) Responsibility of the States.—

"(i) In general.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

"(I) sufficient accounting controls to properly manage the Federal funds; and

“(II) adequate project delivery systems for projects approved under this section.

“(ii) REVIEW BY SECRETARY.—The Secretary shall periodically review monitoring by the States of those subrecipients.

“(3) PROJECT DELIVERY.—The Secretary shall—

“(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

“(B) employ risk assessment procedures to identify areas to be reviewed.

“(4) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

“(A) specifically provided for under this title or other Federal law; or

“(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

“(h) MAJOR PROJECTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

“(A) a project management plan; and

“(B) an annual financial plan.

“(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

“(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

“(B) the role of the agency leadership and management team in the delivery of the project.

“(3) FINANCIAL PLAN.—A financial plan shall—

“(A) be based on detailed estimates of the cost to complete the project; and

“(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

“(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking “highways or portions of highways located on a Federal-aid system” and inserting “Federal-aid highway or a portion of a Federal-aid highway”; and

(B) by striking the second sentence and inserting “The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.”.

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY; SHARING FRAUD MONETARY RECOVERIES.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

“§ 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries

“(a) MANDATORY ENFORCEMENT POLICY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

“(A) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

“(B) subject to approval by the Attorney General—

“(i) except as provided in paragraph (2), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

“(ii) may exclude nonaffiliated subsidiaries of a debarred business entity.

“(2) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under paragraph (1) would be contrary to the national security of the United States, the Secretary—

“(A) may waive the debarment or suspension; and

“(B) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.

“(b) SHARING OF MONETARY RECOVERIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law—

“(A) monetary judgments accruing to the Federal Government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved; and

“(B) the State or local transit agency shall use the funds for transportation infrastructure and oversight activities relating to programs authorized under title 23 and this title.

“(2) AMOUNT.—The amount of recovered funds to be shared with an affected State or local transit agency shall be—

“(A) determined by the Attorney General, in consultation with the Secretary; and

“(B) considered to be Federal funds to be used in compliance with other relevant Federal transportation laws (including regulations).

“(3) FRAUDULENT ACTIVITY.—Paragraph (1) shall not apply in any case in which a State or local transit agency is found by the Attorney General, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

“307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.”.

SEC. 1803. DESIGN-BUILD CONTRACTING.

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following:

“(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.”.

SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking “(a) CONGESTION” and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

“(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

“(1) without the use of Federal funds; and

“(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

“(A) with the aid of Federal funds previously apportioned or allocated to the State; or

“(B) with obligation authority previously allocated to the State.

“(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.”.

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

“(d) OBLIGATION AND RELEASE OF FUNDS.—

“(1) IN GENERAL.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

“(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

“(A) credited to the same class of funds previously apportioned or allocated to the State; and

“(B) immediately available for obligation.

“(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.”.

SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking “$50,000,000” and all that follows through “2003” and inserting “$100,000,000 for each of fiscal years 2004 through 2009”; and

(2) by striking “Transportation Equity Act for the 21st Century” and inserting “Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004”.

SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking “Federal-aid highway”; and

(B) by striking “section 104” and inserting “this title or chapter 53 of title 49”.

(2) TECHNICAL REFERENCES.—Section 120(l) of title 23, United States Code, is amended by striking “section 104” and inserting “this title or chapter 53 of title 49”.

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

"(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

"(b) REIMBURSEMENT.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and

(2) in the last sentence, by striking "Any sums" and inserting the following:

"(c) RECOVERY AND CREDITING OF FUNDS.—Any sums".

(c) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:

"(a) ALLOCATION BASED ON NEED.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

"(2) PLANNING.—The allocation under paragraph (1)";

(2) by striking subsection (b) and inserting the following:

"(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

"(1) PUBLIC LANDS HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 33⅓ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

"(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

"(2) FOREST HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66⅔ percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

"(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

"(i) renewable resource and land use planning; and

"(ii) assessments of the impact of that planning on transportation facilities.";

(3) in subsection (c)—

(A) by striking "(c) On" and inserting the following:

"(c) PARK ROADS AND PARKWAYS.—

"(1) IN GENERAL.—On"; and

(B) by adding at the end the following:

"(2) PRIORITY.—

"(A) DEFINITION OF QUALIFYING NATIONAL PARK.—In this paragraph, the term "qualifying national park" means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

"(B) PRIORITY.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

"(i) are located in, or provide access to, a qualifying National Park; and

"(ii) were initially constructed before 1940.

"(C) PRIORITY CONFLICTS.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

"(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

"(ii) are located in more than 1 State;";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking "1999" and inserting "2005"; and

(ii) by striking "1999" and inserting "2005";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking "2000" and inserting "2005";

(ii) in subparagraphs (A), (B), and (D), by striking "2000" each place it appears and inserting "2005";

(iii) in subparagraph (B), by striking "1999" each place it appears and inserting "2004"; and

(iv) by adding at the end the following:

"(E) TRANSFERRED FUNDS.—

"(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula applicable for each fiscal year.

"(ii) FORMULA.—If the Secretary of the Interior has not promulgated final regulations for the distribution of funds under clause (i) for a fiscal year by the date on which the funds for the fiscal year are required to be distributed under that clause, the Secretary of the Interior shall distribute the funds under clause (i) in accordance with the applicable funding formula for the preceding year.

"(iii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary."; and

(C) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) FUNDING.—

"(i) RESERVATION OF FUNDS.—Of the amounts authorized to be appropriated for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) APPROVAL REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

"(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

"(1) 12 percent to the Bureau of Reclamation.

"(2) 18 percent to the Bureau of Indian Affairs.

"(3) 17 percent to the Bureau of Land Management.

"(4) 17 percent to the Forest Service.

"(5) 7 percent to the United States Fish and Wildlife Service.

"(6) 17 percent to the National Park Service.

"(7) 12 percent to the Corps of Engineers.".

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting "safety projects or activities," after "refuge roads," each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

"(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

"(A) transportation safety improvement activities;

"(B) activities to eliminate high-accident locations;

"(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

"(D) collection of safety information;

"(E) transportation planning projects or activities;

"(F) bridge inspection;

"(G) development and operation of safety management systems;

"(H) highway safety education programs; and

"(I) other eligible safety projects and activities authorized under chapter 4.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*-12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(f) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting "recreation roads," after "public lands highways,".

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (e)(1)), is amended by adding at the end the following:

"(h) RECREATION ROADS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

"(A) 8 percent to the Bureau of Reclamation.

"(B) 9 percent to the Corps of Engineers.

"(C) 13 percent to the Bureau of Land Management.

"(D) 70 percent to the Forest Service.

"(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.".

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting "recreation roads," after "Indian reservation roads,"; and

(B) in the fourth sentence, by inserting ", recreation roads," after "Indian roads".

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

"(m) RECREATION ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

"(A) maintenance or improvements of existing recreation roads;

"(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

"(i) the Department of Agriculture; or

"(ii) the Department of the Interior;

"(C) transportation planning and administrative activities associated with those maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

"(B) as of the date on which the funds are to be expended, there are—

"(i) no significant changes to the proposal bearing on environmental concerns; and

"(ii) no significant new information.

"(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*-12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(g) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking "public lands highways," each place it appears and inserting "public lands highways, recreation roads,".

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(3) Section 202(e) of title 23, United States Code, is amended by striking "Refuge System," and inserting "Refuge System and the various national fish hatcheries,".

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking "public lands highways," and inserting "public lands highways, recreation roads, forest highways,"; and

(B) in subsection (i), by striking "public lands highways" each place it appears and inserting "public lands highways, recreation roads, and forest highways".

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 205. National Forest System roads and trails";

and

(B) in subsections (a) and (d), by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

"205. National Forest System roads and trails.".

(7) Section 217(c) of title 23, United States Code, is amended by inserting "refuge roads," after "Indian reservation roads,".

SEC. 1807. HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

"§ 144. Highway bridge program

"(a) CONGRESSIONAL STATEMENT.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.";

(2) by striking subsection (d) and inserting the following:

"(d) PARTICIPATION IN PROGRAM.—

"(1) IN GENERAL.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

"(A) replacing the bridge with a comparable bridge; or

"(B) rehabilitating the bridge.

"(2) SPECIFIC KINDS OF REHABILITATION.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.

"(3) ELIGIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.

"(B) PREVENTATIVE MAINTENANCE.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.";

(3) in subsection (e)—

(A) in the third sentence, by striking "square footage" and inserting "area";

(B) in the fourth sentence—

(i) by striking "by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,"; and

(ii) by striking "1997" and inserting "2003"; and

(C) in the seventh sentence, by striking "the Federal-aid primary system" and inserting "Federal-aid highways";

(4) by striking subsections (f) and (g) and inserting the following:

"(f) SET ASIDES.—

"(1) DISCRETIONARY BRIDGE PROGRAM.—

"(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2004 through 2009, all but $150,000,000 shall be apportioned as provided in subsection (e).

"(B) AVAILABILITY.—The $150,000,000 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $25,000,000 of that amount shall be available only for projects for the seismic retrofit of bridges.

"(C) SET ASIDES.—For fiscal year 2004, the Secretary shall provide—

"(i) $50,000,000 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area; and

"(ii) $50,000,000 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.

"(2) OFF-SYSTEM BRIDGES.—

"(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2004 through 2009 shall be expended for projects to replace, rehabilitate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

"(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.";

(5) in subsection (i)—

(A) in paragraph (3), by striking "and";

(B) in paragraph (4), by striking the period at the end and inserting "; and";

(C) by striking "Such reports" and all that follows through "to Congress."; and

(D) by adding at the end the following:

"(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).";

(6) in the first sentence of subsection (n), by striking "all standards" and inserting "all general engineering standards";

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by striking "title (including this section)" and inserting "section"; and

(ii) by inserting "200 percent of" after "shall not exceed"; and

(B) in paragraph (4)(B)—

(i) in the second sentence, by inserting "200 percent of" after "not to exceed"; and

(ii) in the last sentence, by striking "title" and inserting "section";

(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and

(9) by adding at the end the following:

"(q) CONTINUATION OF ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

"(r) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge program.".

SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:

"§ 170. Appalachian development highway system

"(a) APPORTIONMENT.—

"(1) IN GENERAL.—The Secretary shall apportion funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for fiscal years 2004 through 2009 among States based on the latest available estimate of the cost to construct highways and access roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.

"(2) AVAILABILITY.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.

"(b) APPLICABILITY OF TITLE.—Funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—

"(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and

"(2) the funds shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting "and the Appalachian development highway system program under subtitle IV of title 40" after "(other than the emergency relief program authorized by section 125".

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

"170. Appalachian development highway system.".

SEC. 1809. MULTISTATE CORRIDOR PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1808(a)), is amended by adding at the end the following:

"§ 171. Multistate corridor program

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and development; and

"(2) facilitate transportation decisionmaking and coordinate project delivery involving multistate corridors.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multistate highway and multimodal planning studies and construction.

“(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

“(1) STUDIES.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

“(2) CONSTRUCTION.—All construction funded under this program shall be consistent with section 133(b)(1).

“(e) SELECTION CRITERIA.—The Secretary shall select studies and projects to be carried out under the program based on—

“(1) the existence and significance of signed and binding multijurisdictional agreements;

“(2) endorsement of the study or project by applicable elected State and local representatives;

“(3) prospects for early completion of the study or project; or

“(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

“(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

“(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

“(2) give priority to studies or projects that emphasize multimodal planning, including planning for operational improvements that—

“(A) increase—

“(i) mobility;

“(ii) freight productivity;

“(iii) access to marine or inland ports;

“(iv) safety and security; and

“(v) reliability; and

“(B) enhance the environment.

“(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.

“(h) APPLICABILITY.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under this chapter.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)) is amended by adding at the end the following:

“171. Multistate corridor program.”.

SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(a)), is amended by adding at the end the following:

“§172. Border planning, operations, technology, and capacity program

“(a) DEFINITIONS.—In this section:

“(1) BORDER STATE.—The term ‘border State’ means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

“(2) PROGRAM.—The term ‘program’ means the border planning, operations, technology, and capacity program established under subsection (b).

“(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

“(c) ELIGIBLE ACTIVITIES.—

“(1) IN GENERAL.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.

“(2) ELIGIBLE ACTIVITIES.—A border State may obligate funds apportioned to the border State under this section for—

“(A) highway and multimodal planning or environmental studies;

“(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;

“(C) technology and information exchange activities; and

“(D) right-of-way acquisition, design, and construction, as needed—

“(i) to implement the enhancements or applications described in subparagraphs (B) and (C);

“(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or

“(iii) to increase highway capacity at or near international borders.

“(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

“(1) IN GENERAL.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

“(2) REGIONALLY SIGNIFICANT PROJECTS.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.

“(e) PROGRAM PRIORITIES.—Border States shall give priority to projects that emphasize—

“(1) multimodal planning;

“(2) improvements in infrastructure; and

“(3) operational improvements that—

“(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and

“(B) enhance the environment.

“(f) MANDATORY PROGRAM.—

“(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in paragraph (2), funds to be used in accordance with subsection (d).

“(2) FORMULA.—Subject to paragraph (3), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

“(A) 25 percent in the ratio that—

“(i) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

“(B) 25 percent in the ratio that—

“(i) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

“(C) 25 percent in the ratio that—

“(i) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

“(D) 25 percent in the ratio that—

“(i) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

“(3) DATA SOURCE.—

“(A) IN GENERAL.—The data used by the Secretary in making allocations under this subsection shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

“(B) BASIS OF CALCULATION.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

“(4) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), for each fiscal year, each border State shall receive at least ½ of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

“(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out under the program shall be 80 percent.

“(h) OBLIGATION.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

“(i) INFORMATION EXCHANGE:—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds $500,000 for any fiscal year.

“(j) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

“(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

“(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.

“(k) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

“(1) STATE FUNDS.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—

"(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and

"(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

"(2) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (f).

"(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

"(ii) shall be—

"(I) administered in accordance with the procedures of the General Services Administration; but

"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

"(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).

"(3) DIRECT TRANSFER OF AUTHORIZED FUNDS.—

"(A) IN GENERAL.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—

"(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and

"(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

"(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred by the Secretary under subparagraph (A)—

"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

"(ii) shall be—

"(I) administered in accordance with the procedures of the General Services Administration; but

"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

"(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)), is amended by adding at the end the following:

"172. Border planning, operations, and technology program.".

SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:

"§ 173. Puerto Rico highway program

"(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for each of fiscal years 2004 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

"(b) APPLICABILITY OF TITLE.—

"(1) IN GENERAL.—Amounts made available by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

"(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

"(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

"(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

"(A) the aggregate of the amounts for the fiscal year; by

"(B) the ratio that—

"(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

"(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

"173. Puerto Rico highway program.".

SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

"§ 174. National historic covered bridge preservation

"(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

"(1) collect and disseminate information on historic covered bridges;

"(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; or

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $14,000,000 for each of fiscal years 2004 through 2009, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

"174. National historic covered bridge preservation.".

SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

"§ 175. Transportation and community and system preservation program

"(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

"(b) GOALS.—The goals of the program are to—

"(1) improve the efficiency of the transportation system in the United States;

"(2) reduce the impacts of transportation on the environment;

"(3) reduce the need for costly future investments in public infrastructure;

"(4) provide efficient access to jobs, services, and centers of trade; and

"(5) examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

"(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

“(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

“(A) have instituted preservation or development plans and programs that—

“(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

“(ii)(I) are coordinated with State and local adopted preservation or development plans;

“(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

“(III) are intended to promote innovative private sector strategies.

“(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

“(i) spending policies that direct funds to high-growth areas;

“(ii) urban growth boundaries to guide metropolitan expansion;

“(iii) ‘green corridors’ programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

“(iv) other similar programs or policies as determined by the Secretary;

“(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

“(D) examine ways to encourage private sector investments that address the purposes of this section; and

“(E) propose projects for funding that address the purposes described in subsection (b)(2).

“(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

“(4) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

“(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

“(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

“(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

“(I) transit-oriented development plans;

“(II) traffic calming measures; or

“(III) other coordinated transportation and community and system preservation practices.

“(d) FUNDING.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 2004 through 2009.

“(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.”.

(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

“(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:

“(A) Improvement of the efficiency of the transportation system in the United States.

“(B) Reduction of the impacts of transportation on the environment.

“(C) Reduction of the need for costly future investments in public infrastructure.

“(D) Provision of efficient access to jobs, services, and centers of trade.

“(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified in subparagraphs (A) through (D).

“(19) Projects relating to intersections, including intersections—

“(A) that—

“(i) have disproportionately high accident rates;

“(ii) have high levels of congestion, as evidenced by—

“(I) interrupted traffic flow at the intersection; and

“(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than ‘F’ during peak travel hours; and

“(iii) are directly connected to or located on a Federal-aid highway; and

“(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.”.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(b)), is amended by adding at the end the following:

“175. Transportation and community and system preservation pilot program.”.

SEC. 1814. PARKING PILOT PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

“§ 176. Parking pilot programs

“(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

“(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for drivers of commercial motor vehicles on the National Highway System.

“(2) ALLOCATION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments.

“(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to an applicant that—

“(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

“(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

“(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

“(3) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

“(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

“(i) construction of safety rest areas that include parking for commercial motor vehicles;

“(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

“(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

“(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

“(v) construction of turnouts along the National Highway System for commercial motor vehicles;

“(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open yeararound; and

“(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

“(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

“(6) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

“(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

“(b) CORRIDOR AND FRINGE PARKING PILOT PROGRAM.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

“(B) PRIMARY FUNCTION.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

“(C) OVERNIGHT PARKING.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

“(2) ALLOCATION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States.

“(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

“(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

“(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

“(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

“(3) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

“(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

“(i) construction of corridor and fringe parking facilities;

“(ii) costs associated with the opening of facilities;

“(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

“(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

“(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

“(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

“(6) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

“(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

“176. Parking pilot programs.”.

SEC. 1815. INTERSTATE OASIS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

“§ 177. Interstate oasis program

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

“(1) establish an Interstate oasis program; and

“(2) develop standards for designating, as an Interstate oasis, a facility that—

“(A) offers—

“(i) products and services to the public;

“(ii) 24-hour access to restrooms; and

“(iii) parking for automobiles and heavy trucks; and

“(B) meets other standards established by the Secretary.

“(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

“(1) the appearance of a facility; and

“(2) the proximity of the facility to the Interstate System.

“(c) ELIGIBILITY FOR DESIGNATION.—If a State elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

“(d) LOGO.—The Secretary shall design a logo to be displayed by a facility designated under this section.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

“177. Interstate oasis program.”.

SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.

Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:

“(n) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

“(A) Indian reservation roads; and

“(B) roads providing access to Indian reservation roads.

“(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

“(A) shall be negotiated between the State and the Indian tribe; and

“(B) shall not require the approval of the Secretary.

“(3) ANNUAL REPORT.—Effective beginning with fiscal year 2004, the Secretary shall prepare and submit to Congress an annual report that identifies—

“(A) the Indian tribes and States that have entered into agreements under paragraph (1);

“(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

“(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).”.

SEC. 1817. NATIONAL FOREST SYSTEM ROADS.

Section 205 of title 23, United States Code, is amended by adding at the end the following:

“(e) Of the amounts made available for National Forest System roads, $15,000,000 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.”.

SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

“§ 215. Territorial highway program

“(a) DEFINITIONS.—In this section:

“(1) PROGRAM.—The term ‘program’ means the territorial highway program established under subsection (b).

“(2) TERRITORY.—The term ‘territory’ means the any of the following territories of the United States:

“(A) American Samoa.

“(B) The Commonwealth of the Northern Mariana Islands.

“(C) Guam.

“(D) The United States Virgin Islands.

“(b) PROGRAM.—

“(1) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

“(A) designated by the Governor or chief executive officer of each territory; and

“(B) approved by the Secretary.

“(2) FEDERAL SHARE.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).

“(c) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

“(A) engage in highway planning;

“(B) conduct environmental evaluations;

“(C) administer right-of-way acquisition and relocation assistance programs; and

“(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

“(2) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

“(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

“(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

“(2) APPLICABLE PROVISIONS.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those section, shall be identified in the agreement required by subsection (e).

“(e) AGREEMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004), providing that the government of the territory shall—

“(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

“(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

“(i) appropriate for each territory; and

“(ii) approved by the Secretary;

“(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

“(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

“(2) TECHNICAL ASSISTANCE.—The new agreement required by paragraph (1) shall—

"(A) specify the kind of technical assistance to be provided under the program;

"(B) include appropriate provisions regarding information sharing among the territories; and

"(C) delineate the oversight role and responsibilities of the territories and the Secretary.

"(3) REVIEW AND REVISION OF AGREEMENT.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

"(4) EXISTING AGREEMENTS.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004—

"(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and

"(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.

"(f) PERMISSIBLE USES OF FUNDS.—

"(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

"(A) Eligible surface transportation program projects described in section 133(b).

"(B) Cost-effective, preventive maintenance consistent with section 116.

"(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

"(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

"(E) Studies of the economy, safety, and convenience of highway use.

"(F) The regulation and equitable taxation of highway use.

"(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

"(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

"(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.".

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

"(P) Projects eligible for assistance under the territorial highway program under section 215.".

(2) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands" and inserting "for the territorial highway program authorized under section 215".

(3) ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

"215. Territorial highway program.".

SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

Section 322 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "Not later than" and inserting the following:

"(1) INITIAL SOLICITATION.—Not later than"; and

(B) by adding at the end the following:

"(2) ADDITIONAL SOLICITATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary may solicit additional applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.";

(2) in subsection (e), by striking "Prior to soliciting applications, the Secretary" and inserting "The Secretary";

(3) in subsection (h)—

(A) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 2004 through 2009."; and

(B) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(I) $375,000,000 for fiscal year 2004;

"(II) $400,000,000 for fiscal year 2005;

"(III) $415,000,000 for fiscal year 2006;

"(IV) $425,000,000 for fiscal year 2007;

"(V) $435,000,000 for fiscal year 2008; and

"(VI) $450,000,000 for fiscal year 2009."; and

(4) by striking subsection (i).

SEC. 1820. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting ", or a local government from offering to donate funds, materials, or services performed by local government employees," after "services"; and

(2) striking subsection (e).

SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I and II of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—The term "small business concern" has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) EXCLUSION.—The term "small business concern" does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SEC. 1822. EMERGENCY RELIEF.

Section 125(c)(1) of title 23, United States Code, is amended by striking $100,000,000" and inserting "$300,000,000".

Subtitle I—Technical Corrections

SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking "The Secretary" and all that follows through "of 1970" and inserting "Not later than January 30, 1971, the Secretary shall issue".

SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

"§ 321. Signs identifying funding sources".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

"321. Signs identifying funding sources.".

SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

"§313. Buy America".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

"313. Buy America.".

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking "by this Act" the first place it appears and all that follows through "of 1978" and inserting "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking "this Act," and all that follows through "Code, which" and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that";

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title" and inserting "section 135";

(B) in the second sentence, by striking "He" and inserting "The Secretary";

(C) in the third sentence, by striking "where he considers it necessary to assure" and inserting "if necessary to ensure"; and

(D) in the last sentence—

(i) by striking "him" and inserting "the Secretary" and

(ii) by striking "he" and inserting "the Secretary";

(2) in subsection (b)—

(A) in the first sentence, by striking "highway construction" and inserting "surface transportation"; and

(B) in the second sentence—

(i) by striking "as he may deem necessary" and inserting "as necessary"; and

(ii) by striking "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and";

(3) in the second sentence of subsection (c)—

(A) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)"; and

(B) by striking "he may deem"; and

(4) in the heading of subsection (d), by striking "AND CONTRACTING".

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—

(A) IN GENERAL.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) $211,000,000 for each of fiscal years 2004 and 2005;

(ii) $215,000,000 for fiscal year 2006;

(iii) $218,000,000 for fiscal year 2007;

(iv) $220,000,000 for fiscal year 2008; and

(v) $223,000,000 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, the Secretary shall set aside $20,000,000 of the funds authorized under subparagraph (A) to carry out the surface transportation-environmental cooperative research program under section 507 of title 23, United States Code.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) $27,000,000 for fiscal year 2004;

(B) $28,000,000 for fiscal year 2005;

(C) $29,000,000 for fiscal year 2006;

(D) $30,000,000 for fiscal year 2007;

(E) $31,000,000 for fiscal year 2008; and

(F) $32,000,000 for fiscal year 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $28,000,000 for each of fiscal years 2004 through 2009.

(4) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

(A) $120,000,000 for fiscal year 2004;

(B) $123,000,000 for fiscal year 2005;

(C) $126,000,000 for fiscal year 2006;

(D) $129,000,000 for fiscal year 2007;

(E) $132,000,000 for fiscal year 2008; and

(F) $135,000,000 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code—

(A) $40,000,000 for fiscal year 2004; and

(B) $45,000,000 for each of fiscal years 2005 through 2009.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and

(2) shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) $27,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code;

(B) $18,000,000 for fiscal years 2004 and 2005, $17,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $12,000,000 for fiscal year 2008, and $10,00,000 for fiscal year 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title;

(C) $6,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out the high-performance concrete bridge research and technology transfer program under section 502(i) of that title;

(D) $6,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on asphalt used in highway pavements;

(E) $6,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on concrete pavements;

(F) $3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on aggregates used in highway pavements;

(G) $4,750,000 for each of fiscal years 2004 through 2009 shall be made available for further development and deployment of techniques to prevent and mitigate alkali silica reactivity; and

(H) $3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), $60,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(2)—

(A) $12,000,000 for fiscal year 2004, $12,500,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $13,500,000 for fiscal year 2007, $14,000,000 for fiscal year 2008, and $14,500,000 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $15,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $3,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.—Of the amounts made available under subsection (a)(1), $500,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) NEW STRATEGIC HIGHWAY RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $15,000,000 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) $19,000,000 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) $13,000,000 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) $20,000,000 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) $5,000,000 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) $3,000,000 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $30,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection

(c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

SEC. 2002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

(1) $426,200,000 for fiscal year 2004;
(2) $435,200,000 for fiscal year 2005;
(3) $443,200,000 for fiscal year 2006;
(4) $450,200,000 for fiscal year 2007;
(5) $456,200,000 for fiscal year 2008; and
(6) $463,200,000 for fiscal year 2009.

SEC. 2003. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subtitle B—Research and Technology

SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

“CHAPTER 5—RESEARCH AND TECHNOLOGY

“SUBCHAPTER I—SURFACE TRANSPORTATION

“Sec.
“501. Definitions.
“502. Surface transportation research.
“503. Technology application program.
“504. Training and education.
“505. State planning and research.
“506. International highway transportation outreach program.
“507. Surface transportation-environmental cooperative research program.
“508. Surface transportation research technology deployment and strategic planning.
“509. New strategic highway research program.
“510. University transportation centers.
“511. Multistate corridor operations and management.

“SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

“521. Finding.
“522. Goals and purposes.
“523. Definitions.
“524. General authorities and requirements.
“525. National ITS Program Plan.
“526. National ITS architecture and standards.
“527. Commercial vehicle intelligent transportation system infrastructure program.
“528. Research and development.
“529. Use of funds.

“SUBCHAPTER I—SURFACE TRANSPORTATION

“§ 501. Definitions

“In this subchapter:

“(1) FEDERAL LABORATORY.—The term ‘Federal laboratory’ includes—

“(A) a Government-owned, Government-operated laboratory; and

“(B) a Government-owned, contractor-operated laboratory.

“(2) SAFETY.—The term ‘safety’ includes highway and traffic safety systems, research, and development relating to—

“(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;

“(B) accident investigations;

“(C) communications;

“(D) emergency medical care; and

“(E) transportation of the injured.

“§ 502. Surface transportation research

“(a) IN GENERAL.—

“(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

“(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and

“(B) the effect of State laws on the activities described in subparagraph (A).

“(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.

“(3) COOPERATION, GRANTS, AND CONTRACTS.—

“(A) IN GENERAL.—The Secretary may carry out this section—

“(i) independently;

“(ii) in cooperation with—

“(I) any other Federal agency or instrumentality; and

“(II) any Federal laboratory; or

“(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

“(I) the National Academy of Sciences;

“(II) the American Association of State Highway and Transportation Officials;

“(III) planning organizations;

“(IV) a Federal laboratory;

“(V) a State agency;

“(VI) an authority, association, institution, or organization;

“(VII) a for-profit or nonprofit corporation;

“(VIII) a foreign country; or

“(IX) any other person.

“(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable and appropriate—

“(i) on a competitive basis; and

“(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

“(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).

“(5) FUNDS.—

“(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

“(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

“(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

“(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—

“(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—

“(A)(i) increasing to 50 years the expected life of pavements;

“(ii) increasing to 100 years the expected life of bridges; and

“(iii) significantly increasing the durability of other infrastructure;

“(B) lowering the life-cycle costs, including—

“(i) construction costs;

“(ii) maintenance costs;

“(iii) operations costs; and

“(vi) user costs.

“(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;

"(3) the investigation of—

"(A) the application of current natural hazard mitigation techniques to manmade hazards; and

"(B) the continuation of hazard mitigation research combining manmade and natural hazards;

"(4) the improvement of safety—

"(A) at intersections;

"(B) with respect to accidents involving vehicles run off the road; and

"(C) on rural roads;

"(5) the reduction of work zone incursions and improvement of work zone safety;

"(6) the improvement of geometric design of roads for the purpose of safety;

"(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—

"(A) the most useful types of data are being collected; and

"(B) any improvement could be made in the types of data collected and the manner in which the data is collected, with respect to bridges in the United States;

"(8) the improvement of the infrastructure investment needs report described in subsection (g) through—

"(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;

"(B) monitoring of the surface transportation system in a system-wide manner, through the use of—

"(i) intelligent transportation system technologies of traffic operations centers; and

"(ii) other new data collection technologies as sources of better quality performance data;

"(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and

"(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;

"(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—

"(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;

"(B) improvements in calculating lifecycle costs; and

"(C) valuation of assets;

"(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;

"(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as—

"(A) planning;

"(B) environmental decisionmaking and project delivery; and

"(C) freight movement;

"(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;

"(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;

"(14) the conduct of extreme weather research, including research to—

"(A) reduce contraction and expansion damage;

"(B) reduce or repair road damage caused by freezing and thawing;

"(C) improve deicing or snow removal techniques;

"(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;

"(E) improve concrete and asphalt installation in extreme weather conditions; and

"(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;

"(15) the improvement of surface transportation planning;

"(16) environmental research;

"(17) transportation system management and operations; and

"(18) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.

"(d) ADVANCED, HIGH-RISK RESEARCH.—

"(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.

"(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.

"(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.

"(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND, CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(B) analyze the data obtained in carrying out subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future pavement technology needs.

"(3) CONCLUSION OF PROGRAM.—

"(A) SUMMARY REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—

"(i) an analysis of any research objectives that remain to be achieved under the program;

"(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;

"(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;

"(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and

"(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.

"(B) DEADLINE; USEFULNESS OF ADVANCES.—The Secretary shall, to the maximum extent practicable—

"(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and

"(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.

"(f) SEISMIC RESEARCH.—The Secretary shall—

"(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

"(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

"(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

"(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, carry out a seismic research program—

"(A) to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity;

"(B) to develop and implement cost-effective methods to reduce the vulnerability; and

"(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

"(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

"(1) IN GENERAL.—Not later than July 31, 2004, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

"(A) estimates of the future highway and bridge needs of the United States; and

"(B) the backlog of current highway and bridge needs.

"(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

"(h) SECURITY RELATED RESEARCH AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.

"(2) COMPONENTS OF PLAN.—The plan shall include—

"(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;

"(B) a description of the manner in which those activities will be coordinated; and

"(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and

"(D) a systematic evaluation of the research that should be conducted to address, at a minimum—

"(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;

"(ii) recommended upgrades of traffic management during crises;

"(iii) enhanced communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;

"(iv) protection of critical, security-related infrastructure; and

"(v) structural reinforcement of key facilities.

"(3) SUBMISSION.—On completion of the plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(A) a copy of the plan developed under paragraph (1); and

"(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.

"(i) HIGH-PERFORMANCE CONCRETE BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performance concrete in the construction and rehabilitation of bridges.

"(j) BIOBASED TRANSPORTATION RESEARCH.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $18,000,000 for each of fiscal years 2004 through 2009 equally divided and available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of Public Law 107–171.

"§ 503. Technology application program

"(a) TECHNOLOGY APPLICATION INITIATIVES AND PARTNERSHIPS PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology and innovation application initiatives and partnerships program.

"(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of technology and innovation by the surface transportation community.

"(3) APPLICATION GOALS.—

"(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).

"(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

"(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—

"(A) disseminate the results of research sponsored by the Secretary; and

"(B) facilitate technology transfer.

"(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

"(6) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.

"(7) REPORTS.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).

"(8) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.

"(b) INNOVATIVE SURFACE TRANSPORTATION INFRASTRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation, and rehabilitation of elements of surface transportation infrastructure.

"(2) GOALS.—The goals of the program shall include—

"(A) the development of new, cost-effective, and innovative materials;

"(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;

"(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;

"(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and

"(F) the development of new, nondestructive technologies and techniques for the evaluation of elements of transportation infrastructure.

"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and

"(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

"(B) APPLICATIONS.—

"(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

"(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

"(B) encourage the use of the information and technology.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"§ 504. Training and education

"(a) NATIONAL HIGHWAY INSTITUTE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the 'Institute'); and

"(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

"(A) Federal Highway Administration, State, and local transportation agency employees;

"(B) regional, State, and metropolitan planning organizations;

"(C) State and local police, public safety, and motor vehicle employees; and

"(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(3) COURSES.—

"(A) IN GENERAL.—The Institute shall—

"(i) develop or update existing courses in asset management, including courses that include such components as—

"(I) the determination of life-cycle costs;

"(II) the valuation of assets;

"(III) benefit-to-cost ratio calculations; and

"(IV) objective decisionmaking processes for project selection; and "(ii) continually develop courses relating to the application of emerging technologies for—

"(I) transportation infrastructure applications and asset management;

"(II) intelligent transportation systems;

"(III) operations (including security operations);

"(IV) the collection and archiving of data;

"(V) expediting the planning and development of transportation projects; and

"(VI) the intermodal movement of individuals and freight.

"(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

"(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

"(i) review the course inventory of the Institute; and

"(ii) revise or cease to offer courses based on course content, applicability, and need.

"(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(5) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

"(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) exercise the authority of the Institute independently or in cooperation with any—

"(i) other Federal or State agency;

"(ii) association, authority, institution, or organization;

"(iii) for-profit or nonprofit corporation;

"(iv) national or international entity;

"(v) foreign country; or

"(vi) person.

"(7) COLLECTION OF FEES.—

"(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

"(A) paragraph (7);

"(B) memoranda of understanding;

"(C) regional compacts; and

"(D) other similar agreements.

"(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

"(A) highway and transportation agencies in urbanized areas;

"(B) highway and transportation agencies in rural areas;

"(C) contractors that perform work for the agencies; and

"(D) infrastructure security.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) develop technical assistance for tourism and recreational travel;

"(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

"(D) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

"(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(c) RESEARCH FELLOWSHIPS.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"§ 505. State planning and research

"(a) IN GENERAL.—Two percent of the sums apportioned to a State for fiscal year 2004 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—

"(1) the conduct of engineering and economic surveys and investigations;

"(2) the planning of—

"(A) future highway programs and local public transportation systems; and

"(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;

"(3) the development and implementation of management systems under section 303;

"(4) the conduct of studies on—

"(A) the economy, safety, and convenience of surface transportation systems; and

"(B) the desirable regulation and equitable taxation of those systems;

"(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;

"(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and

"(7) the conduct of activities relating to the planning of real-time monitoring elements.

"(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—

"(A) are described in subsection (a); and

"(B) relate to highway, public transportation, and intermodal transportation systems.

"(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—

"(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and

"(B) the Secretary accepts the certification of the State.

"(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be—

"(1) combined and administered by the Secretary as a single fund; and

"(2) available for obligation for the period described in section 118(b)(2).

"(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).

"§ 506. International highway transportation outreach program

"(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

"(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

"(3) to increase transfers of United States highway transportation technology to foreign countries.

"(b) ACTIVITIES.—Activities carried out under the program may include—

"(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

"(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

"(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

"(6) the gathering and dissemination of information on foreign transportation markets and industries.

"(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

"(1) Federal, State, or local agency;

"(2) authority, association, institution, or organization;

"(3) for-profit or nonprofit corporation;

"(4) national or international entity;

"(5) foreign country; or

"(6) person.

"(d) FUNDS.—

"(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

"(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

"(A) promotional materials;

"(B) travel;

"(C) reception and representation expenses; and

"(D) salaries and benefits.

"(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

"(e) REPORT—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

"§ 507. Surface transportation-environmental cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

"(b) CONTENTS.—The program carried out under this section may include research—

"(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

"(2) to improve understanding of the factors that contribute to the demand for transportation;

"(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

"(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

"(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

"(c) PROGRAM ADMINISTRATION.—The Secretary shall—

"(1) administer the program established under this section; and

"(2) ensure, to the maximum extent practicable, that—

"(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

"(i) on the basis of merit of each submitted proposal; and

"(ii) through the use of open solicitations and selection by a panel of appropriate experts;

"(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

"(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

"(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.

"§ 508. Surface transportation research technology deployment and strategic planning

"(a) PLANNING.—

"(1) ESTABLISHMENT.—The Secretary shall—

"(A) establish, in accordance with section 306 of title 5, a strategic planning process that—

"(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and

"(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, taking into consideration national surface transportation system needs and intermodality requirements;

"(B) coordinate Federal surface transportation research, technology development, and deployment activities;

"(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and

"(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

"(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—

"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall establish a committee to be known as the 'Surface Transportation Research Technology Advisory Committee' (referred to in this section as the 'Committee').

"(B) MEMBERSHIP.—The Committee shall be composed of 12 members appointed by the Secretary—

"(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—

"(I) safety;

"(II) operations;

"(III) infrastructure (including pavements and structures);

"(IV) planning and environment;

"(V) policy; and

"(VI) asset management; and

"(ii) of which—

"(I) 3 members shall be individuals representing the Federal Government;

"(II) 3 members—

"(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and

"(bb) shall not be officers or employees of the United States;

"(III) 3 members—

"(aa) shall represent the transportation industry (including the pavement industry); and

"(bb) shall not be officers or employees of the United States; and

"(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.

"(C) MEETINGS.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.

"(D) DUTIES.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—

"(i) the determination of surface transportation research priorities;

"(ii) the improvement of the research planning and implementation process;

"(iii) the design and selection of research projects;

"(iv) the review of research results;

"(v) the planning and implementation of technology transfer activities and

"(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).

"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $200,000 for each fiscal year.

"(b) IMPLEMENTATION.—The Secretary shall—

"(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and

"(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs.

"(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

"(1) IN GENERAL.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—

"(A) safety;

"(B) operations;

"(C) infrastructure (including pavements and structures);

"(D) planning and environment;

"(E) policy; and

"(F) asset management.

"(2) COMPONENTS.—The strategic plan shall specify—

"(A) surface transportation research objectives and priorities;

"(B) specific surface transportation research projects to be conducted;

"(C) recommended technology transfer activities to promote the deployment of advances resulting from the surface transportation research conducted; and

"(D) short- and long-term technology development and deployment activities.

"(3) REVIEW AND SUBMISSION OF FINDINGS.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—

"(A) the Transportation Research Board shall—

"(i) review the research and technology planning and implementation process used by Federal Highway Administration; and

"(ii) evaluate each of the strategic plans prepared under this subsection—

"(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and

"(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and

"(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).

"(4) RESPONSES OF SECRETARY.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).

"(d) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.

"§ 509. New strategic highway research program

"(a) IN GENERAL.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.

"(b) BASIS; PRIORITIES.—With respect to the program established under subsection (a)—

"(1) the program shall be based on—

"(A) National Research Council Special Report No. 260, entitled 'Strategic Highway Research'; and

"(B) the results of the detailed planning work subsequently carried out to scope the research areas through National Cooperative Research Program Project 20–58.

"(2) the scope and research priorities of the program shall—

"(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and

"(B) include an examination of—

"(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;

"(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;

"(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);

"(iv) measures that may save the greatest number of lives in the short- and long-term;

"(v) renewal of aging infrastructure with minimum impact on users of facilities;

"(vi) driving behavior and likely crash causal factors to support improved countermeasures;

"(vii) reduction in congestion due to nonrecurring congestion;

"(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;

"(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and

"(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.

"(c) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

"(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—

"(A) on the basis of the merit of each submitted proposal; and

"(B) through the use of open solicitations and selection by a panel of appropriate experts;

"(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;

"(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

"(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.

"(e) REPORT ON IMPLEMENTATION OF RESULTS.—

"(1) IN GENERAL.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.

"(2) COMPONENTS.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—

"(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

"(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

“(C) an estimate of costs that would be incurred in expediting implementation of those results; and

“(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.

“(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

“(A) the American Association of State highway Officials;

“(B) the Federal Highway Administration; and

“(C) the Surface Transportation Research Technology Advisory Committee.

“(4) SUBMISSION.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.

“§ 510. University transportation centers

“(a) CENTERS.—

“(1) IN GENERAL.—During fiscal year 2004, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.

“(2) DISTRIBUTION OF CENTERS.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.

“(3) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

“(A) comply with applicable requirements under subsection (c); and

“(B) be located at the institutions of higher learning specified in paragraph (4).

“(4) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

“(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

“(B) GROUP B.—Group B shall consist of the following:

“(i) [ ].
“(ii) [ ].
“(iii) [ ].
“(iv) [ ].
“(v) [ ].
“(vi) [ ].
“(vii) [ ].
“(viii) [ ]
“(ix) [ ].
“(x) [ ].
“(xi) [ ].

“(C) GROUP C.—Group C shall consist of the following:

“(i) [ ].
“(ii) [ ].
“(iii) [ ].
“(iv) [ ].
“(v) [ ].
“(vi) [ ].
“(vii) [ ].
“(viii) [ ].
“(ix) [ ].
“(x) [ ].
“(xi) [ ].

“(D) GROUP D.—Group D shall consist of the following:

“(i) [ ].
“(ii) [ ].
“(iii) [ ].
“(iv) [ ].
“(v) [ ].
“(vi) [ ].
“(vii) [ ].
“(viii) [ ].

“(b) REGIONAL CENTERS.—

“(1) IN GENERAL.—Not later than September 30, 2004, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.

“(2) SELECTION OF REGIONAL CENTERS.—

“(A) PROPOSALS.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.

“(B) REQUEST SCHEDULE.—The Secretary shall request proposals once for the period of fiscal years 2004 through 2006 and once for the period of fiscal years 2007 through 2009.

“(C) ELIGIBILITY.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.

“(D) SELECTION CRITERIA.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—

“(i) the location of the center within the Federal region to be served;

“(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;

“(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

“(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and

“(v) the strategic plan that the recipient proposes to carry out using funds from the grant.

“(E) SELECTION PROCESS.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—

“(i) the Research and Special Programs Administration;

“(ii) the Federal Highway Administration; and

“(iii) the Federal Transit Administration.

“(c) CENTER REQUIREMENTS.—

“(1) IN GENERAL.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—

“(A) shall annually contribute at least $250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;

“(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—

“(i) civil engineering;

“(ii) transportation engineering;

“(iii) transportation systems management and operations; or

“(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and

“(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—

“(i) a description of the purposes of programs to be conducted by the center;

“(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;

“(iii) a description of the nature and scope of research to be conducted by the center;

“(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and

“(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and

“(D) shall establish an advisory committee that—

“(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;

“(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of the institution or consortium under subparagraph (C); and

“(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.

“(2) PEER REVIEW.—

“(A) IN GENERAL.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.

“(B) PURPOSES OF PEER REVIEW.—Peer review of a report under this section shall be carried out to evaluate—

“(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;

“(ii) the research covered by the report, and to recommend modifications to individual project plans;

“(iii) the results of the research before publication of those results; and

“(iv) the overall outcomes of the research.

“(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—

“(i) by the Secretary, on the Internet website of the Department of Transportation; and

“(ii) by the University Transportation Center.

“(3) APPROVAL OF PLANS—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.

“(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit a program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

"(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

"(B) the Secretary shall select a replacement recipient for the forfeited grant.

"(5) Applicability.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

"(d) Objectives.—Each university transportation center established under subsection (a) or (b) shall carry out—

"(1) undergraduate or graduate education programs that include—

"(A) multidisciplinary coursework; and

"(B) opportunities for students to participate in research;

"(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

"(e) Maintenance of Effort.—To be eligible to receive a grant under this section, an applicant shall—

"(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

"(2) provide the annual institutional contribution required under subsection (c)(1); and

"(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that contains, at a minimum, for the fiscal year covered by the report, a description of—

"(A) the goals of the center;

"(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);

"(C) teaching activities of faculty at the center;

"(D) each research project carried out by the center, including—

"(i) the identity and location of each investigator working on a research project;

"(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);

"(iii) the current schedule for each research project; and

"(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

"(E) overall technology transfer and implementation efforts of the center.

"(f) Program Coordination.—The Secretary shall—

"(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

"(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

"(g) Funding.—

"(1) Number and amount of grants.—The Secretary shall make the following grants under this subsection:

"(A) Group A.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $20,000,000 to each of the institutions in group A (as described in subsection (a)(4)(A)).

"(B) Group B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

"(i) $4,000,000 for each of fiscal years 2004 and 2005; and

"(ii) $6,000,000 for each of fiscal years 2006 and 2007.

"(C) Group C.—For each of fiscal years 2004 through 2007, the Secretary shall make a grant in the amount of $10,000,000 to each of the institutions in group C (as described in subsection (a)(4)(C)).

"(D) Group D.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $25,000,000 to each of the institutions in group D (as described in subsection (a)(4)(D)).

"(E) Limited grants for groups B and C.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make a grant in the amount of $10,000,000 to each of not more than 15 institutions.

"(2) Use of funds—

"(A) In general.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

"(i) not less than $250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

"(ii) not more than $500,000 for the fiscal year, or $1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

"(iii) not more than $300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

"(B) Facilities and administration fee.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

"(3) Limitation on availability of funds.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

"§ 511. Multistate corridor operations and management

"(a) In General.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

"(b) Interstate Route I–95 Corridor Coalition Transportation Systems Management and Operations.—

"(1) In general.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I–95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

"(2) Funding.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall use to carry out this subsection—

"(A) $8,000,000 for fiscal year 2004;

"(B) $10,000,000 for fiscal year 2005;

"(C) $12,000,000 for fiscal year 2006;

"(D) $12,000,000 for fiscal year 2007;

"(E) $12,000,000 for fiscal year 2008; and

"(F) $12,000,000 for fiscal year 2009.".

(b) Other University Funding.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by subsection (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) Conforming Amendment.—Section 5505 of title 49, United States Code, is repealed.

SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.

(a) Definitions.—In this section:

(1) Administration.—The term "Administration" means the Federal Highway Administration.

(2) Board.—The term "Board" means the Transportation Research Board of the National Academy of Sciences.

(3) Bureau.—The term "Bureau" means the Bureau of Transportation Statistics.

(4) Department.—The term "Department" means the Department of Transportation.

(5) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Priority Areas of Effort.—

(1) Statistical standards.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) Statistical analysis effort.—

(A) In general.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) Duty of agencies.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) National security.—The Bureau shall—

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) Modernization.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) PURPOSE.—The purpose of the study shall be to provide to the Department information for use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) CONTENT.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

(I) types of data collected;

(II) methods of data collection;

(III) types of analyses performed; and

(IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

(I) the duplication may be reduced or eliminated; and

(II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) CONSULTATION.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) REPORT.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

(i) by the Secretary, on the Internet website of the Department; and

(ii) by the Board, on the Internet website of the Board.

(6) IMPLEMENTATION OF RESULTS.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) COMPLIANCE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) NONCOMPLIANCE.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) CONFORMING AMENDMENTS.—

(1) Section 111 of title 49, United States Code, is amended—

(A) by redesignating subsection (k) as subsection (m);

(B) by inserting after subsection (j) the following:

"(k) ANNUAL REPORT.—

"(1) IN GENERAL.—For fiscal year 2005 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

"(A) describes progress made in responding to study recommendations for the fiscal year; and

"(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

"(2) AVAILABILITY.—The Bureau shall—

"(A) make the report described in paragraph (1) available to the public; and

"(B) publish the report on the Internet website of the Bureau.

"(3) COMBINATION OF REPORTS.—The report required under paragraph (1) may be included in or combined with the Transportation Statistics Annual Report required by subsection (j).

"(l) EXPENDITURE OF FUNDS.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 shall be used only for the collection and statistical analysis of information relating to surface transportation systems."; and

(C) in subsection (m) (as redesignated by subparagraph (A)), by inserting "surface transportation" after "sale of".

(2) The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

"5505. University transportation centers.".

SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote high-quality outcomes in support of strategic national programs and activities, including—

(1) the environment;

(2) operations;

(3) surface transportation safety;

(4) project finance; and

(5) asset management.

(b) CENTERS.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) TIMING.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) CONTENT.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) COOPERATION AND COMPETITION.—

(A) IN GENERAL.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

(i) the National Academy of Sciences;

(ii) the American Association of State Highway and Transportation Officials;

(iii) planning organizations;

(iv) a Federal laboratory;

(v) a State agency;

(vi) an authority, association, institution, or organization; or

(vii) a for-profit or nonprofit corporation.

(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

(i) on a competitive basis; and

(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) NONDUPLICATION.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) ALLOCATIONS.—

(1) IN GENERAL.—For each of fiscal years 2004 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside **$10,000,000** to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

(a) GRANTS.—The Secretary shall provide grants for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) FUNDING.—Of the amounts made available under section 2001(a)(3), $1,500,000 for each of fiscal years 2004 and 2005 shall be available to carry out this section.

Subtitle C—Intelligent Transportation System Research

SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"§521. Finding

"Congress finds that continued investment in architecture and standards development, research, technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—

"(1) are incorporated into the national surface transportation network; and

"(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.

"§522. Goals and purposes

"(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—

"(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and

"(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including—

"(A) operators of commercial vehicles, passenger vehicles, and motorcycles;

"(B) users of public transportation users (with respect to intelligent transportation system user services); and

"(C) individuals with disabilities; and

"(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and

"(B) enhancement of national security and defense mobility.

"(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—

"(1) assist in the development of intelligent transportation system technologies;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

"(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;

"(4) promote the innovative use of private resources;

"(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;

"(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;

"(7) advance commercial vehicle operations components of intelligent transportation systems—

"(A) to improve the safety and productivity of commercial vehicles and drivers; and

"(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;

"(8) evaluate costs and benefits of intelligent transportation systems projects;

"(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and

"(10) ensure access to transportation information and services by travelers of all ages.

"§523. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) roadside safety and border crossing inspection and regulatory compliance operations.

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(5) NATIONAL ITS ARCHITECTURE.—The term 'national ITS architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(6) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may—

"(i) support the national ITS architecture; and

"(ii) promote—

"(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(II) interoperability among intelligent transportation system technologies implemented throughout the States.

"§524. General authorities and requirements

"(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—

"(1) to research, develop, and operationally test intelligent transportation systems; and

"(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—

"(1) State and local governments and other public entities;

"(2) the private sector;

"(3) Federal laboratories (as defined in section 501); and

"(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—

"(1) the Secretary of Commerce;

"(2) the Secretary of the Treasury;

"(3) the Administrator of the Environmental Protection Agency;

"(4) the Director of the National Science Foundation; and

"(5) the Secretary of Homeland Security.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—

"(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(h) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—In carrying out this subchapter, the Secretary—

"(A) may use 1 or more advisory committees; and

"(B) shall designate a public-private organization, the members of which participate in on-going research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the Transportation Equity Act for the 21st Century (112 Stat. 454).

"(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use $1,500,000 for each fiscal year for advisory committees described in paragraph (1).

"(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).

"(j) EVALUATIONS.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—

"(i) parties to any such test; or

"(ii) any other formal evaluation carried out under this subchapter.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"§ 525. National ITS Program Plan

"(a) IN GENERAL.—

"(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.

"(2) SCOPE.—The National ITS Program Plan shall—

"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

"(i) major metropolitan areas;

"(ii) smaller metropolitan and rural areas; and

"(iii) commercial vehicle operations;

"(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

"(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

"(D) establish a cooperative process with State and local governments for—

"(i) determining desired surface transportation system performance levels; and

"(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

"(b) REPORTING.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).

"§ 526. National ITS architecture and standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

"(b) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(2) CRITICAL STANDARDS.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall—

"(A) be published in the Federal Register; and

"(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.

"(c) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL CRITICAL STANDARD.—

"(1) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).

"(2) NOTICE.—The Secretary shall publish in the Federal Register a notice that describes—

"(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);

"(B) the reasons for and effects of granting the waiver; and

"(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.

"(B) NOTICE.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—

"(i) each standard for which the waiver has been withdrawn; and

"(ii) the reasons for withdrawing the waiver.

"(d) CONFORMITY WITH NATIONAL ITS ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) DISCRETION OF SECRETARY.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—

"(A) the National ITS Program Plan under section 525; or

"(B) the surface transportation research and technology development strategic plan developed under section 508(c).

"(3) Exceptions.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.

"§ 527. Commercial vehicle information systems and networks deployment

"(a) Definitions.—In this section:

"(1) Commercial vehicle information systems and networks.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

"(A) improve the safety of commercial vehicle operations;

"(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

"(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

"(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

"(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

"(2) Commercial vehicle operations.—

"(A) In general.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) Inclusions.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.

"(3) Core deployment.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with—

"(A) safety information exchange to—

"(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

"(ii) connect to the Safety and Fitness Electronic Records system for access to—

"(I) interstate carrier and commercial vehicle data;

"(II) summaries of past safety performance; and

"(III) commercial vehicle credentials information; and

"(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;

"(B) interstate credentials administration to—

"(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and

"(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

"(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

"(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

"(II) have the capability to add more carriers and to extend to branch offices where applicable; and

"(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

"(4) Expanded deployment.—The term 'expanded deployment' means the deployment of systems in a State that—

"(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

"(B) improve safety and the productivity of commercial vehicle operations; and

"(C) enhance transportation security.

"(b) Program.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

"(1) improve the safety and productivity of commercial vehicles and drivers; and

"(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

"(c) Purpose.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

"(d) Core Deployment Grants.—

"(1) In general.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) Eligibility.—To be eligible for a core deployment grant under this subsection, a State shall—

"(A) have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

"(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State (including hardware procurement, software and system development, and infrastructure modifications)—

"(i) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

"(ii) promote interoperability and efficiency, to the maximum extent practicable; and

"(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) Amount of grants.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the core deployment of commercial vehicle information systems and networks.

"(4) Use of funds.—

"(A) In general.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

"(B) Remaining funds.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

"(e) Expanded Deployment Grants.—

"(1) In general.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) Eligibility.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

"(3) Amount of grants.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed $1,000,000 for each State.

"(4) Use of funds.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(f) Federal Share.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(g) Funding.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

"§ 528. Research and development

"(a) In General.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

"(b) Priority Areas.—Under the program, the Secretary shall give priority to funding projects that—

"(1) assist in the development of an interconnected national intelligent transportation system network that—

"(A) improves the reliability of the surface transportation system;

"(B) supports national security;

"(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

"(D) could assist in deployment of the Armed Forces in response to a crisis; and

"(E) improves response to, and evacuation of the public during, an emergency situation;

"(2) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

"(A) reducing metropolitan congestion by 5 percent by 2010;

"(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

"(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

"(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

"(3) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

"(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

"(5) incorporate human factors research, including the science of the driving process;

"(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

"(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

"(9) examine—

"(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

"(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

"(10) develop and test communication technologies that—

"(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

"(B) take into account the effectiveness and adequacy of available technology;

"(C) address systems integration, connectivity, and interoperability challenges; and

"(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

"(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

"(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9-1-1 services);

"(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

"(A) emergency services;

"(B) road pricing; and

"(C) local economic development; and

"(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

"(A) congestion-pricing;

"(B) real-time facility management;

"(C) rapid-emergency response; and

"(D) just-in-time transit.

"(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for—

"(1) the collection of data to permit objective evaluation of the results of the tests;

"(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

"(3) the development and implementation of standards.

"(d) FEDERAL SHARE.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

"§ 529. Use of funds

"(a) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.".

(b) CONFORMING AMENDMENT.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2004".

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) UPDATED TERMINOLOGY.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—Section 5301(a) is amended to read as follows:

"(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

SEC. 3004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by striking paragraph (16);

(3) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively;

(4) by striking paragraph (7) and inserting the following:

"(7) MASS TRANSPORTATION.—The term 'mass transportation' means public transportation.

"(8) MOBILITY MANAGEMENT.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(5) by amending paragraph (11), as redesignated, to read as follows:

"(11) PUBLIC TRANSPORTATION.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity passenger rail, or sightseeing transportation.";

(6) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking "and" each place it appears and inserting "or"; and

(7) by amending paragraph (17) to read as follows:

"(17) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

"§5303. Metropolitan transportation planning

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers the views of the other identified party; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2004 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in accordance with subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(e) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—States are authorized—

"(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and “(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

“(C) INTERSTATE COMPACT.—

“(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

“(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

“(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

“(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

“(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under this chapter;

“(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iii) recipients of assistance under section 204 of title 23.

“(g) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

“(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

“(B) increasing the safety of the transportation system for motorized and nonmotorized users;

“(C) increasing the security of the transportation system for motorized and nonmotorized users;

“(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

“(E) protecting and enhancing the environment, promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns;

“(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

“(G) promoting efficient system management and operation; and

“(H) emphasizing the preservation of the existing transportation system, including services provided by public and private operators.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

“(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Each metropolitan planning organization shall develop, and update not less frequently than every 3 years, a transportation plan for its metropolitan planning area in accordance with this subsection.

“(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

“(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(2) CONTENTS.— A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

“(A) an identification of transportation facilities, including major roadways, public transportation, multimodal and intermodal facilities, and intermodal connectors, that should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

“(B) a financial plan that—

“(i) demonstrates how the adopted transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

“(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

“(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

“(E) proposed transportation and transit enhancement activities.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 3 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan by—

“(i) citizens;

“(ii) affected public agencies;

“(iii) representatives of public transportation employees;

“(iv) freight shippers;

“(v) providers of freight transportation services;

“(vi) private providers of transportation;

“(vii) representatives of users of public transit;

“(viii) representatives of users of pedestrian walkways and bicycle transportation facilities; and

“(ix) other interested parties.

“(B) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

“(i) shall be developed in a manner the Secretary determines to be appropriate;

“(ii) shall be developed in consultation with all interested parties; and “(iii) shall provide that all interested parties have reasonable opportunities to comment on—

“(I) the process for developing the transportation plan; and

“(II) the contents of the transportation plan.

“(C) CERTIFICATION.—Before the Governor and metropolitan planning organizations approve a transportation plan, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

“(5) APPROVAL OF THE TRANSPORTATION PLAN.—

“(A) IN GENERAL.—Each transportation plan prepared by a metropolitan planning organization shall be—

“(i) approved by the metropolitan planning organization; and

“(ii) submitted to the Governor for approval of the first 5 years of the plan.

“(B) PROJECT ADVANCEMENT.—The projects listed in the first 5 years of the plan may be selected for advancement consistent with the project selection requirements.

“(C) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (B), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

“(i) appropriate public involvement;

“(ii) financial planning;

“(iii) transportation conformity analyses; and

“(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

“(6) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation plan developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation plan.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation plan.

“(7) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided under subsection (i)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

“(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

“(ii) by the designated recipient, in the case of projects under section 5307; and

“(iii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project from the first 5 years of the approved transportation plan in place of another project in the same 5-year period.

“(8) PUBLICATION REQUIREMENTS.—

“(A) PUBLICATION OF TRANSPORTATION PLAN.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 5 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the first 5 years of the transportation plan.

“(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

“(i) the types of data to be included in the list, described in subparagraph (B), including—

“(I) the name, type, purpose, and geocoded location of each project;

“(II) the Federal, State, and local identification numbers assigned to each project;

“(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

“(IV) the status of each project; and

“(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

“(i) TRANSPORTATION MANAGEMENT AREAS.—

“(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

“(2) TRANSPORTATION PLANS.—Transportation plans for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

“(3) CONGESTION MANAGEMENT SYSTEM.—

“(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

“(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation plan by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation plan by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

“(ii) subject to subparagraph (B), certify, not less frequently than once every 3 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

“(ii) a transportation plan for the metropolitan planning area has been approved by the metropolitan planning organization and the Governor.

“(C) PENALTY FOR FAILING TO CERTIFY.—

“(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

“(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

"(*l*) Limitation on Statutory Construction.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

"(m) Availability of Funds.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

"(n) Continuation of Current Review Practice.—Any decision by the Secretary concerning a plan described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

"§ 5304. Statewide transportation planning

"(a) General Requirements.—

"(1) Development of Plans and Programs.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a "Plan") and a statewide transportation improvement program (referred to in this section as a "Program") for all areas of the State subject to section 5303.

"(2) Contents.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) Process of development.—The process for developing the Plan and the Program shall—

"(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) Coordination With Metropolitan Planning; State Implementation Plan.—Each State shall—

"(1) coordinate planning under this section with—

"(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

"(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) Interstate Agreements.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) Scope of Planning Process.—

"(1) In general.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and freight;

"(E) protect and enhance the environment, promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life;

"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) Failure to consider factors.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

"(e) Additional Requirements.—In carrying out planning under this section, each State shall consider—

"(1) with respect to nonmetropolitan areas; the concerns of affected local officials with responsibility for transportation;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

"(f) Statewide Transportation Plan.—

"(1) Development.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) Consultation with governments.—

"(A) Metropolitan planning areas.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) Nonmetropolitan areas.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) Indian tribal areas.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) Participation by interested parties.—In developing the Plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(4) Financial plan.—The Plan may include a financial plan that—

"(A) demonstrates how the adopted Plan can be implemented;

"(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

"(C) recommends any additional financing strategies for needed projects and programs; and

"(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

"(5) Selection of projects from illustrative list.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (4)(D).

"(6) Existing system.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(g) Statewide Transportation Improvement Program.—

"(1) Development.—Each State shall develop a Program for all areas of the State.

"(2) Consultation with governments.—

"(A) Metropolitan planning areas.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) Nonmetropolitan areas.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) Indian tribal areas.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) Participation by interested parties.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

"(4) Included projects.—

"(A) In general.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) Listing of projects.—

"(i) In general.—The Program shall cover a minimum of 5 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 5 years.

"(ii) Publication.—An annual listing of projects for which funds have been obligated in the preceding 5 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in the first 5 years of each metropolitan transportation plan.

"(C) INDIVIDUAL IDENTIFICATION.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

"(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the initial 5 years of an approved metropolitan transportation plan; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) FINANCIAL PLAN.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

"(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

"(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

"(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

"(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

"(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 5 years.

"(7) PLANNING FINDING.—Not less frequently than once every 5 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making," after "feasible";

(2) in subsection (b) by striking "5303–5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than 1 State;

"(ii) the portion of the urbanized area includes only 1 State;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.";

(2) by amending paragraph (2) to read as follows:

"(2) SPECIAL RULE FOR FISCAL YEARS 2004 THROUGH 2006.—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2004 through 2006, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking "section 5336" and inserting "sections 5336 and 5337".

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end;

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

SEC. 3010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§ 5308. Planning programs

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; or

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

"(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) SUPPLEMENTAL ALLOCATIONS.—

"(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

"(d) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

"(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

"(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

"(e) Planning Capacity Building Program.—

"(1) Establishment.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the "Program") to support and fund innovative practices and enhancements in transportation planning.

"(2) Purpose.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

"(3) Administration.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

"(4) Use of funds.—

"(A) In general.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

"(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

"(ii) to conduct research, disseminate information, and provide technical assistance.

"(B) Grants, contracts, cooperative agreements.—In carrying out the activities described in subparagraph (A), the Secretary may—

"(i) expend appropriated funds directly; or

"(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

"(f) Government's Share of Costs.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

"(g) Allocation of Funds.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

"(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

"(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

"(3) of the remaining amount—

"(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

"(B) 17.28 percent shall be allocated to carry out subsection (b).

"(h) Reallocations.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.".

(b) Conforming Amendment.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

"5308. Planning programs.".

SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) Section Heading.—The section heading of section 5309 is amended to read as follows:

"§5309. Capital investment grants".

(b) General Authority.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking "(1) The Secretary of Transportation may make grants and loans" and inserting the following:

"(1) Grants authorized.—The Secretary may award grants";

(B) in subparagraph (A), by striking "alternatives analysis related to the development of systems,";

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting ", including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and"; and

(F) in subparagraph (D), as redesignated—

(i) by striking "to support fixed guideway systems"; and

(ii) by striking "dedicated bus and high occupancy vehicle";

(2) by amending paragraph (2) to read as follows:

"(2) Grantee requirements.—

"(A) Grantee in urbanized area.—The Secretary shall require that any grants awarded under this section to a recipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(B) Grantee not in urbanized area.—The Secretary shall require that any grants awarded under this section to a recipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

"(C) Subrecipient.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310."; and

(3) by adding at the end the following:

"(3) Certification.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.".

(c) Defined Term.—Section 5309(b) is amended to read as follows:

"(b) Defined Term.—As used in this section, the term 'alternatives analysis' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

"(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

"(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

"(3) the selection of a locally preferred alternative; and

"(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.".

(d) Grant Requirements.—Section 5309(d) is amended to read as follows:

"(d) Grant Requirements.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

"(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

"(2) the applicant has, or will have—

"(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

"(B) satisfactory continuing control over the use of the equipment or facilities; and

"(C) the capability and willingness to maintain the equipment or facilities.".

(e) Major Capital Investment Projects of $75,000,000 or More.—Section 5309(e) is amended to read as follows:

"(e) Major Capital Investment Projects of $75,000,000 or More.—

"(1) Full funding grant agreement.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

"(A) is authorized for final design and construction; and

"(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

"(2) Determinations.—The Secretary may not award a grant under this subsection for a new fixed guideway or corridor improvement capital project unless the Secretary determines that the proposed project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

"(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(3) Evaluation of Project Justification.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

"(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

"(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(C) the direct and indirect costs of relevant alternatives;

"(D) factors such as—

"(i) congestion relief;

"(ii) improved mobility;

"(iii) air pollution;

"(iv) noise pollution;

"(v) energy consumption; and

"(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

"(E) reductions in local infrastructure costs achieved through compact land use development;

"(F) the cost of suburban sprawl;

"(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

"(H) population density and current transit ridership in the transportation corridor;

"(I) the technical capability of the grant recipient to construct the project;

"(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

“(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

“(4) Evaluation of local financial commitment.—

“(A) In general.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

“(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

“(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(B) Evaluation criteria.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

“(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(ii) existing grant commitments;

“(iii) the degree to which financing sources are dedicated to the proposed purposes;

“(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

“(5) Project advancement and ratings.—

“(A) Project advancement.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

“(B) Ratings.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

“(6) Applicability.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

“(7) Rulemaking.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

“(8) Policy guidance.—

“(A) Publication.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

“(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

“(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

“(B) Public comment and response.—The Secretary shall—

“(i) invite public comment to the policy guidance published under subparagraph (A); and

“(ii) publish a response to the comments received under clause (i).”.

(f) Major Capital Investment Projects of Less Than $75,000,000.—Section 5309(f) is amended to read as follows:

“(f) Major Capital Investment Projects of Less Than $75,000,000.—

“(1) Project construction grant agreement.—

“(A) In general.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

“(i) is authorized by law; and

“(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

“(B) Contents.—

“(i) In general.—An agreement under this paragraph shall specify—

“(I) the scope of the project to be constructed;

“(II) the estimated net cost of the project;

“(III) the schedule under which the project shall be constructed;

“(IV) the maximum amount of funding to be obtained under this subsection;

“(V) the proposed schedule for obligation of future Federal grants; and

“(VI) the sources of non-Federal funding.

“(ii) Additional funding.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

“(C) Full funding grant agreement.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

“(2) Selection process.—

“(A) Selection criteria.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

“(i) based on the results of planning and alternatives analysis;

“(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

“(iii) supported by an acceptable degree of local financial commitment.

“(B) Planning and alternatives.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

“(C) Project justification.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

“(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

“(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

“(iii) determine the degree to which the project will have a positive effect on local economic development;

“(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

“(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

“(D) Local financial commitment.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

“(3) Advancement of project to development and construction.—

“(A) In general.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

“(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

“(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

“(B) Evaluation.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

“(4) Impact report.—

“(A) In general.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) Contents.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

“(5) Regulations.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.”.

(g) Full Funding Grant Agreements.—Section 5309(g)(2) is amended by adding at the end the following:

“(C) Before and after study.—

“(i) In general.—Each full funding grant agreement shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) Information Collection and Analysis Plan.—

"(I) Submission of Plan.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

"(II) Contents of Plan.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

"(dd) analysis of the consistency of predicted project characteristics with the after data.

"(D) Collection of Data on Current System.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(E) Public Private Partnership Pilot Program.—

"(i) Authorization.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

"(ii) Identification of Qualified Projects.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.".

(h) Federal Share of Net Project Cost.—Section 5309(h) is amended to read as follows:

"(h) Federal Share of Adjusted Net Project Cost.—

"(1) In general.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

"(2) Adjustment for Completion Under Budget.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) Maximum Federal Share.—

"(A) In general.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

"(B) Exceptions.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

"(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

"(4) Other Sources.—The costs not funded by a grant under this section may be funded from—

"(A) an undistributed cash surplus;

"(B) a replacement or depreciation cash fund or reserve; or

"(C) new capital, including any Federal funds that are eligible to be expended for transportation.

"(5) Planned Extension to Fixed Guideway System.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

"(6) Exception.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).".

(i) Loan Provisions and Fiscal Capacity Considerations.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (*l*);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (*l*), respectively.

(j) Allocating Amounts.—Section 5309(i), as redesignated, is amended to read as follows:

"(i) Allocating Amounts.—

"(1) Fiscal Year 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

"(A) $1,315,983,615 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

"(B) $1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

"(C) $603,617,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(2) In general.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

"(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

"(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

"(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

"(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) Fixed Guideway Modernization.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) Preliminary Engineering.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) Funding for Ferry Boats.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) Bus and Bus Facility Grants.

"(A) Considerations.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) Projects Not in Urbanized Areas.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) Intermodal Terminals.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.".

(k) Reports.—Section 5309 is amended by inserting at the end the following:

"(m) Reports.—

"(1) Annual Report on Funding Recommendations.—

"(A) In general.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) Contents.—The report submitted under subparagraph (A) shall contain—

"(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

"(ii) a recommendation of projects to be funded based on—

"(I) the evaluations and ratings determined under subsection (e) and (f); and

"(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

"(iii) detailed ratings and evaluations on each project recommended for funding.

"(2) Triennial Reports on Project Ratings.—

"(A) In general.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

"(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

"(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

"(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

"(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

"(A) the Committee on Transportation and Infrastructure of the House of Representatives;

"(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

"(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

"(i) estimates made at the time projects are approved for entrance into final design;

"(ii) costs and ridership when the project commences revenue operation; and

"(iii) costs and ridership when the project has been in operation for 2 years.

"(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

"(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

"(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

"(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.".

SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

"§ 5310. New freedom for elderly persons and persons with disabilities

"(a) GENERAL AUTHORITY.—

"(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

"(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) ALLOTMENTS AMONG STATES.—

"(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) FEDERAL SHARE.—

"(1) MAXIMUM.—

"(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

"(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

"(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

"(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

"(2) CERTIFICATION REQUIREMENTS.—

"(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

"(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

"(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(e) STATE PROGRAM OF PROJECTS.—

"(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

"(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

"(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

"(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(i) FARES NOT REQUIRED.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.".

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

"5310. New freedom for elderly persons and persons with disabilities.".

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

"(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) RECIPIENT.—The term 'recipient' means a State that receives a Federal transit program grant directly from the Federal Government.

"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that receives Federal transit program grant funds indirectly through a recipient.".

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) GRANTS AUTHORIZED.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) public transportation capital projects;

"(B) operating costs of equipment and facilities for use in public transportation; and

"(C) the acquisition of public transportation services.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) STATE PROGRAM.—

"(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

"(B) SUBMISSION TO SECRETARY.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

"(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State;

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources; and

"(iii) amounts provided for projects on Indian reservations are not less than amounts attributable to the population and land area of Indian reservations in the State, as published under subsection (c)(4).";

(4) in paragraph (3), as redesignated—

(A) by striking "(3) The Secretary of Transportation" and inserting the following:

"(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

"(A) ESTABLISHMENT.—The Secretary";

(B) by striking "make" and inserting "use not more than 2 percent of the amount made available to carry out this section to award"; and

(C) by adding at the end the following:

"(B) DATA COLLECTION.—

"(i) REPORT.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(I) total annual revenue;

"(II) sources of revenue;

"(III) total annual operating costs;

"(IV) total annual capital costs;

"(V) fleet size and type, and related facilities;

"(VI) revenue vehicle miles; and

"(VII) ridership."; and

(5) by adding after paragraph (3) the following:

"(4) Of the amount made available to carry out paragraph (3)—

"(A) not more than 15 percent may be used to carry out projects of a national scope; and

"(B) any amounts not used under subparagraph (A) shall be allocated to the States.".

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) IN GENERAL.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (2); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (3).

"(2) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

"(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (1)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(3) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (1)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(4) PUBLICATION OF APPORTIONMENTS.—The Secretary shall publish the total amount apportioned to each State under this subsection and the amounts attributable to the population and land area of Indian reservations in each State.".

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking "AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation" and inserting ", PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—"; and

(B) by striking "after September 30, 1993,"; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) FEDERAL SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

"(g) FEDERAL SHARE OF COSTS.—

"(1) MAXIMUM FEDERAL SHARE.—

"(A) CAPITAL PROJECTS.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

"(B) OPERATING ASSISTANCE.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

"(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) USE OF FEDERAL GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

"(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking "other agreements" and inserting "other transactions"; and

(B) in paragraph (5), by striking "within the Mass Transit Account of the Highway Trust Fund"; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking "public and private" and inserting "public or private"; and

(B) in paragraph (3), by striking "within the Mass Transit Account of the Highway Trust Fund".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

"§5312. Research, development, demonstration, and deployment projects".

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) FEDERAL ASSISTANCE.—"; and

(3) by amending subsection (c) to read as follows:

"(c) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

"§5313. Transit cooperative research program".

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program.".

SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA COMPLIANCE.—From";

(C) by amending paragraph (3) to read as follows:

"(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter."; and

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(2) by amending subsection (b) to read as follows:

"(b) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

"§5314. National research programs".

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

"5314. National research programs.".

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

"(b) DUTIES.—

"(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security."; and

(2) in subsection (d), by striking "mass" each place it appears.

SEC. 3018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking "ESTABLISHMENT.—The Secretary of Transportation shall establish one facility" and inserting "IN GENERAL.—The Secretary shall maintain 1 facility"; and

(B) by striking "established by renovating" and inserting "maintained at"; and

(2) in subsection (d), by striking "section 5309(m)(1)(C) of this title" and inserting "paragraphs (1)(C) and (2)(B) of section 5309(i)".

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking "5307(k)" and inserting "5307(d)(1)(K)".

SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(2) LIMITATION.—";

(2) by amending subsection (b) to read as follows:

"(b) NOTICE AND PUBLIC HEARING.—

"(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

"(A) provided an adequate opportunity for public review and comment on the project;

"(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) considered the economic, social, and environmental effects of the project; and

"(D) found that the project is consistent with official plans for developing the urban area.

"(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.";

(3) by amending subsection (c) to read as follows:

"(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.";

(4) by amending subsection (d) to read as follows:

"(d) CONDITIONS ON BUS TRANSPORTATION SERVICE.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

"(1) Charter bus service.—

"(A) In general.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

"(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

"(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

"(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

"(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

"(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and

"(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

"(B) Exception.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to—

"(i) local governments; and

"(ii) social service entities with limited resources.

"(C) Irregularly scheduled events.—Service, other than commuter service, by a recipient to irregularly scheduled events, where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

"(2) Violation of agreements.—

"(A) Complaints.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

"(i) provide a reasonable opportunity for the recipient to respond to the complaint;

"(ii) provide the recipient with an opportunity for an informal hearing; and

"(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

"(B) Appeals.—

"(i) In general.—A decision by the Regional Administrator may be appealed to a panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

"(ii) Standard of review.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

"(iii) Written decision.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

"(C) Correction.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

"(D) Remedies.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

"(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

"(ii) $200,000.

"(3) Regulations.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

"(A) implement this subsection, as revised by such Act; and

"(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

"(4) Public notice.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.";

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking "(1)" and inserting the following:

"(1) In general.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) Exceptions.—This subsection; and

(D) by adding at the end the following:

"(3) Penalty.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(8) by inserting after subsection (e) the following:

"(f) Bond Proceeds Eligible for Local Share.—

"(1) In general.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) Reimbursement by secretary.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

(9) in subsection (g)—

(A) by striking "(f)" each place it appears and inserting "(e)"; and

(B) by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(10) by amending subsection (h) to read as follows:

"(h) Transfer of Lands or Interests in Lands Owned by the United States.—

(1) Request by secretary.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) Transfer of land.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) Reversion.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(11) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004";

(12) by amending subsection (*l*) to read as follows:

"(*l*) Relationship to Other Laws.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(13) in subsection (m), by inserting at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(14) in subsection (*o*), by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "sections 181 through 188 of title 23"; and

(15) by adding at the end the following:

"(p) Prohibited Use of Funds.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) In General.—Section 5324 is amended to read as follows:

"§ 5324. Special provisions for capital projects

"(a) Real Property and Relocation Services.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

"(b) Advance Real Property Acquisitions.—

(1) In general.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

"(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

"(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

"(C) recent appraisals reflect a rapid increase in the fair market value of the property;

"(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

"(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

"(2) Environmental reviews.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(3) Limitation.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

"(4) Exemption.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(c) Railroad Corridor Preservation.—

"(1) In general.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) Environmental reviews.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(d) Consideration of Economic, Social, and Environmental Interests.—

"(1) In general.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

"(2) Cooperation and consultation.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.".

(b) Conforming Amendment.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

"5324. Special provisions for capital projects.".

SEC. 3024. CONTRACT REQUIREMENTS.

(a) In General.—Section 5325 is amended to read as follows:

"§ 5325. Contract requirements

"(a) Competition.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

"(b) Architectural, Engineering, and Design Contracts.—

"(1) In general.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

"(2) Additional requirements.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

"(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

"(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

"(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(c) Efficient Procurement.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

"(d) Design-Build Projects.—

"(1) Defined term.—As used in this subsection, the term 'design-build project'—

"(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

"(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) Financial assistance for capital costs.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

"(e) Rolling Stock.—

"(1) Acquisition.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(A) with a party selected through a competitive procurement process; or

"(B) based on—

"(i) initial capital costs; or

"(ii) performance, standardization, life cycle costs, and other factors.

"(2) Multiyear contracts.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

"(f) Examination of Records.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

"(g) Grant Prohibition.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

"(h) Bus Dealer Requirements.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

"(i) Awards to Responsible Contractors.—

"(1) In general.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

"(2) Criteria.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

"(A) the integrity of the contractor;

"(B) the contractor's compliance with public policy;

"(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

"(D) the contractor's financial and technical resources.".

(b) Conforming Amendments.—Chapter 53 is amended by striking section 5326.

SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) Project Management Plan Requirements.—Section 5327(a) is amended—

(1) in paragraph (11), by striking "and" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) Limitations on Use of Available Amounts.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91-143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.";

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) OTHER ALLOWABLE USES.—"; and

(B) by inserting "and security" after "safety"; and

(3) in paragraph (3), by striking "(3) The Government shall" and inserting the following:

"(3) FEDERAL SHARE.—Federal funds shall be used to".

SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§ 5329. Investigation of safety hazards and security risks

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

"§ 5330. Withholding amounts for noncompliance with State safety oversight requirements";

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2) may designate"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting ", transportation facilities or infrastructure, or transportation employees" before the period at the end; and

(2) by adding at the end the following:

"(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ", if—

"(A) the protective period does not exceed 4 years; and

"(B) the separation allowance does not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.".

SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309–5311 of this title" and all that follows and inserting "5309 through 5311;";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1) of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)".

SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311".

SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

"(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(6) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(7) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(9) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this title" and inserting "subsections (a) and (b) of section 5338";

(10) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(11) by adding at the end the following:

"(k) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

"(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

"(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

"(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

"(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

"(*l*) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

"(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§ 5338. Authorizations

"(a) FISCAL YEAR 2004.—

"(1) FORMULA GRANTS.—

"(A) TRUST FUND.—For fiscal year 2004, $3,053,079,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $763,269,980 for fiscal year 2004 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(v) $3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307; and

"(vi) $49,705,000 shall be available to provide financial assistance for buses and bus facilities under section 5309..

"(2) JOB ACCESS AND REVERSE COMMUTE.—

"(A) TRUST FUND.—For fiscal year 2004, $99,410,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $24,852,500 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) CAPITAL PROGRAM GRANTS.—

"(A) TRUST FUND.—For fiscal year 2004, $2,495,191,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $623,797,750 for fiscal year 2004 to carry out section 5309.

"(4) PLANNING.—

"(A) TRUST FUND.—For fiscal year 2004, $58,254,260 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $14,315,040 for fiscal year 2004 to carry out section 5308.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2004, $41,951,020 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $10,736,280 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,219,025 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,201,325 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) UNIVERSITY TRANSPORTATION RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2004, $4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2004;

"(ii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

"(iii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

"(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

"(7) ADMINISTRATION.—

"(A) TRUST FUND.—For fiscal year 2004, $60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $15,010,910 for fiscal year 2004 to carry out section 5334.

"(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.".

"(b) FORMULA GRANTS AND RESEARCH.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

"(A) $6,262,600,000 for fiscal year 2005;

"(B) $6,577,629,000 for fiscal year 2006;

"(C) $6,950,400,000 for fiscal year 2007;

"(D) $7,594,760,000 for fiscal year 2008; and

"(E) $8,275,320,000 for fiscal year 2009.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

"(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

"(B) 1.75 percent shall be available to carry out section 5308;

"(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

"(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

"(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

"(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

"(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

"(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

"(H) $25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

"(I) there shall be available to carry out section 5335—

"(i) $3,700,000 in fiscal year 2005;

"(iii) $3,900,000 in fiscal year 2006;

"(iv) $4,200,000 in fiscal year 2007;

"(v) $4,600,000 in fiscal year 2008; and

"(vi) $5,000,000 in fiscal year 2009;

"(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

"(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

"(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

"(3) UNIVERSITY CENTERS PROGRAM.—

"(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

"(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

"(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

"(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

"(A) $839,829,000 for fiscal year 2005;

"(B) $882,075,000 for fiscal year 2006;

"(C) $932,064,000 for fiscal year 2007;

"(D) $1,018,474,000 for fiscal year 2008; and

"(E) $1,109,739,000 for fiscal year 2009.

"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

"(1) $1,461,072,000 for fiscal year 2005;

"(2) $1,534,568,000 for fiscal year 2006;

"(3) $1,621,536,000 for fiscal year 2007;

"(4) $1,771,866,000 for fiscal year 2008; and

"(5) $1,930,641,000 for fiscal year 2009.

"(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(1) $86,500,000 for fiscal year 2005;

"(2) $90,851,000 for fiscal year 2006;

"(3) $96,000,000 for fiscal year 2007;

"(4) $104,900,000 for fiscal year 2008; and

"(5) $114,300,000 for fiscal year 2009.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.".

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

"§5340. Apportionments based on growing States and high density State formula factors

"(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (c).

"(b) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (**k**) and (*l*).

SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§ 5316. Alternative transportation in parks and public lands

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other alternative transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in alternative transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

"(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(f) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

"(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

"(g) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would-

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including-

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(i) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

"(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(*l*) REPORTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,265,876,900 for fiscal year 2004;

(2) $8,650,000,000 for fiscal year 2005;

(3) $9,085,123,000 for fiscal year 2006;

(4) $9,600,000,000 for fiscal year 2007;

(5) $10,490,000,000 for fiscal year 2008; and

(6) $11,430,000,000 for fiscal year 2009.

SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 3044. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§5571. Policy and purposes

"(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

§5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curl cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

"§5574. Intercity bus intermodal passenger facility grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

"§5575. Funding

"(a) HIGHWAY ACCOUNT.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

TITLE IV—SURFACE TRANSPORTATION SAFETY

SEC. 4001. SHORT TITLE.

This title may be cited as the "Surface Transportation Safety Reauthorization Act of 2004".

Subtitle A—Highway Safety

PART 1—HIGHWAY SAFETY GRANT PROGRAM

SEC. 4101. SHORT TITLE; AMENDMENT OF TITLE 23, UNITED STATES CODE.

(a) SHORT TITLE.—This subtitle may be cited as the "Highway Safety Grant Program Reauthorization Act of 2004".

(b) AMENDMENT OF TITLE 23, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

SEC. 4102. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS FOR FISCAL YEARS 2004 THROUGH 2009.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation for the National Highway Traffic Safety Administration the following:

(1) To carry out the Highway Safety Programs under section 402 of title 23, United States Code, $170,000,000 in fiscal year 2004, $174,000,000 in fiscal year 2005, $179,000,000 in fiscal year 2006, $185,000,000 in fiscal year 2007, $204,000,000 in fiscal year 2008, and $207,000,000 in fiscal year 2009.

(2) To carry out the Highway Safety Research and Outreach Programs under section 403 of title 23, United States Code, $110,000,000 in fiscal year 2004, $112,000,000 in fiscal year 2005, $114,000,000 in fiscal year 2006, $116,000,000 in fiscal year 2007, $118,000,000 in fiscal year 2008, and $120,000,000 in fiscal year 2009.

(3) To carry out the Occupant Protection Programs under section 405 of title 23, United States Code, $120,000,000 in fiscal year 2004, $122,000,000 in fiscal year 2005, $124,000,000 in fiscal year 2006, $126,000,000 in fiscal year 2007, $128,000,000 in fiscal year 2008, and $130,000,000 in fiscal year 2009.

(4) To carry out the Emergency Medical Services Program under section 407A of title 23, United States Code, $5,000,000 in each of fiscal years 2004 through 2009.

(5) To carry out the Impaired Driving Program under section 410 of title 23, United States Code, $85,000,000 in fiscal year 2004, $89,000,000 in fiscal year 2005, $93,000,000 in fiscal year 2006, $110,000,000 in fiscal year 2007, $126,000,000 in fiscal year 2008, and $130,000,000 in fiscal year 2009.

(6) To carry out the State Traffic Safety Information System Improvements under section 412 of title 23, United States Code, $45,000,000 in each of fiscal years 2004 through 2009.

(7) To carry out chapter 303 of title 49, United States Code, $4,000,000 for each of fiscal years 2004 through 2009.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in this title, the amounts allocated from the Highway Trust Fund for programs provided for in chapter 4 of title 23, United States Code, shall only be used for such programs and may not be used by States or local governments for construction purposes.

(c) EFFECT OF REVENUE DEFICIENCY.—If revenue to the Highway Trust Fund for a given fiscal year is lower than the amounts authorized by this subtitle, any subsequent reductions in the overall funding for highway and transit programs shall not affect the highway safety programs provided for in chapter 4 of title 23, United States Code.

(d) PROPORTIONAL INCREASES.—For each fiscal year from 2004 through 2009, if revenue to the Highway Trust Fund increases above the amounts for each such fiscal year set forth in the fiscal year 2004 joint budget resolution, then the amounts made available in such year for the programs in sections 402, 405, and 410 shall increase by the same percentage.

SEC. 4103. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS TO BE INCLUDED.—

(1) MOTOR VEHICLE AIRBAGS PUBLIC AWARENESS.—Section 402(a)(2) is amended by striking " vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags" and inserting "vehicles,".

(2) AGGRESSIVE DRIVING.—Section 402(a) is further amended—

(A) by redesignating clause (6) as clause (7);

(B) by inserting after "involving school buses," at the end of clause (5) "(6) to reduce aggressive driving and to educate drivers about defensive driving,"; and

(C) by inserting "aggressive driving," after "school bus accidents,".

(b) APPORTIONMENT.—

(1) TRIBAL GOVERNMENT PROGRAMS.—Section 402(c) is amended by striking "three-fourths of 1 percent" and inserting "2 percent".

(c) EXTRA FUNDING FOR OCCUPANT PROTECTION AND IMPAIRED DRIVING PROGRAMS.—Section 402 is amended by inserting after subsection (g) the following:

"(h) GRANTS.—Funds available to States under this section may be used for making grants of financial assistance for programs and initiatives authorized by sections 405 and 410 of this title.".

(d) LAW ENFORCEMENT CHASE TRAINING.—Section 402 is amended by adding at the end the following:

"(l) LIMITATION RELATING TO LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—No State may receive any funds available for fiscal years after fiscal year 2004 for programs under this chapter until the State submits to the Secretary a written statement that the State actively encourages all relevant law enforcement agencies in that State to follow the guidelines established for police chases issued by the International Association of Chiefs of Police that are in effect on the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, or as revised and in effect after that date as determined by the Secretary.

"(m) CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants included under this chapter through a single application with a single annual deadline. The Bureau of Indian Affairs shall establish a similarly simplified process for applications from Indian tribes.

"(n) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction of not to exceed 5 percent for the necessary costs of administering the provisions of this section, section 405, section 407A, section 410, and 413 of this chapter.".

SEC. 4104. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.

(a) REVISED AUTHORITY AND REQUIREMENTS.—Section 403 is amended to read as follows:

"§ 403. Highway safety research and development

"(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

"(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

"(2) conduct ongoing research into driver behavior and its effect on traffic safety;

"(3) conduct research on, and launch initiatives to counter, fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

"(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

"(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives; and

"(6) conduct demonstration projects.

"(b) SPECIFIC RESEARCH PROGRAMS.—

"(1) REQUIRED PROGRAMS.—The Secretary shall conduct research on the following:

"(A) EFFECTS OF USE OF CONTROLLED SUBSTANCES.—A study on the effects of the use of controlled substances on driver behavior to determine—

"(i) methodologies for measuring driver impairment resulting from use of the most common controlled substances (including the use of such substances in combination with alcohol); and

"(ii) effective and efficient methods for training law enforcement personnel to detect or measure the level of impairment of a driver who is under the influence of a controlled substance by the use of technology or otherwise.

"(B) ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.—A nationally representative study to collect on-scene motor vehicle collision data, and to determine crash causation, for which the Secretary shall enter into a contract with the National Academy of Sciences to conduct a review of the research, design, methodology, and implementation of the study.

"(C) TOLL FACILITIES WORKPLACE SAFETY.—A study on the safety of highway toll collection facilities, including toll booths, conducted in cooperation with State and local highway safety organizations to determine the safety of highway toll collection facilities for the toll collectors who work in and around such facilities and to develop best practices that would be of benefit to State and local highway safety organizations. The study shall consider—

"(i) any problems resulting from design or construction of facilities that contribute to the occurrence of vehicle collisions with the facilities;

"(ii) the safety of crosswalks used by toll collectors in transit to and from toll booths;

"(iii) the extent of the enforcement of speed limits at and in the vicinity of toll facilities;

"(iv) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching toll facilities;

"(v) the use of cameras to record traffic violations in the vicinity of toll facilities;

"(vi) the use of traffic control arms in the vicinity of toll facilities;

"(vii) law enforcement practices and jurisdictional issues that affect safety at and in the vicinity of toll facilities; and

"(viii) data (which shall be collected in conducting the research) regarding the incidence of accidents and injuries at and around toll booth facilities.

"(2) TIME FOR COMPLETION OF STUDIES.—The studies conducted in subparagraphs (A), (B), and (C) of paragraph (1) may be conducted in concert with other Federal departments and agencies with relevant expertise. The Secretary shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the progress of each study conducted under this subsection.

"(3) ONGOING STUDIES.—The studies under subparagraphs (A) and (B) of paragraph (1) shall be conducted on an ongoing basis.

"(4) REPORTS.—

"(A) ONE-TIME STUDY.—Not later than 2 years after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, the Secretary shall submit a final report on the study referred to in paragraph (1)(C) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) ONGOING STUDIES.—The Secretary shall submit a report on the studies referred to in paragraph (3) to the Committees of Congress referred to in subparagraph (A) not later than December 31, 2005, and shall submit additional reports on such studies to such committees every 2 years. Such additional reports shall contain the findings, progress, remaining challenges, research objectives, and other relevant data relating to the ongoing studies.

"(c) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—

"(1) REQUIREMENT FOR CAMPAIGNS.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which 3 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in paragraph (2) in each of years 2004 through 2009.

"(2) PURPOSE.—The purpose of each law enforcement campaign is to achieve either or both of the following objectives:

"(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(B) Increase use of seat belts by occupants of motor vehicles.

"(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds available under this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

"(4) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view to—

"(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, and 410 of this title; and

"(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

"(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of such initiatives.

"(6) FUNDING.—The Secretary shall use $24,000,000 in each of fiscal years 2004 through 2009 for advertising and educational initiatives to be carried out nationwide in support of the campaigns under this section.

"(d) IMPROVING OLDER DRIVER SAFETY.—

"(1) IN GENERAL.—Of the funds made available under this section, the Secretary shall allocate $2,000,000 in each of fiscal years 2004 through 2009 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers. The program shall—

"(A) provide information and guidelines to assist physicians and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety and mobility of older drivers;

"(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

"(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

"(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

"(E) conduct other activities to accomplish the objectives of this action.

"(2) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of this program. The plan shall be submitted to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation within 180 days after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

"(e) LAW ENFORCEMENT TRAINING.—

"(1) REQUIREMENT FOR PROGRAM.—The Administrator of the National Highway Traffic Safety Administration shall carry out a program to train law enforcement personnel of each State and political subdivision thereof in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 shall be available for carrying out this subsection.

"(f) INTERNATIONAL COOPERATION.—

"(1) AUTHORITY.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 may be used for activities authorized under paragraph (1).".

(b) STUDY ON REFUSAL OF INTOXICATION TESTING.—

(1) REQUIREMENT FOR STUDY.—In addition to studies under section 403 of title 23, United States Code, the Secretary of Transportation shall carry out a study of the frequency with which persons arrested for the offense of operating a motor vehicle under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.

(2) CONSULTATION.—In carrying out the study under this section, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.

(3) REPORT.—

(A) REQUIREMENT FOR REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) CONTENT.—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.

SEC. 4105. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION.

Section 404(d) is amended by striking "Commerce" and inserting "Transportation".

SEC. 4106. OCCUPANT PROTECTION GRANTS.

Section 405 is amended—

(1) by striking the second sentence of subsection (a)(1);

(2) by striking "Transportation Equity Act for the 21st Century." in subsection (a)(2) and inserting "Highway Safety Grant Program Reauthorization Act of 2004.";

(3) by striking subsections (a)(3) and (4), (b), (c), and (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (a) the following:

"(b) OCCUPANT PROTECTION GRANTS.—

"(1) IN GENERAL.—In addition to the grants authorized by subsection (a), the Secretary shall make grants in accordance with this subsection.

"(2) SAFETY BELT PERFORMANCE GRANTS.—

"(A) PRIMARY SAFETY BELT USE LAW.—

"(i) For fiscal years 2004 and 2005, the Secretary shall make a grant to each State that enacted, and is enforcing, a primary safety belt use law for all passenger motor vehicles that became effective by December 31, 2003.

"(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December

31, 2003, and has in effect a primary safety belt use law for all passenger motor vehicles, or, in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate in the preceding fiscal year of at least 90 percent, as measured under criteria determined by the Secretary.

"(iii) Of the funds authorized for grants under this subsection, $100,000,000 in each of fiscal years 2004 through 2009 shall be available for grants under this paragraph. The amount of a grant available to a State in each of fiscal years 2004 and 2005 under clause (i) of this subparagraph shall be equal to ½ of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The amount of a grant available to a State in fiscal year 2004 or in a subsequent fiscal year under clause (ii) of this subparagraph shall be equal to 5 times the amount apportioned to the State for fiscal year 2003 under section 402(c). A State that receives a grant under clause (ii) of this subparagraph is ineligible to receive funding under subparagraph (B) for that fiscal year and the following fiscal year. The Federal share payable for grants under this subparagraph shall be 100 percent. If the total amount of grants under clause (ii) of this subparagraph for a fiscal year exceeds the amount of funds available in the fiscal year, grants shall be made to each eligible State, in the order in which its primary safety belt use law became effective or its safety belt use rate reached 90 percent, until the funds for the fiscal year are exhausted. A State that does not receive a grant for which it is eligible in a fiscal year shall receive the grant in the succeeding fiscal year so long as its law remains in effect or its safety belt use rate remains at or above 90 percent. If the total amount of grants under this subparagraph for a fiscal year is less than the amount available in the fiscal year, the Secretary shall use any funds that exceed the total amount for grants under subparagraph (B) of this paragraph.

"(B) SAFETY BELT USE RATE.—

"(i) For each fiscal year, from 2004 through 2009, the funds authorized for a grant under this subparagraph shall be awarded to States that increase their measured safety belt use rate, as determined by the Secretary, by decreasing the proportion of non-users of safety belts by 10 percent, as compared to the proportion of non-users, in the preceding fiscal year.

"(ii) Each State that meets the requirement of clause (i) of this subparagraph shall be apportioned an amount of funds that is equal to the amount available under this subparagraph for the relevant fiscal year multiplied by the ratio that the funds apportioned to the State under section 402 for such fiscal year bear to the funds apportioned under section 402 for such fiscal year to all states that qualify for a grant for such fiscal year.

"(iii) Of the funds authorized for grants under this subsection, $20,000,000 for fiscal year 2004, $22,000,000 for fiscal year 2005, $24,000,000 for fiscal year 2006, $26,000,000 for fiscal year 2007, $28,000,000 for fiscal year 2008, and $30,000,000 for fiscal year 2009 shall be available for safety belt use rate grants under this subparagraph.

"(iv) The Federal share payable for grants under this subparagraph shall be 100 percent.

"(c) USE OF GRANTS.—A State allocated an amount for a grant under subparagraph (A) or (B) of subsection (b)(2) may use the amount for activities eligible for assistance under sections 402, 405, and 410 of title 23, United States Code.".

SEC. 4107. SCHOOL BUS DRIVER TRAINING.

Section 406(c) is amended by striking the first, second, and third sentences.

SEC. 4108. EMERGENCY MEDICAL SERVICES.

(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 is amended by inserting after section 407 the following:

"§ 407A. Federal coordination and enhanced support of emergency medical services

"(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

"(1) ESTABLISHMENT.—The Secretary of Transportation and the Secretary of Homeland Security, through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services. In establishing the Interagency Committee, the Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response shall consult with the Secretary of Health and Human Services.

"(2) MEMBERSHIP.—The Interagency Committee shall consist of the following officials, or their designees:

"(A) The Administrator, National Highway Traffic Safety Administration.

"(B) The Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.

"(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.

"(E) The Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(F) The Director, Center for Medicare and Medicaid Services, Department of Health and Human Services.

"(G) The Undersecretary of Defense for Personnel and Readiness.

"(H) The Director, Indian Health Service, Department of Health and Human Services.

"(I) The Chief, Wireless Telecom Bureau, Federal Communications Commission.

"(J) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.

"(3) PURPOSES.—The purposes of the Interagency Committee are as follows:

"(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9-1-1 systems.

"(B) To identify State, local, tribal, or regional emergency medical services and 9-1-1 needs.

"(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9-1-1.

"(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.

"(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.

"(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.

"(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

"(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee annually.

"(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.

"(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

"(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

"(1) PROGRAM REQUIREMENT.—The Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration, shall coordinate with officials of other Federal departments and agencies, and may assist State and local governments and emergency medical services organizations (whether or not a firefighter organization), private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program that is designed to strengthen transportation safety and public health and to implement improved emergency medical services communication systems, including 9-1-1.

"(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, to be approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure—

"(A) improved emergency medical services communication systems, including 9-1-1;

"(B) utilization of established best practices in system design and operations;

"(C) implementation of quality assurance programs; and

"(D) incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

"(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

"(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such program and coordinates such program with the highway safety office of the State; and

"(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with a goal of achieving statewide coordination of emergency medical services and 9-1-1 activities.

"(4) FUNDING.—

"(A) USE OF FUNDS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9-1-1 programs as described in paragraph (2).

"(B) APPORTIONMENT.—

"(i) APPORTIONMENT FORMULA.—The funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subparagraph, a 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified by the Governor of the State and subject to approval by the Secretary.

"(ii) MINIMUM APPORTIONMENT.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than ¾ of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(5) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this subsection.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

"(7) APPLICATION IN INDIAN COUNTRY.—

"(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country, the terms 'State' and 'Governor of the State' include the Secretary of the Interior and the term 'political subdivisions of the State' includes an Indian tribe.

"(B) INDIAN COUNTRY DEFINED.—In this subsection, the term 'Indian country' means—

"(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

"(ii) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(c) STATE DEFINED.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian tribes.

"(d) CONSTRUCTION WITH RESPECT TO DISTRICT OF COLUMBIA.—In the administration of this section with respect to the District of Columbia, a reference in this section to the Governor of a State shall refer to the Mayor of the District of Columbia.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by inserting after the item relating to section 407 the following:

"407A. Federal coordination and enhanced support of emergency medical services.".

SEC. 4109. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC SAFETY PROGRAMS.

(a) REPEAL.—Section 408 is repealed.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 408.

SEC. 4110. IMPAIRED DRIVING PROGRAM.

(a) MAINTENANCE OF EFFORT.—Section 410(a)(2) is amended by striking "the Transportation Equity Act for the 21st Century" and inserting "the Highway Safety Grant Program Reauthorization Act of 2004".

(b) REVISED GRANT AUTHORITY.—Section 410 is amended—

(1) by striking paragraph (3) of subsection (a) and redesignating paragraph (4) as paragraph (3); and

(2) by striking subsections (b) through (f) and inserting the following:

"(b) PROGRAM-RELATED ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under this section, a State shall—

"(1) carry out each of the programs and activities required under subsection (c);

"(2) comply with the additional requirements set forth in subsection (d) with respect to such programs and activities; and

"(3) comply with any additional requirements of the Secretary.

"(c) REQUIRED STATE PROGRAMS AND ACTIVITIES.—For the purpose of subsection (b)(1), a State must meet the requirements of 4 of the following 6 criteria in order to receive a grant under this section:

"(1) CHECK-POINT, SATURATION PATROL PROGRAM.—

"(A) A State program to conduct of a series of high-visibility, Statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through use of check-points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol or controlled substances that meets the requirements of subparagraphs (B) and (C).

"(B) A program meets the requirements of this subparagraph only if a State organizes the campaigns in cooperation with related national campaigns organized by the National Highway Traffic Safety Administration, but this subparagraph does not preclude a State from initiating high-visibility, Statewide law enforcement campaigns independently of the cooperative efforts.

"(C) A program meets the requirements of this subparagraph only if, for each fiscal year, a State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities, as described in subparagraph (A) (or any other similar activity approved by the Secretary), initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year, which shall not be less than 5 percent.

"(2) PROSECUTION AND ADJUDICATION PROGRAM.—For grants made during fiscal years after fiscal year 2004, a State prosecution and adjudication program under which—

"(A) judges and prosecutors are actively encouraged to prosecute and adjudicate cases of defendants who repeatedly commit impaired driving offenses by reducing the use of State diversion programs, or other means that have the effect of avoiding or expunging a permanent record of impaired driving in such cases;

"(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or

"(C) annual Statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

"(3) IMPAIRED OPERATOR INFORMATION SYSTEM.—

"(A) A State impaired operator information system that—

"(i) tracks drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) includes information about each case of an impaired driver beginning at the time of arrest through case disposition, including information about any trial, plea, plea agreement, conviction or other disposition, sentencing or other imposition of sanctions, and substance abuse treatment;

"(iii) provides—

"(I) accessibility to the information for law enforcement personnel Statewide and for United States law enforcement personnel; and

"(II) linkage for the sharing of the information and of the information in State traffic record systems among jurisdictions and appropriate agencies, court systems and offices of the States;

"(iv) shares information with the National Highway Traffic Safety Administration for compilation and use for the tracking of impaired operators of motor vehicles who move from State to State; and

"(v) meets the requirements of subparagraphs (B), (C), and (D) of this paragraph, as applicable.

"(B) A program meets the requirements of this subparagraph only if, during fiscal years 2004 and 2005, a State—

"(i) assess the system used by the State for tracking drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) identifies ways to improve the system, as well as to enhance the capability of the system to provide information in coordination with impaired operator information systems of other States; and

"(iii) develops a strategic plan that sets forth the actions to be taken and the resources necessary to achieve the identified improvements and to enhance the capability for coordination with the systems of other States.

"(C) A program meets the requirements of this subparagraph only if, in each of fiscal years 2006, 2007, and 2008, a State demonstrates to the Secretary that the State has made substantial and meaningful progress in improving the State's impaired operator information system, and makes public a report on the progress of the information system.

"(D) A program meets the requirements of this subparagraph only if, in fiscal year 2009, a State demonstrates to the Secretary that the State's impaired operator information system meets the basic standards for such systems as determined by the Secretary.

"(4) IMPAIRED DRIVING PERFORMANCE.—The percentage of fatally-injured drivers with 0.08 percent or greater blood alcohol concentration in the State has decreased in each of the 2 most recent calendar years.

"(5) IMPAIRED DRIVING TASK FORCE.—

Establishment of an impaired driving task force that involves all relevant State, tribal, and local agencies responsible for reducing alcohol impairment and impaired driving and meets the requirements of subparagraphs (B), (C), and (D). The purpose of the task force is to oversee efforts to reduce impaired driving by strengthening applicable laws, regulations, programs, and policies, and to coordinate impaired driving resources and programs among different jurisdictions. The impaired driving task force shall include State, Tribal, and local law enforcement, motor carrier safety agencies, and State alcohol and drug abuse prevention agencies, State and local court systems, State drivers licensing agencies, the State highway safety office, and State parole and probation agencies.

“(B) In fiscal year 2004 and fiscal year 2005, the State shall establish a statewide impaired driving task force to assess the State's impaired driving system, identify the opportunities for improvements in the system, and develop a strategic plan that outlines the steps and resources necessary to improve the system and enhance coordination among State and local agencies responsible for reducing impaired driving.

“(C) In each subsequent fiscal year, the State demonstrates progress in the implementation of top priorities of the strategic plan.

“(D) The State provides the Secretary a copy of the strategic plan developed under subparagraph and in subsequent years, a report detailing the progress of the strategic plan. The Secretary shall make available for public viewing each strategic plan and progress report.

“(6) IMPAIRED DRIVING COURTS.—

“(A) IN GENERAL.—A program to consolidate and coordinate impaired driving cases into courts that specialize in impaired driving cases, with the emphasis on tracking and processing offenders of impaired driving laws, (hereinafter referred to as DWI courts) that meets the requirements of this paragraph.

“(B) CHARACTERISTICS.—A DWI Court is a distinct function performed by a court system for the purpose of changing the behavior of alcohol or drug dependent offenders arrested for driving while impaired. A DWI Court can be a dedicated court with dedicated personnel, including judges, prosecutors and probation officers. A DWI court may be an existing court system that serves the following essential DWI Court functions:

“(i) A DWI Court performs an assessment of high-risk offenders utilizing a team headed by the judge and including all criminal justice stakeholders (prosecutors, defense attorneys, probations officers, law enforcement personnel and others) along with alcohol/drug treatment professionals.

“(ii) The DWI Court team recommends a specific plea agreement or contract for each offender that can include incarceration, treatment, and close community supervision. The agreement maximizes the probability of rehabilitation and minimizes the likelihood of recidivism.

“(iii) Compliance with the agreement is verified with thorough monitoring and frequent alcohol testing. Periodic status hearings assess offender progress and allow an opportunity for modifying the sentence if necessary.

“(C) In the first year of operation, the States shall assess the number of court systems in its jurisdiction that are consistently performing the DWI Court functions.

“(D) In the second year of operation, the State shall develop a strategic plan for increasing the number of courts performing the DWI function.

“(E) In subsequent years of operation, the State shall demonstrate progress in increasing the number of DWI Courts and in increasing the number of high-risk offenders participating in and successfully completing DWI Court agreements.

“(d) USES OF GRANTS.—Grants made under this section may be used for programs and activities described in subsection (c) and to defray the following costs:

“(1) Labor costs, management costs, and equipment procurement costs for the high-visibility, Statewide law enforcement campaigns under subsection (c)(1).

“(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, such as and including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

“(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

“(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

“(5) The costs of the development and implementation of a State impaired operator information system described in subsection (c)(3).

“(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

“(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402 of this title.

“(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

“(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

“(B) in coordination with sporting events and concerts and other entertainment events.

“(g) FUNDING.—

“(1) IN GENERAL.—Except as provided in paragraph (2), grant funding under this section shall be allocated among eligible States on the basis of the apportionment formula that applies for apportionments under section 402(c) of this title.

“(2) HIGH FATALITY-RATE STATES.—The amount of the grant funds allocated under this subsection to each of the 10 States with the highest impaired driving-related fatality rate for the most recent fiscal year for which the data is available preceding the fiscal year of the allocation shall be twice the amount that, except for this subparagraph, would otherwise be allocated to the State under paragraph (1).

“(h) USE OF FUNDS BY HIGH FATALITY-RATE STATES.—

“(1) REQUIRED USES.—At least ½ of the amounts allocated to States under subsection (g)(2) shall be used for the program described in subsection (c)(1).

“(2) REQUIREMENT FOR PLAN.—A State receiving an allocation of grant funds under subsection (g)(2) shall expend those funds only after consulting with the Administrator of the National Highway Traffic Safety Administration regarding such expenditures.

“(i) DEFINITIONS.—In this section:

“(1) IMPAIRED OPERATOR.—The term ‘impaired operator’ means a person who, while operating a motor vehicle—

“(A) has a blood alcohol content of 0.08 percent or higher; or

“(B) is under the influence of a controlled substance.

“(2) IMPAIRED DRIVING-RELATED FATALITY RATE.—The term ‘impaired driving-related fatality rate’ means the rate of the fatal accidents that involve impaired drivers while operating motor vehicles, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.”

(c) NHTSA TO ISSUE REGULATIONS.—Not later than 12 months after the enactment of the Highway Safety Grant Program Reauthorization Act of 2004, the National Highway Traffic Safety Administration shall issue guidelines to the States specifying the types and formats of data that States should collect relating to drivers who are arrested or convicted for violation of laws prohibiting the impaired operation of motor vehicles.

SEC. 4111. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) GRANT PROGRAM AUTHORITY.—Chapter 4 is amended by adding at the end the following:

“§ 412. State traffic safety information system improvements

“(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants of financial assistance to eligible States to support the development and implementation of effective programs by such States to—

“(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

“(2) evaluate the effectiveness of efforts to make such improvements;

“(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

“(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

“(b) FIRST-YEAR GRANTS.—

“(1) ELIGIBILITY.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

“(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

“(B) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system, is approved by the highway safety data and traffic records coordinating committee, and—

“(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

“(ii) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

“(iii) identifies performance-based measures by which progress toward those goals will be determined; and

“(iv) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

“(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a first-year grant to a State for a fiscal year shall the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $300,000.

"(c) SUCCESSIVE YEAR GRANTS.—

"(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

"(A) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(B);

"(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

"(C) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

"(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

"(E) includes a current report on the progress in implementing the multiyear plan.

"(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a year grant made to a State for a fiscal year under this subsection shall equal the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $500,000.

"(d) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

"(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

"(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2003.

"(3) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

"(4) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

"(e) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by adding at the end the following:

"412. State traffic safety information system improvements.".

SEC. 4112. NHTSA ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 4, as amended by section 4111, is amended by adding at the end the following:

"§413. Agency accountability

"(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—At least once every 3 years the National Highway Traffic Safety Administration shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs partially or fully funded under this title. The Administrator shall provide review-based recommendations on how each State may improve the management and oversight of its grant activities and may provide a management and oversight plan.

"(b) RECOMMENDATIONS BEFORE SUBMISSION.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the State highway safety program goals and initiatives as part of its highway safety plan before the plan is submitted for review, the Administrator shall provide non-binding data-based recommendations to each State at least 90 days before the date on which the plan is to be submitted for approval.

"(c) STATE PROGRAM REVIEW.—The Administrator shall—

"(1) conduct a program improvement review of any State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

"(2) provide technical assistance and safety program recommendations to the State for any goal not achieved.

"(d) REGIONAL HARMONIZATION.—The Administration and the Inspector General of the Department of Transportation shall undertake a State grant administrative review of the practices and procedures of the management reviews and program reviews conducted by Administration regional offices and formulate a report of best practices to be completed within 180 days after the date of enactment of the Surface Transportation Safety Reauthorization Act of 2004.

"(e) BEST PRACTICES GUIDELINES.—

"(1) UNIFORM GUIDELINES.—The Administration shall issue uniform management review and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties.

"(2) PUBLICATION.—The Administration shall make the following documents available via the Internet upon their completion:

"(A) The Administration's management review and program review guidelines.

"(B) State highway safety plans.

"(C) State annual accomplishment reports.

"(D) The Administration's State management reviews.

"(E) The Administration's State program improvement plans.

"(3) REPORTS TO STATE HIGHWAY SAFETY AGENCIES.—The Administrator may not make a plan, report, or review available under paragraph (2) that is directed to a State highway safety agency until after it has been submitted to that agency.

"(f) GENERAL ACCOUNTING OFFICE REVIEW.—The General Accounting Office shall analyze the effectiveness of the National Highway Traffic Safety Administration's oversight of traffic safety grants by seeking to determine the usefulness of the Administration's advice to the States regarding grants administration and State activities, the extent to which the States incorporate the Administration's recommendation into their highway safety plans and programs, and improvements that result in a State's highway safety program that may be attributable to the Administration's recommendations. Based on this analysis, the General Accounting Office shall submit a report by not later than the end of fiscal year 2008 to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4, as amended by section 4111, is amended by inserting after the item relating to section 412 the following:

"413. Agency accountability".

PART 2—SPECIFIC VEHICLE SAFETY-RELATED RULINGS

SEC. 4151. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4152. VEHICLE CRASH EJECTION PREVENTION.

(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:

"§30128. Vehicle accident ejection protection

"(a) IN GENERAL.—The Secretary of Transportation shall prescribe a safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to reduce complete and partial occupant ejection from motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds that are involved in accidents that present a risk of occupant ejection. In formulating the safety standard, the Secretary shall consider the ejection-mitigation capabilities of safety technologies, such as advanced side glazing, side curtains, and side impact air bags.

"(b) DOOR LOCK AND RETENTION STANDARD.—The Secretary shall upgrade Federal Motor Vehicle Safety Standard No. 206 to require manufacturers of new motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds that are distributed in commerce for sale in the United States to make such modifications to door locks, door latches, and retention components of doors in such vehicles as the Secretary determines to be necessary to reduce occupant ejection from such vehicles in motor vehicle accidents.".

(b) RULEMAKING DEADLINES.—

(1) RULEMAKING.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30128 of title 49, United States Code, not later than June 30, 2006; and

(B) a final rule under that section not later than 18 months after the publication of the notice of proposed rulemaking.

(2) EFFECTIVE DATE OF REQUIREMENTS.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in the rule.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $500,000 for each of fiscal years 2004 and 2005 to promulgate rules under section 30128 of title 49, United States Code.

(d) Conforming Amendment.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

"30128. Vehicle accident ejection protection".

SEC. 4153. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.

(a) In General.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 5 months after the date of enactment of this Act.

(b) Specific Issues To Be Covered.—The study required by subsection (a) shall—

(1) include an analysis of backover prevention technology;

(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and

(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—

(A) injuries and fatalities; and

(B) damage to bumpers and other motor vehicle parts and damage to other objects.

SEC. 4154. VEHICLE BACKOVER DATA COLLECTION.

In conjunction with the study required in section 4154, the National Highway Traffic Safety Administration may establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic, non-accident incidents to assist in the analysis required in section 4153 of this Act regarding the inclusion of backover prevention technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

SEC. 4155. AGGRESSIVITY AND INCOMPATIBILITY REDUCTION STANDARD.

(a) In General.—Subchapter II of chapter 301, as amended by section 4152, is amended by adding at the end the following:

"§ 30129. Vehicle incompatibility and aggressivity reduction standard

"(a) In General.—The Secretary of Transportation shall issue motor vehicle safety standards to reduce vehicle incompatibility and aggressivity for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds. In formulating the standards, the Secretary shall consider factors such as bumper height, weight, and any other design characteristics necessary to ensure better management of crash forces in frontal and side impact crashes among different types, sizes, and weights of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in order to reduce occupant deaths and injuries.

"(b) Standards.—The Secretary shall develop a standard rating metric to evaluate compatibility and aggressivity among motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(c) Public Information.—The Secretary shall create a public information program that includes vehicle ratings based on risks posed by vehicle incompatibility and aggressivity to occupants, risks posed by vehicle incompatibility and agressivity to other motorists, and combined risks posed by vehicle incompatibility and agressivity by vehicle make and model.".

(b) Rulemaking Deadlines.—

(1) Rulemaking.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30129 of title 49, United States Code, not later than January 31, 2007; and

(B) a final rule under that section not later than 18 months after the publication of the notice of proposed rulemaking.

(2) Effective date of requirements.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in the rule.

(c) Conforming Amendment.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30128 the following:

"30129. Vehicle incompatibility and aggressivity reduction standard".

SEC. 4156. IMPROVED CRASHWORTHINESS.

(a) Improved Crashworthiness.—Subchapter II of chapter 301, as amended by section 4155, is amended by adding at the end the following:

"§ 30130. Improved crashworthiness of motor vehicles

"(a) Rollovers.—

"(1) In general.—The Secretary of Transportation shall prescribe a motor vehicle safety standard under this chapter for rollover crashworthiness standards for motor vehicles with a gross weight rating of not more than 10,000 pounds. In formulating the safety standard, the Secretary shall consider the prescription of a roof strength standard based on dynamic tests that realistically duplicate the actual forces transmitted to a passenger motor vehicle during an on-roof rollover crash, and shall consider safety technologies and design improvements such as—

"(A) improved seat structure and safety belt design, including seat belt pretensioners;

"(B) side impact head protection airbags; and

"(C) roof injury protection measures.

"(2) Rollover resistance standard.—The Secretary shall prescribe a motor vehicle safety standard under this chapter to improve on the basic design characteristics of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds to increase their resistance to rollover. The Secretary shall also consider additional technologies to improve the handling of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds and thereby reduce the likelihood of vehicle instability and rollovers.

"(3) Study.—The Secretary shall conduct a study on electronic stability control systems and other technologies designed to improve the handling of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds and shall report the results of that study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by December 31, 2005.

"(b) Frontal Impact Standards and Crash Tests.—

"(1) In general.—The Secretary shall prescribe a motor vehicle safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to improve the protection of occupants in frontal impact crashes involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(2) Test methodology.—In determining the standard under paragraph (1), the Secretary shall—

"(A) evaluate additional test barriers and measurements of occupant head impact and neck injuries; and

"(B) review frontal impact criteria, including consideration of criteria established by the Insurance Institute for Highway Safety.

"(c) Side Impact Standards and Crash Tests.—

"(1) In general.—The Secretary shall prescribe a motor vehicle safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to improve the protection afforded to occupants in side impact crashes involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(2) Test methodology.—In prescribing the standard under paragraph (1), the Secretary shall—

"(A) evaluate additional test barriers and measurements of occupant head impact and neck injuries;

"(C) consider the need for additional and new crash test dummies that represent the full range of occupant sizes and weights; and

"(D) review side impact criteria, including consideration of criteria established by the Insurance Institute for Highway Safety.".

(b) Rulemaking Deadlines.—

(1) Rulemaking.—The Secretary of Transportation shall—

(A) issue a notice of a proposed rulemaking under section 30130 of title 49, United States Code, not later than June 30, 2006; and

(B) issue a final rule not later than 18 months after publication of the notice of proposed rulemaking.

(2) Effective date of requirements.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in this rule.

(c) Conforming Amendment.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30129 the following:

"30130. Improved crashworthiness of passenger motor vehicles".

SEC. 4157. 15-PASSENGER VANS.

(a) In General.—The Secretary of Transportation shall initiate a rulemaking and issue a final regulation not later than September 31, 2005, to include all 15-passenger vans with a gross vehicle weight rating of not more than 10,000 pounds in the National Highway Traffic Safety Administration's dynamic rollover testing program and require such vans to comply with all existing and prospective Federal Motor Vehicle Safety Standards for occupant protection and vehicle crash avoidance that are relevant to such vehicles.

(b) New Car Assessment Program.—The Secretary shall initiate a rulemaking and issue a final regulation not later than September 31, 2005, to include all 15-passenger vans with a gross vehicle weight of not more than 10,000 pounds in the Administration's New Car Assessment Program rollover resistance program.

(c) VEHICLE CONTROL TECHNOLOGY FOR 15-PASSENGER VANS.—The National Highway Traffic Safety Administration shall evaluate and test the potential of technological systems, particularly electronic stability control systems and rollover warning systems, to assist drivers in maintaining control of 15-passenger vans with a gross vehicle weight rating of not more than 10,000 pounds.

(d) CERTAIN SPECIALIZED VEHICLES EXCLUDED.—In this section, the term "15-passenger van" does not include an ambulance, tow truck, or other vehicle designed primarily for the transportation of property or special purpose equipment.

SEC. 4158. ADDITIONAL SAFETY PERFORMANCE CRITERIA FOR TIRES.

(a) STRENGTH AND ROAD HAZARD PROTECTION.—The Secretary of Transportation shall issue a final rule to upgrade Federal Motor Vehicle Safety Standard No. 139 to include strength and road hazard protection safety performance criteria for light vehicle tires, which are criteria that were not addressed in the June 2003 final rule mandated by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000.

(b) RESISTANCE TO BEAD UNSEATING AND AGING.—The Secretary of Transportation shall issue a final rule to upgrade Federal Motor Vehicle Safety Standard No. 139 to include resistance to bead unseating and aging safety performance criteria for passenger motor vehicle tires, which are criteria that were not addressed in the June, 2003, final rule mandated by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000.

(c) RULEMAKING DEADLINES.—The Secretary of Transportation shall—

(1) issue a notice of proposed rulemaking under subsection (a) not later than June 30, 2005, and under subsection(b) not later than December 31, 2005; and

(2) issue a final rule relating to subsection (a) not later than 18 months after June 30, 2005, and a final rule under subsection (b) not later than 18 months after December 31, 2005.

(d) TECHNOLOGY USE AND REPORT.—The Secretary shall reconsider the use of shearography analysis, on a sampling basis, for regulatory compliance and the Administrator of the National Highway Traffic Safety Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the most cost effective methods of using such technology within 2 years after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

SEC. 4159. SAFETY BELT USE REMINDERS.

(a) NOTICE OF PROPOSED RULES TO ENCOURAGE MORE SEAT BELT USE.—Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall issue a Notice of Proposed Rulemaking to amend the Federal Motor Vehicle Safety Standard No. 208 for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds to encourage increased seat belt usage by drivers and passengers. The proposed rulemaking shall take into account the potential safety benefits and public acceptability of alternative means to encourage increased seat belt usage, including intermittent or continuous audible or visual reminders when a driver or passenger is not wearing a seat belt, features to prevent operation of convenience or entertainment features of the vehicle when a driver or passenger is not wearing a seat belt, and shall consider technology, including but not limited to technology identified by the National Academy of Sciences in its study of the potential benefits of seat belt usage reminder technologies.

(b) FINAL RULE.—Not later than 24 months after the date of enactment of this Act, the Secretary shall issue the final rule required by subsection (a).

(c) BUZZER LAW.—

(1) IN GENERAL.—Section 30124 is amended—

(A) by striking "not" the first place it appears; and

(B) by striking "except" and inserting "including".

(2) CONFORMING AMENDMENT.—Section 30122 is amended by striking subsection (d).

SEC. 4160. MISSED DEADLINES REPORTS.

(a) IN GENERAL.—If the Secretary of Transportation fails to meet any rulemaking deadline established in this subtitle, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 90 days after missing the deadline—

(1) explaining why the Secretary failed to meet the deadline; and

(2) setting forth a date by which the Secretary anticipates that the rulemaking will be made.

(b) CONSIDERATION OF EFFECTS.—The Secretary of Transportation shall consider and report the potential consequences, in terms of the number of deaths and the number and severity of injuries, that may result from not meeting any such deadline.

SEC. 4161. GRANTS FOR IMPROVING CHILD PASSENGER SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by section 4111 of this Act, is amended by adding at the end the following:

"§ 413. Booster seat incentive grants

"(a) IN GENERAL.—The Secretary of Transportation shall make a grant under this section to any eligible State.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall make a grant to each State that, as determined by the Secretary, enacts or has enacted, and is enforcing a law requiring that children riding in passenger motor vehicles (as defined in section 405(d)(4)) who are too large to be secured in a child safety seat be secured in a child restraint (as defined in section 7(1) of Anton's Law (49 U.S.C. 30127 note)) that meets requirements prescribed by the Secretary under section 3 of Anton's Law.

"(2) YEAR IN WHICH FIRST ELIGIBLE.—

"(A) EARLY QUALIFICATION.—A State that has enacted a law described in paragraph (1) that is in effect before October 1, 2005, is first eligible to receive a grant under subsection (a) in fiscal year 2006.

"(B) SUBSEQUENT QUALIFICATION.—A State that enacts a law described in paragraph (1) that takes effect after September 30, 2005, is first eligible to receive a grant under subsection (a) in the first fiscal year beginning after the date on which the law is enacted.

"(3) CONTINUING ELIGIBILITY.—A State that is eligible under paragraph (1) to receive a grant may receive a grant during each fiscal year listed in subsection (f) in which it is eligible.

"(4) MAXIMUM NUMBER OF GRANTS.—A State may not receive more than 4 grants under this section.

"(c) GRANT AMOUNT.—Amounts available for grants under this section in any fiscal year shall be apportioned among the eligible States on the basis of population.

"(d) USE OF GRANT AMOUNTS.—

"(1) IN GENERAL.—Of the amounts received by a State under this section for any fiscal year—

"(A) 50 percent shall be used for the enforcement of, and education to promote public awareness of, State child passenger protection laws; and

"(B) 50 percent shall be used to fund programs that purchase and distribute child booster seats, child safety seats, and other appropriate passenger motor vehicle child restraints to indigent families without charge.

"(2) REPORT.—Within 60 days after the State fiscal year in which a State receives a grant under this section, the State shall transmit to the Secretary a report documenting the manner in which grant amounts were obligated or expended and identifying the specific programs supports by grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under this chapter.

"(e) DEFINITION OF CHILD SAFETY SEAT.—The term 'child safety seat' means any device (except safety belts (as such term is defined in section 405(d)(5)), designed for use in a motor vehicle (as such term is defined in section 405(d)(1)) to restrain, seat, or position a child who weighs 50 pounds or less.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund—

"(1) $18,000,000 for fiscal year 2006;

"(2) $20,000,000 for fiscal year 2007;

"(3) $25,000,000 for fiscal year 2008; and

"(4) $30,000,000 for fiscal year 2009.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

"413. Booster seat incentive grants.".

SEC. 4162. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation to carry out this subtitle and chapter 301 (motor vehicle safety) of title 49, United States Code—

(1) $130,500,000 for fiscal year 2004;

(1) $133,500,000 for fiscal year 2005;

(1) $133,600,000 for fiscal year 2006;

(1) $134,500,000 for fiscal year 2007;

(1) $138,000,000 for fiscal year 2008; and

(1) $141,000,000 for fiscal year 2009.

Subtitle B—Motor Carrier Safety and Unified Carrier Registration

SEC. 4201. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE

(a) SHORT TITLE.—This title may be cited as the "Motor Carrier Safety Reauthorization Act of 2004".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4202. REQUIRED COMPLETION OF OVERDUE REPORTS, STUDIES, AND RULEMAKINGS.

(a) REQUIREMENT FOR COMPLETION.—By no later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall complete all reports, studies, and rulemaking proceedings to issue regulations which Congress directed the Secretary to complete in previous laws and which are not yet completed, including—

(1) Commercial Vehicle Driver Biometric Identifier, section 9105, Truck and Bus Safety and Regulatory Reform Act of 1988;

(2) General Transportation of HAZMAT, section 8(b), Hazardous Materials Transportation Uniform Safety Act of 1990;

(3) Nationally Uniform System of Permits for Interstate Motor Carrier Transport of HAZMAT, section 22, Hazardous Materials Transportation Uniform Safety Act of 1990;

(4) Training for Entry-Level Drivers of Commercial Motor Vehicles, section 4007 (a), Intermodal Surface Transportation Efficiency Act of 1991;

(5) Minimum Training Requirements for Operators and for Training Instructors of Multiple Trailer Combination Vehicles, section 4007(b)(2), Intermodal Surface Transportation Efficiency Act of 1991;

(6) Railroad-Highway Grade Crossing Safety, section 112, Hazardous Materials Transportation Authorization Act of 1994;

(7) Safety Performance History of New Drivers, section 114, Hazardous Materials Transportation Authorization Act of 1994;

(8) Motor Carrier Replacement Information and Registration System, section 103, ICC Termination Act of 1995;

(9) General Jurisdiction Over Freight Forwarder Service, section 13531, ICC Termination Act of 1995;

(10) Waivers, Exemptions, and Pilot Programs, section 4007, Transportation Equity Act for the Twenty-First Century;

(11) Safety Performance History of New Drivers, section 4014, Transportation Equity Act for the Twenty-First Century;

(12) Performance-based CDL Testing, section 4019, Transportation Equity Act for the Twenty-First Century;

(13) Improved Flow of Driver History Pilot Program, section 4022, Transportation Equity Act for the Twenty-First Century;

(14) Employee Protections, section 4023, Transportation Equity Act for the Twenty-First Century;

(15) Improved Interstate School Bus Safety, section 4024, Transportation Equity Act for the Twenty-First Century;

(16) Federal Motor Carrier Safety Administration 2010 Strategy, Sec. 104, Motor Carrier Safety Improvement Act of 1999;

(17) New Motor Carrier Entrant Requirements, section 210, Motor Carrier Safety Improvement Act of 1999;

(18) Certified Motor Carrier Safety Auditors, section 211, Motor Carrier Safety Improvement Act of 1999;

(19) Medical Certificate, section 215, Motor Carrier Safety Improvement Act of 1999;

(20) Report on Any Pilots Undertaken to Develop Innovative Methods of Improving Motor Carrier Compliance with Traffic Laws, section 220, Motor Carrier Safety Improvement Act of 1999;

(21) Status Report on the Implementation of Electronic Transmission of Data State-to-State on Convictions for All Motor Vehicle Control Law Violations for CDL Holders, section 221, Motor Carrier Safety Improvement Act of 1999;

(22) Assessment of Civil Penalties, section 222, Motor Carrier Safety Improvement Act of 1999;

(23) Truck Crash Causation Study, section 224, Motor Carrier Safety Improvement Act of 1999;

(24) Drug Test Results Study, section 226, Motor Carrier Safety Improvement Act of 1999.

(b) FINAL RULE REQUIRED.—Unless specifically permitted by law, rulemaking proceedings shall be considered completed for purposes of this section only when the Secretary has issued a final rule and the docket for the rulemaking proceeding is closed.

(c) SCHEDULE FOR COMPLETION.—No fewer than one-third of the reports, studies, and rulemaking proceedings in subsection (a) shall be completed every 12 months after the date of enactment of this Act. The Inspector General of the Department of Transportation shall make an annual determination as to whether this schedule has been met.

(d) FAILURE TO COMPLY.—If the Secretary fails to complete the required number of reports, studies, and rulemaking proceedings according to the schedule set forth in subsection (c) during any fiscal year, the Secretary shall allocate to the States $3,000,000 from the amount authorized by section 31104(i)(1) of title 49, United States Code, for administrative expenses of the Federal Motor Carrier Safety Administration to conduct additional compliance reviews under section 31102 of that title instead of obligating or expending such amount for those administrative expenses.

(e) AMENDMENTS TO THE LISTED REPORTS, STUDIES, AND RULEMAKING PROCEEDINGS.—In addition to completing the reports, studies and rulemaking proceedings listed in subsection (c), the Secretary shall—

(1) amend the Interim Final Rule addressing New Motor Carrier Entrant Requirements to require that a safety audit be immediately converted to a compliance review and appropriate enforcement actions be taken if the safety audit discloses acute safety violations by the new entrant; and

(2) eliminate a proposed provision in the rulemaking proceeding addressing Commercial Van Operations Transporting Nine to Fifteen Passengers which exempts commercial van operations that operate within a 75-mile radius.

(f) COMPLETION OF NEW RULEMAKING PROCEEDINGS.—Nothing in this section delays or changes the deadlines specified for new reports, studies, or rulemaking mandates contained in this title.

(g) REPORT OF OTHER AGENCY ACTIONS.—Within 12 months after the date of enactment of this Act, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure a report on the status of the following projects:

(1) Rescinding the current regulation which prohibits truck and bus drivers from viewing television and monitor screens while operating commercial vehicles.

(2) Incorporating Out-Of-Service Criteria regulations enforced by the Federal Motor Carrier Safety Administration.

(3) Revision of the safety fitness rating system of motor carriers.

(4) Amendment of Federal Motor Carrier Safety Administration rules of practice for conducting motor carrier administrative proceedings, investigations, disqualifications, and for issuing penalties.

(5) Requiring commercial drivers to have a sufficient functional speaking and reading comprehension of the English language.

(6) Inspection, repair and maintenance of intermodal container chassis and trailers.

SEC. 4203. CONTRACT AUTHORITY.

Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under this title imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

PART 1—MOTOR CARRIER SAFETY

SEC. 4221. MINIMUM GUARANTEE.

There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) not less than 1.21 percent of the total amounts made available in any fiscal year from the Highway Trust Fund for purposes of this title.

SEC. 4222. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATIVE EXPENSES.—Section 31104 is amended by adding at the end the following:

"(i) ADMINISTRATIVE EXPENSES.—

"(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) **$202,900,000** for fiscal year 2004;

"(B) **$206,200,000** for fiscal year 2005;

"(C) **$211,400,000** for fiscal year 2006;

"(D) **$217,500,000** for fiscal year 2007;

"(E) **$222,600,000** for fiscal year 2008; and

"(F) **$228,500,000** for fiscal year 2009.

"(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

"(3) From the funds authorized by this section, the Secretary shall ensure that compliance reviews are completed on the motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, compliance reviews shall be conducted within 6 months after whenever a carrier is rated as category A or B.

"(4) The amounts made available under this section shall remain available until expended.

"(5) Of the funds authorized by paragraph (1), **$6,750,000** in each of fiscal years **2004** through **2009** shall be used to carry out the medical program under section 31149.".

(b) AMENDMENT TO APPORTIONMENT PROVISION OF TITLE 23.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "exceed—" and so much of subparagraph (A) as precedes clause (i) and inserting "exceed 1⅙ percent of all sums so made available, as the Secretary determines necessary—";

(2) by redesignating clause (i) and (ii) of subparagraph (A) as subparagraphs (A) and (B), and indenting such clauses, as so redesignated, 2 em spaces; and

(3) by striking "system; and" in subparagraph (B) as so redesignated, and all that follows through "research." and inserting "system.".

(c) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs:

(1) Border enforcement grants under section 31107 of title 49, United States Code—

(A) $ 32,000,000 for fiscal year 2004;

(B) $ 33,000,000 for fiscal year 2005;

(C) $ 33,000,000 for fiscal year 2006;

(D) $ 34,000,000 for fiscal year 2007;

(E) $ 35,000,000 for fiscal year 2008; and

(F) $ 36,000,000 for fiscal year 2009.

(2) Performance and registration information system management grant program under 31109 of title 49, United States Code—

(A) $4,000,000 for fiscal year 2004;

(B) $4,000,000 for fiscal year 2005;

(C) $4,000,000 for fiscal year 2006;

(D) $4,000,000 for fiscal year 2007;

(E) $4,000,000 for fiscal year 2008; and

(F) $4,000,000 for fiscal year 2009.

(3) Commercial driver's license and driver improvement program grants under section 31318 of title 49, United States Code—

(A) $22,000,000 for fiscal year 2004;

(B) $22,000,000 for fiscal year 2005;

(C) $23,000,000 for fiscal year 2006;

(D) $23,000,000 for fiscal year 2007;

(E) $24,000,000 for fiscal year 2008; and

(F) $25,000,000 for fiscal year 2009.

(4) Deployment of the Commercial Vehicle Informations Systems and Networks established under section 4241 of this title, $25,000,000 for each of fiscal years 2004 through 2009.

(d) MOTOR CARRIER SAFETY ACCOUNT.—Funds made available under subsection (c) shall be administered in the account established in the Treasury entitled "Motor Carrier Safety 69-8055-0-7-401.

(e) PERIOD OF AVAILABILITY.—The amounts made available under subsection (c) of this section shall remain available until expended.

SEC. 4223. MOTOR CARRIER SAFETY GRANTS.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

(1) Section 31102 is amended—

(A) by striking "activities by fiscal year 2000;" in subsection (b)(1)(A) and inserting "activities for commercial motor vehicles of passengers and freight;";

(B) by striking "years before December 18, 1991;" in subsection (b)(1)(E) and inserting "years";

(C) by striking "and" after the semicolon in subsection (b)(1)(S);

(D) by striking "personnel." in subsection (b)(1)(T) and inserting "personnel;";

(E) adding at the end of subsection (b)(1) the following:

"(U) ensures that inspections of motor carriers of passengers are conducted at stations, terminals, border crossings, or maintenance facilities, except in the case of an imminent or obvious safety hazard;

"(V) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

"(W) provides that the State will enforce the registration requirements of section 13902 by suspending the operation of any vehicle discovered to be operating without registration or beyond the scope of its registration."; and

(F) by striking subsection (c) and inserting the following:

"(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

"(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations—

"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

"(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.".

(2) Section 31103(b) is amended—

(1) by inserting "(1)" after "ACTIVITIES.—";
and

(2) by adding at the end the following:

"(2) NEW ENTRANT MOTOR CARRIER AUDIT FUNDS.—From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments.".

(3) Section 31104(a) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

"(1) Not more than $186,100,000 for fiscal year 2004.

"(2) Not more than $189,800,000 for fiscal year 2005.

"(3) Not more than $193,600,000 for fiscal year 2006.

"(4) Not more than $197,500,000 for fiscal year 2007.

"(5) Not more than $201,400,000 for fiscal year 2008.

"(6) Not more than $205,500,000 for fiscal year 2009.".

(4) Section 31104(f) is amended by striking paragraph (2) and inserting the following:

"(2) HIGH-PRIORITY ACTIVITIES.—The Secretary may designate up to 5 percent of amounts available for allocation under paragraph (1) for States, local governments, and organizations representing government agencies or officials for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. At least 80 percent of the amounts designated under this paragraph shall be awarded to State agencies and local government agencies.

"(3) SAFETY-PERFORMANCE INCENTIVE PROGRAMS.—The Secretary may designate up to 10 percent of the amounts available for allocation under paragraph (1) for safety performance incentive programs for States. The Secretary shall establish safety performance criteria to be used to distribute incentive program funds. Such criteria shall include, at a minimum, reduction in the number and rate of fatal accidents involving commercial motor vehicles. Allocations under this paragraph do not require a matching contribution from a State.

"(4) NEW ENTRANT AUDITS.—The Secretary shall designate up to $29,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to 31144(f). The Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds to conduct audits in those jurisdictions.".

(b) GRANTS TO STATES FOR BORDER ENFORCEMENT.—Section 31107 is amended to read as follows:

"§ 31107. Border enforcement grants

"(a) GENERAL AUTHORITY.—From the funds authorized by section 4222(c)(1) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant in a fiscal year to a State that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 State or Federal fiscal years before October 1, 2003.".

(c) GRANTS TO STATES FOR COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.—Chapter 313 is amended by adding at the end the following:

"§ 31318. Grants for commercial driver's license program improvements

"(a) GENERAL AUTHORITY.—From the funds authorized by section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's license program, providing the State is in substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

"(b) CONDITIONS.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses directly related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary shall give priority to grants that will be used to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria established by the Secretary.

"(c) Maintenance of Expenditures.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2003.

"(d) Government Share.—Except as otherwise provided in subsection (e), the Secretary shall reimburse a State, from a grant made under this section, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in implementing the commercial driver's license improvements described in subsection (b). In determining those costs, the Secretary shall include in-kind contributions by the State.

"(e) High-Priority Activities.—

"(1) The Secretary may make a grant to a State agency, local government, or organization representing government agencies or officials for the full cost of research, development, demonstration projects, public education, or other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

"(2) The Secretary may designate up to 10 percent of the amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 in a fiscal year for high-priority activities under subsection (e)(1).

"(f) Emerging Issues.—The Secretary may designate up to 10 percent of the amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

"(g) Apportionment.—Except as otherwise provided in subsections (e) and (f), all amounts available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.

"(h) Deduction for Administrative Expenses.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 for that fiscal year, up to 0.75 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.".

(d) Noncompliance with CDL Requirements.—Section 31314 is amended by striking subsections (a) and (b) and inserting the following:

"(a) First Fiscal Year.—The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

"(b) Second Fiscal Year.—The Secretary shall withhold up to 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of each fiscal year after the second fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.".

(e) Conforming Amendments.—

(1) The chapter analysis for chapter 311 is amended—

(A) by striking the item relating to Subchapter I, and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"

and

(B) by striking the item relating to section 31107, and inserting the following:

"31107. Border enforcement grants.".

(2) Subchapter I of chapter 311 is amended by striking the subchapter heading and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"

(3) The chapter analysis for chapter 313 is amended by inserting the following after the item relating to section 31317:

"31318. Grants for commercial driver's license program improvements.".

SEC. 4224. CDL WORKING GROUP.

(a) In General.—The Secretary of Transportation shall convene a working group to study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program. The working group shall address such issues as State enforcement practices, operational procedures to detect and deter fraud, needed improvements for seamless information sharing between States, effective methods for accurately sharing electronic data between States, updated technology, and timely notification from judicial bodies concerning traffic and criminal convictions of commercial driver's license holders.

(b) Membership.—Members of the working group should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

(c) Report.—Within 2 years after the date of enactment of this Act, the Secretary, on behalf of the working group, shall complete a report of the working group's findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial driver's license program. The Secretary shall promptly transmit the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) Funding.—From the funds authorized by section 4222(c)(3) of this title, $200,000 shall be made available for each of fiscal years 2004 and 2005 to carry out this section.

SEC. 4225. CDL LEARNER'S PERMIT PROGRAM.

(a) In General.—Chapter 313 is amended—

(1) by striking "time." in section 31302 and inserting "license, and may have only 1 learner's permit at any time.";

(2) by inserting "and learners' permits" after "licenses" the first place it appears in section 31308;

(3) by striking "licenses." in section 31308 and inserting "licenses and permits.";

(4) by redesignating paragraphs (2) and (3) of section 31308 as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) before a commercial driver's license learner's permit can be issued to an individual, the individual must pass a written test on the operation of a commercial motor vehicle that complies with the minimum standards prescribed by the Secretary under section 31305(a) of this title:";

(5) by inserting "or learner's permit" after "license" each place it appears in paragraphs (3) and (4), as redesignated, of section 31308; and

(6) by inserting "or learner's permit" after "license" each place it appears in section 31309(b).

(b) Conforming Amendments.—

(1) Section 31302 is amended by inserting "**and learner's permits**" in the section caption.

(2) Sections 31308 and 31309 are each amended by inserting "**and learner's permit**" after "**license**" in the section captions.

(3) The chapter analysis for chapter 313 is amended by striking the item relating to section 31302 and inserting the following:

"31302. Limitation on the number of driver's licenses and learner's permits".

(4) The chapter analysis for chapter 313 is amended by striking the items relating to sections 31308 and 31309 and inserting the following:

"31308. Commercial driver's license and learner's permit

"31309. Commercial driver's license and learner's permit information system".

SEC. 4226. HOBBS ACT.

(a) Section 2342(3)(A) of title 28, United States Code, is amended to read as follows:

"(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a) or pursuant to Part B or C of subtitle IV of title 49 or pursuant to subchapter III of chapter 311, chapter 313, and chapter 315 of Part B of subtitle VI of title 49; and".

(b) Section 351(a) is amended to read as follows:

"(a) Judicial Review.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670; 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.".

(c) Section 352 is amended to read as follows:

"§ 352. Authority to carry out certain transferred duties and powers

"In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670; 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.".

SEC. 4227. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2) is amended by adding at the end the following:

"(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A motor carrier subject to chapter 51 of subtitle III, a motor carrier, broker, or freight forwarder subject to part B of subtitle IV, or the owner or operator of a commercial motor vehicle subject to part B of subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.".

SEC. 4228. MEDICAL PROGRAM.

(a) IN GENERAL.—Subchapter III of chapter 311 is amended by adding at the end the following:

"§31149. Medical program

"(a) MEDICAL REVIEW BOARD.—

"(1) ESTABLISHMENT AND FUNCTION.—The Secretary of Transportation shall establish a Medical Review Board to serve as an advisory committee to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

"(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

"(b) CHIEF MEDICAL EXAMINER.—The Secretary shall appoint a chief medical examiner for the Federal Motor Carrier Safety Administration.

"(c) MEDICAL STANDARDS AND REQUIREMENTS.—The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

"(1) establish, review, and revise—

"(A) medical standards for applicants for and holders of commercial driver's licenses that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely;

"(B) requirements for periodic physical examinations of such operators performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and

"(C) requirements for notification of the chief medical examiner if such an applicant or holder—

"(i) fails to meet the applicable standards; or

"(ii) is found to have a physical or mental disability or impairment that would interfere with the individual's ability to operate a commercial motor vehicle safely;

"(2) require each holder of a commercial driver's license or learner's permit to have a current valid medical certificate;

"(3) issue such certificates to such holders and applicants who are found, upon examination, to be physically qualified to operate a commercial motor vehicle and to meet applicable medical standards; and

"(4) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to complete specific training, including refresher courses, to be listed in the registry.

"(d) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary, through the Federal Motor Carrier Safety Administration—

"(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examination, testing, inspection, and issuance of a medical certificate;

"(2) shall delegate to those examiners the authority to issue such certificates if the Medical Review Board develops a system to identify the medical examination forms uniquely and track them; and

"(3) shall remove from the registry the name of any medical examiner that fails to meet the qualifications established by the Secretary for being listed in the registry.

"(e) CONSULTATION AND COOPERATION WITH FAA.—

"(1) IN GENERAL.—The Administrator of the Federal Motor Carrier Safety Administration shall consult the Administrator of the Federal Aviation Administration with respect to examinations, the issuance of certificates, standards, and procedures under this section in order to take advantage of such aspects of the Federal Aviation Administration's airman certificate program under chapter 447 of this title as the Administrator deems appropriate for carrying out this section.

"(2) USE OF FAA-QUALIFIED EXAMINERS.—The Administrator of the Federal Motor Carrier Safety Administration and the Administrator of the Federal Aviation Administration are authorized and encouraged to execute a memorandum of understanding under which individuals holding or applying for a commercial driver's license or learner's permit may be examined, for purposes of this section, by medical examiners who are qualified to administer medical examinations for airman certificates under chapter 447 of this title and the regulations thereunder—

"(A) until the national registry required by subsection (d) is fully established; and

"(B) to the extent that the Administrators determine appropriate, after that registry is established.

"(f) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to carry out this section.".

(b) MEDICAL EXAMINERS.—Section 31136(a)(3) is amended to read as follows:

"(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and".

(c) DEFINITION OF MEDICAL EXAMINER.—Section 31132 is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) 'medical examiner' means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.".

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31148 the following:

"31149. Medical program".

(f) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 4229. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS.

(a) REVISION OF FINAL RULE.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the final rule to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal Motor Carrier Safety Regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

(b) NO HISTORY OF DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—The Secretary may not require individuals to have experience operating commercial motor vehicles while using insulin in order to qualify to operate a commercial motor vehicle in interstate commerce.

(c) HISTORY OF DIABETES CONTROL.—The Secretary may require an individual to have used insulin for a minimum period of time and demonstrated stable control of diabetes in order to qualify to operate a commercial motor vehicle in interstate commerce. Any such requirement, including any requirement with respect to the duration of such insulin use, shall be consistent with the findings of the expert medical panel reported in July 2000 in "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century".

(d) APPLICABLE STANDARD.—The Secretary shall ensure that individuals who use insulin to treat their diabetes are not held to a higher standard than other qualified commercial drivers, except to the extent that limited operating, monitoring, or medical requirements are deemed medically necessary by experts in the field of diabetes medicine.

SEC. 4230. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

(a) TRANSPORTATION OF PASSENGERS.—

(1) Section 31138(a) is amended to read as follows:

"(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

"(1) a place in another State;

"(2) another place in the same State through a place outside of that State; or

"(3) a place outside the United States.".

(2) Section 31138(c) is amended by adding at the end the following:

"(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent applicable. The extent of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

(b) TRANSPORTATION OF PROPERTY.—Section 31139 is amended—

(1) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

"(b) GENERAL REQUIREMENTS AND MINIMUM AMOUNT.—

"(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

"(A) a place in another State;

"(B) another place in the same State through a place outside of that State; or

"(C) a place outside the United States.";

(2) by aligning the left margin of paragraph (2) of subsection (b) with the left margin of paragraph (1) of that subsection (as amended by paragraph (1) of this subsection); and

(3) by redesignating subsection (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

"(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

SEC. 4231. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Section 521(b)(2)(B) is amended to read as follows:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

"(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

"(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

(b) Section 31310(i)(2) is amended to read as follows:

"(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

"(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

"(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

"(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed 1 year or a fine under title 18, United States Code, or both.".

SEC. 4232. ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.

(a) Section 13506(a) is amended—

(1) by striking paragraphs (6), (11), (12), (13), and (15);

(2) by redesignating paragraphs (7), (8), (9), (10), and (14) as paragraphs (6), (7), (8), (9) and (10), respectively;

(3) by inserting "or" after the semicolon in paragraph (9), as redesignated; and

(4) striking "13904(d); or" in paragraph (1), as redesignated, and inserting "14904(d).".

(b) Section 13507 is amended by striking "(6), (8), (11), (12), or (13)" and inserting "(6)".

SEC. 4233. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) Subsection (a) of section 31144 is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".

(b) Subsection (c) of section 31144 is amended by adding at the end the following:

"(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".

(c) Section 31144 is amended by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following:

"(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.".

SEC. 4234. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 38. Commercial motor vehicles required to stop for inspections

"(a) A driver of a commercial motor vehicle, as defined in section 31132(1) of title 49, shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.

"(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.".

(b) AUTHORITY OF FMCSA.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

“§3064. Powers of Federal Motor Carrier Safety Administration

“Authorized employees of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.”.

(c) Conforming Amendments.—

(1) The chapter analysis for chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 37 the following:

“38. Commercial motor vehicles required to stop for inspections.”.

(2) The chapter analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

“3064. Powers of Federal Motor Carrier Safety Administration.”.

SEC. 4235. REVOCATION OF OPERATING AUTHORITY.

Section 13905(e) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) Protection of safety.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

“(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(c) or 13906 of this title, or an order or regulation of the Secretary prescribed under those sections; and

“(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144 of this title.”;

(2) by striking “may suspend a registration”in paragraph (2) and inserting “shall revoke the registration”; and

(3) by striking paragraph (3) and inserting the following:

“(3) Notice; period of suspension.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.”.

SEC. 4236. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

(a) In General.—Section 31135 is amended—

(1) by inserting “(a) In General.—” before “Each”; and

(2) by adding at the end the following:

“(b) Pattern of Non-Compliance.—If an officer of a motor carrier engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

“(c) List of Proposed Officers.—Each person seeking registration as a motor carrier under section 13902 of this title shall submit a list of the proposed officers of the motor carrier. If the Secretary determines that any of the proposed officers has previously engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this chapter, the Secretary may deny the person's application for registration as a motor carrier under section 13902(a)(3).

“(d) Regulations.—The Secretary shall by regulation establish standards to implement subsections (b) and (c).

“(e) Definitions.—In this section:

“(1) Motor carrier.—The term motor carrier has the meaning given the term in section 13102(12) of this title; and

“(2) Officer.—The term officer means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor and driver supervisor of a motor carrier, regardless of the title attached to those functions.”.

(b) Registration of Carriers.—Section 13902(a)(1)(B) is amended to read as follows:

“(B) any safety regulations imposed by the Secretary, the duties of employers and employees established by the Secretary under section 31135, and the safety fitness requirements established by the Secretary under section 31144; and”.

SEC. 4237. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) In General—Section 31108 is amended to read as follows:

“§31108. Motor carrier research and technology program

“(a) Research, Technology, and Technology Transfer Activities.—

“(1) The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program. The Secretary may carry out research, development, technology, and technology transfer activities with respect to—

“(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

“(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

“(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

“(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

“(4) The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

“(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

“(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

“(b) Collaborative Research and Development.—

“(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

“(B) Federal laboratories.

“(2) In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) Section 5 of title 41, United States Code, shall not apply to a contract or agreement entered into under this section.

“(c) Availability of Amounts.—The amounts made available under section 4222(a) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section shall remain available until expended.

“(d) Contract Authority.—Approval by the Secretary of a grant with funds made available under section 4222(a) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.”.

(b) Conforming Amendment.—The chapter analysis for chapter 311 is amended by striking the item relating to section 31108, and inserting the following:

“31108. Motor carrier research and technology program.”.

SEC. 4238. REVIEW OF COMMERCIAL ZONE EXEMPTION PROVISION.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall complete a review of part 372 of title 49, Code of Federal Regulations, as it pertains to commercial zone exemptions (excluding border commercial zones) from Department of Transportation and Surface Transportation Board regulations governing interstate commerce. The Secretary shall determine whether such exemptions should continue to apply as written, should undergo revision, or should be revoked. The Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report of the review not later than 14 months after such date of enactment.

(b) Notice.—The Secretary shall publish notice of the review required by subsection

(a) and provide and opportunity for the public to submit comments on the effect of continuing, revising, or revoking the commercial zone exemptions in part 372 of title 49, Code of Federal Regulations.

SEC. 4239. INTERNATIONAL COOPERATION.

(a) In General.—Chapter 311 is amended by inserting at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"§ 31161. International cooperation

"The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.".

(b) Clerical Amendment.—The chapter analysis for chapter 311 is amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"31161. International cooperation.".

SEC. 4240. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) In General.—Section 31106(b) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

"(2) Design.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

"(3) Conditions for Participation.—The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

"(B) possess the authority to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

"(C) cancel the motor vehicle registration and seize the registration plates of an employer found liable under section 31310(i)(2)(C) of this title for knowingly allowing or requiring an employee to operate a commercial motor vehicle in violation of an out-of-service order."; and

(2) by striking paragraph (4).

(b) Performance and Registration Information System Management Grants.—

(1) Subchapter I of chapter 311, as amended by this title, is further amended by adding at the end the following:

"§ 31109. Performance and Registration Information System Management

"(a) In General.—From the funds authorized by section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of section 31106(b).

"(b) Availability of Amounts.—Amounts made available to a State under section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section shall remain available until expended.

"(c) Secretary's Approval.—Approval by the Secretary of a grant to a State under section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.".

(2) Conforming Amendment.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31108 the following:

"31109. Performance and Registration Information System Management.".

SEC. 4241. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) In General.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) Purpose.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) Core Deployment Grants.—

(1) In general.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

(2) Eligibility.—To be eligible for a core deployment grant under this section, a State—

(A) shall have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

(B) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

(3) Amount of grants.—The maximum aggregate amount a State may receive under this section for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000.

(4) Use of funds.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. Eligible States that have either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before core deployment grant funds are expended may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in their State.

(d) Expanded Deployment Grants.

(1) In general.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

(2) Eligibility.—Each State that has completed the core deployment of commercial vehicle information systems and networks is eligible for an expanded deployment grant.

(3) Amount of grants.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.

(4) Use of funds.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

(e) Federal Share.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

(f) Applicability of Title 23, United States Code.—Funds authorized to be appropriated under section 4222(c)(4) shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(g) Definitions.—In this section:

(1) Commercial vehicle information systems and networks.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) Commercial vehicle operations.—The term "commercial vehicle operations"—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) Core deployment.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) Safety information exchange.—Safety information exchange to—

(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

(ii) connect to the Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records for access to interstate carrier and commercial vehicle data.

(B) Interstate credentials administration.—Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials and extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

(iii) have at least 10 percent of the transaction volume handled electronically, and have the capability to add more carriers and to extend to branch offices where applicable.

(C) Roadside screening.—Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection sites and to replicate this screening at other sites.

(4) Expanded deployment.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of an core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.

SEC. 4242. OUTREACH AND EDUCATION.

(a) In General.—The Secretary of Transportation, through the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, may undertake outreach and education initiatives, including the "Share the Road Safely" program, that may reduce the number of highway accidents, injuries, and fatalities involving commercial motor vehicles. The Secretary may not use funds authorized by this part for the "Safety Is Good Business" program.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for fiscal year 2004 to carry out this section—

(1) $250,000 for the Federal Motor Carrier Safety Administration; and

(2) $750,000 for the National Highway Traffic Safety Administration.

SEC. 4243. OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS ON NATIONAL HIGHWAY SYSTEM.

(a) Restricted Property-Carrying Unit Defined.—Section 31111(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) Restricted property-carrying unit.—The term 'restricted property-carrying unit' means any trailer, semi-trailer, container, or other property-carrying unit that is longer than 53 feet.".

(b) Prohibition on Operation of Restricted Property-Carrying Units.—

(1) In general.—Section 31111(b)(1)(C) is amended to read as follows:

"(C) allows operation on any segment of the National Highway System, including the Interstate System, of a restricted property-carrying unit unless the operation is specified on the list published under subsection (h);".

(2) Effective date.—The amendment made by paragraph (1) shall take effect 270 days after the date of enactment of this subsection.

(c) Limitations.—Section 31111 is amended by adding at the end the following:

"(h) Restricted Property-Carrying Units.—

"(1) Applicability of prohibition.—

"(A) In general.—Notwithstanding subsection (b)(1)(C), a restricted property-carrying unit may continue to operate on a segment of the National Highway System if the operation of such unit is specified on the list published under paragraph (2).

"(B) Applicability of state laws and regulations.—All operations specified on the list published under paragraph (2) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

"(C) Fire-fighting units.—Subsection (b)(1)(C) shall not apply to the operation of a restricted property-carrying unit that is used exclusively for fire-fighting.

"(2) Listing of restricted property-carrying units.—

"(A) In general.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to determine and publish a list of restricted property-carrying units that were authorized by State officials pursuant to State statute or regulation on June 1, 2003, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2003.

"(B) Limitation.—A restricted property-carrying unit may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the unit at some prior date by permit or otherwise.

"(C) Publication of final list.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall publish a final list of restricted property-carrying units described in subparagraph (A).

"(D) Updates.—The Secretary shall update the list published under subparagraph (C) as necessary to reflect new designations made to the National Highway System.

"(3) Applicability of prohibition.—The prohibition established by subsection (b)(1)(C) shall apply to any new designation made to the National Highway System and remain in effect on those portions of the National Highway System that cease to be designated as part of the National Highway System.

"(4) Limitation on statutory construction.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a restricted property-carrying unit; except that such restrictions or prohibitions shall be consistent with the requirements of this section and sections 31112 through 31114.".

(d) Enforcement.—The second sentence of section 141(a) of title 23, United States Code, is amended by striking "section 31112" and inserting "sections 31111 and 31112".

SEC. 4244. OPERATION OF LONGER COMBINATION VEHICLES ON NATIONAL HIGHWAY SYSTEM.

(a) In General.—Section 31112 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) National Highway System.—

"(1) General rule.—A State may not allow, on a segment of the National Highway System that is not covered under subsection (b) or (c), the operation of a commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than 1 property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State on June 1, 2003; or

"(B) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual and lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 2003.

"(2) Additional limitations.—

"(A) Applicability of state restrictions.—A commercial motor vehicle combination whose operation in a State is not prohibited under paragraph (1) may continue to operate in the State on highways described in paragraph (1) only in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 2003. Subject to regulations prescribed by the Secretary under subsection (h), the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 2003, for specific safety purposes and road construction.

"(B) Additional state restrictions.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a commercial motor vehicle combination subject to this section, except that such restrictions or prohibitions shall be consistent with this section and sections 31113(a), 31113(b), and 31114.

"(C) Minor adjustments.—A State making a minor adjustment of a temporary and emergency nature as authorized by subparagraph (A) or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by subparagraph (B) shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

"(3) List of state length limitations.—

"(A) State submissions.—Not later than 60 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in paragraph (1). The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

"(B) PUBLICATION OF INTERIM LIST. Not later than 90 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under subparagraph (A). The Secretary shall review for accuracy all information submitted by a State under subparagraph (A) and shall solicit and consider public comment on the accuracy of the information.

"(C) LIMITATION.—A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 2003.

"(D) PUBLICATION OF FINAL LIST. Except as revised under this subparagraph or subparagraph (E), the list shall be published as final in the Federal Register not later than 270 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on a highway described in paragraph (1) except as published on the list.

"(E) INACCURACIES. On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under subparagraph (D). If the Secretary decides there is reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction.".

(b) CONFORMING AMENDMENTS. Section 31112 is amended—

(1) by inserting "126(e) or" before "127(d)" in subsection (g)(1) (as redesignated by subsection (a) of this section);

(2) by inserting "(or June 1, 2003, with respect to highways described in subsection (f)(1))" after "June 2, 1991" in subsection (g)(3) (as redesignated by subsection (a) of this section); and

(3) by striking "Not later than June 15, 1992, the Secretary" in subsection (h)(2) (as redesignated by subsection (a) of this section) and inserting "The Secretary"; and

(4) by inserting "or (f)" in subsection (h)(2) (as redesignated by subsection (a) of this section) after "subsection (d)".

SEC. 4245. APPLICATION OF SAFETY STANDARDS TO CERTAIN FOREIGN MOTOR CARRIERS.

(a) APPLICATION OF SAFETY STANDARDS.—Section 30112 is amended—

(1) by striking "person" in subsection (a) and inserting "person, including a foreign motor carrier,"; and

(2) by adding at the end the following:

"(c) DEFINITIONS.—In this section:

"(1) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' has the meaning given that term in section 13102 of this title.

"(2) IMPORT.—The term 'import' means transport by any means into the United States, on a permanent or temporary basis, including the transportation of a motor vehicle into the United States for the purpose of providing the transportation of cargo or passengers.".

(b) REQUIREMENT FOR CERTIFICATE OF COMPLIANCE.—Section 30115 is amended by adding at the end the following:

"(c) APPLICATION TO FOREIGN MOTOR CARRIERS.—

"(1) IN GENERAL. The requirement for certification described in subsection (a) shall apply to a foreign motor carrier that imports a motor vehicle or motor vehicle equipment into the United States. Such certification shall be made to the Secretary of Transportation prior to the import of the vehicle or equipment.

"(2) DEFINITIONS.—In this subsection:

"(A) FOREIGN MOTOR CARRIER. The term 'foreign motor carrier' has the meaning given that term in section 13102 of this title.

"(B) IMPORT. The term 'import' has the meaning given that term in section 30112 of this title.".

(c) TIME FOR COMPLIANCE. The amendments made by sections (a) and (b) shall take effect on September 1, 2004.

SEC. 4246. BACKGROUND CHECKS FOR MEXICAN AND CANADIAN DRIVERS HAULING HAZARDOUS MATERIALS.

(a) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(b) DEFINITIONS. In this section:

(1) HAZARDOUS MATERIALS. The term "hazardous material" means any material determined by the Secretary of Transportation to be a hazardous material for purposes of this section.

(2) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term by section 31101 of title 49, United States Code.

(c) EFFECTIVE DATE.—This section takes effect on April 1, 2004.

SEC. 4247. EXEMPTION OF DRIVERS OF UTILITY SERVICE VEHICLES.

Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) is amended—

(1) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) DRIVERS OF UTILITY SERVICE VEHICLES.—

"(A) INAPPLICABILITY OF FEDERAL REGULATIONS. Such regulations may not apply to a driver of a utility service vehicle.

"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, may not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.";

(2) by striking "Nothing" in subsection (b) and inserting "Except as provided in subsection (a)(4), nothing"; and

(3) by striking "paragraph (2)" in the first sentence of subsection (c) and inserting "an exemption under paragraph (2) or (4)".

SEC. 4248. OPERATION OF COMMERCIAL MOTOR VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES.

(a) EXEMPTION FROM HOURS-OF-SERVICE REQUIREMENTS.—

(1) IN GENERAL. Section 345(c) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note), as amended by section 4247(3) of this title, is amended by striking "paragraph (2) or (4)" and inserting "paragraph (1), (2), or (4) of that subsection)".

(2) APPLICABILITY. The exemption provided by section 345(a)(1) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) shall apply to a person transporting agricultural commodities or farm supplies for agricultural purposes under that section on and after the date of enactment of this Act regardless of any action taken by the Secretary of Transportation under section 345(c) of that Act before the date of enactment of this Act.

(b) DEFINITION OF AGRICULTURAL COMMODITY. Section 345(e) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (5), (6), (4), and (7), respectively, and moving the paragraphs so as to appear in numerical order; and

(2) by inserting after paragraph (2) the following:

"(3) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).".

SEC. 4249. SAFETY PERFORMANCE HISTORY SCREENING.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 4228, is amended by adding at the end the following:

"§31150. Safety performance history screening

"(a) IN GENERAL.—The Secretary of Transportation shall provide companies conducting pre-employment screening services for the motor carrier industry electronic access to—

"(1) commercial motor vehicle accident reports,

"(2) inspection reports that contain no driver-related safety violations, and

"(3) serious driver-related safety violation inspection reports that are contained in the Motor Carrier Management Information System.

"(b) ESTABLISHMENT.—Prior to making information available to such companies under subsection (a), the Secretary shall—

"(1) ensure that any information released is done in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all applicable Federal laws;

"(2) require the driver applicant's written consent as a condition of releasing the information;

"(3) ensure that the information made available to companies providing pre-employment screening services is not released to any other unauthorized company or individual, unless expressly authorized or required by law; and

"(4) provide a procedure for drivers to remedy incorrect information in a timely manner.

"(c) DESIGN.—To be eligible to have access to information under subsection (a), a company conducting pre-employment screening services for the motor carrier industry shall utilize a screening process—

"(1) that is designed to assist the motor carrier industry in assessing an individual driver's crash and serious safety violation inspection history as a pre-employment condition;

"(2) the use of which is not mandatory; and

"(3) which is used only during the pre-employment assessment of a driver-applicant.

"(d) SERIOUS DRIVER-RELATED SAFETY VIOLATIONS.—In this section, the term 'serious driver-related safety violation' means a violation listed in the North American Standard Driver Out-of-service Criteria that prohibits the continued operation of a commercial motor vehicle.".

(b) Conforming Amendment.—The chapter analysis for chapter 311, as amended by section 4228, is amended by inserting after the item relating to section 31149 the following:

"31150. Safety performance history screening".

SEC. 4250. COMPLIANCE REVIEW AUDIT.

Within 1 year after the date of enactment of this Act, the Inspector General for the Department of Transportation shall audit the compliance reviews performed by the Federal Motor Carrier Safety Administration in fiscal year 2003 and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the enforcement actions taken as a result of the compliance reviews, including fines, suspension or revocation of operating authority, unsatisfactory ratings, and follow-up actions to ensure compliance with Federal motor carrier safety regulations;

(2) whether compliance reviews are or should be performed on a corporate-wide basis for all affiliates of the motor carrier selected for a compliance review as a result of its Safety Status Measurement System ranking or the submission of a complaint;

(3) whether the enforcement actions taken by the Federal Motor Carrier Safety Administration are adequate to assure future compliance of the motor carrier with Federal safety regulations and what deterrent effect those enforcement actions may have industry-wide;

(4) whether the methodology for calculating the crash rate of commercial motor vehicles in the Safety Status Measurement System would be more appropriately based on the number of vehicle miles driven by a motor carrier rather than the number of trucks operated by the carrier;

(5) whether the public access information in the Safety Status Measurement System meets the agency's requirements under the Data Quality Act; and

(6) the existing information Selection System Indicators criteria and weighting and whether the safety evaluation area containing data on accidents should receive higher priority for complaince reviews and inspection selection.

(5) whether the public access information in the Safety Status Measurement System meets the agency's requirements under the Data Quality Act.

Part 2—Unified Carrier Registration

SEC. 4261. SHORT TITLE.

This part may be cited as the "Unified Carrier Registration Act of 2004".

SEC. 4262. RELATIONSHIP TO OTHER LAWS.

Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this part, this part is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.

SEC. 4263. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.

(a) Persons Registered To Provide Transportation or Service as a Motor Carrier or Motor Private Carrier.—Section 13905 is amended by—

(1) redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) inserting after subsection (a) the following:

"(b) Person Registered With Secretary.—Any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2002, but not having registered pursuant to section 13902(a) of this title, shall be deemed, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a of this title.".

(b) Security Requirement.—Section 13906(a) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) inserting the following:

"(2) Security Requirement.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2004, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) of this title shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139 of this title.".

SEC. 4264. UNIFIED CARRIER REGISTRATION SYSTEM.

(a) Section 13908 is amended to read as follows:

"§ 13908. Registration and other reforms

"(a) Establishment of Unified Carrier Registration System.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder and broker industries, and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2004 regulations to establish, an online, Federal registration system to be named the Unified Carrier Registration System to replace—

"(1) the current Department of Transportation identification number system, the Single State Registration System under section 14504 of this title;

"(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

"(3) the service of process agent systems under sections 503 and 13304 of this title.

"(b) Role as Clearinghouse and Depository of Information.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, and freight forwarders, and others required to register with the Department, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a of this title. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

"(c) Procedures for Correcting Information.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

"(d) Fee system.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

"(1) Registration and filing evidence of financial responsibility.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration and conducting the safety audit or examination, if required, but shall not exceed $300.

"(2) Evidence of financial responsibility.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed $10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

"(3) Access and retrieval fees.—

"(A) In general.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the Unified Carrier Registration Agreement.

"(B) Exceptions.—There shall be no fee charged—

"(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

"(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a of this title) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.".

SEC. 4265. REGISTRATION OF MOTOR CARRIERS BY STATES.

(a) Termination of Registration Provisions.—Section 14504 is amended by adding at the end the following:

"(d) Termination of Provisions.—Subsections (b) and (c) shall cease to be effective on the first January 1st occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2004.".

(b) Unified Carrier Registration System Plan and Agreement.—Chapter 145 is amended by inserting after section 14504 the following:

"§ 14504a. Unified carrier registration system plan and agreement

"(a) Definitions.—In this section and section 14506 of this title:

"(1) Commercial motor vehicle.—

"(A) In general.—Except as provided in subparagraph (B), the term 'commercial motor vehicle' has the meaning given the term in section 31101 of this title.

"(B) Exception.—With respect to motor carriers required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the term 'commercial motor vehicle' means any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

"(2) Base-state.—

"(A) In general.—The term 'Base-State' means, with respect to the Unified Carrier Registration Agreement, a State—

"(i) that is in compliance with the requirements of subsection (e); and

"(ii) in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business.

"(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder or leasing company may designate another State in which it maintains an office or operating facility as its Base-State in the event that—

"(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

"(ii) the motor carrier, motor private carrier, broker, freight forwarder or leasing company does not have a principal place of business in the United States.

"(3) INTRASTATE FEE.—The term 'intrastate fee' means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

"(4) LEASING COMPANY.—The term 'leasing company' means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

"(5) MOTOR CARRIER.—The term 'motor carrier' has the meaning given the term in section 13102(12) of this title, but shall include all carriers that are otherwise exempt from the provisions of part B of this title pursuant to the provisions of chapter 135 of this title or exemption actions by the former Interstate Commerce Commission under this title.

"(6) PARTICIPATING STATE.—The term 'participating state' means a State that has complied with the requirements of subsection (e) of this section.

"(7) SSRS.—The term 'SSRS' means the Single State Registration System in effect on the date of enactment of the Unified Carrier Registration Act of 2004.

"(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms 'Unified Carrier Registration Agreement' and 'UCR Agreement' mean the interstate agreement developed under the Unified Carrier Registration Plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders and leasing companies pursuant to this section.

"(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms 'Unified Carrier Registration Plan' and 'UCR Plan' mean the organization of State, Federal and industry representatives responsible for developing, implementing and administering the Unified Carrier Registration Agreement.

"(10) VEHICLE REGISTRATION.—The term 'vehicle registration' means the registration of any commercial motor vehicle under the International Registration Plan or any other registration law or regulation of a jurisdiction.

"(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A Freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) of this title shall be subject to the provisions of this section as if a motor carrier.

"(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of 2 or more States—

"(1) to enact, impose, or enforce any requirement or standards, or levy any fee or charge on any interstate motor carrier or interstate motor private carrier in connection with—

"(A) the registration with the State of the interstate operations of a motor carrier or motor private carrier;

"(B) the filing with the State of information relating to the financial responsibility of a motor carrier or motor private carrier pursuant to sections 31138 or 31139 of this title;

"(C) the filing with the State of the name of the local agent for service of process of a motor carrier or motor private carrier pursuant to sections 503 or 13304 of this title; or

"(D) the annual renewal of the intrastate authority, or the insurance filings, of a motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State, if the motor carrier or motor private carrier is—

"(i) registered in compliance with section 13902 or section 13905(b) of this title; and

"(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State pursuant to section 14501(c)(2)(A) of this title

except with respect to—

"(I) intrastate service provided by motor carriers of passengers that is not subject to the preemptive provisions of section 14501(a) of this title,

"(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2) and section 14506(c)(3) or permitted pursuant to section 14506(b) of this title, and

"(III) the intrastate transportation of waste or recycables by any carrier); or

"(2) to require any interstate motor carrier or motor private carrier to pay any fee or tax, not proscribed by paragraph (1)(D) of this subsection, that a motor carrier or motor private carrier that pays a fee which is proscribed by that paragraph is not required to pay.

"(d) UNIFIED CARRIER REGISTRATION PLAN.—

"(1) BOARD OF DIRECTORS.—

"(A) GOVERNANCE OF PLAN.—The Unified Carrier Registration Plan shall be governed by a Board of Directors consisting of representatives of the Department of Transportation, Participating States, and the motor carrier industry.

"(B) NUMBER.—The Board shall consist of 15 directors.

"(C) COMPOSITION.—The Board shall be composed of directors appointed as follows:

"(i) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—The Secretary shall appoint 1 director from each of the Federal Motor Carrier Safety Administration's 4 Service Areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2003), from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR Agreement.

"(ii) STATE AGENCIES.—The Secretary shall appoint 5 directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR Agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR Agreement in their respective States.

"(iii) MOTOR CARRIER INDUSTRY.—The Secretary shall appoint 5 directors from the motor carrier industry. At least 1 of the appointees shall be an employee of the national trade association representing the general motor carrier of property industry.

"(iv) DEPARTMENT OF TRANSPORTATION.—The Secretary shall appoint the Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the United States Department of Transportation, as the Secretary may designate, to serve as a director.

"(D) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as Chairperson and 1 director as Vice-Chairperson of the Board. The Chairperson and Vice-Chairperson shall serve in such capacity for the term of their appointment as directors.

"(E) TERM.—In appointing the initial Board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year. Thereafter, all directors shall be appointed for terms of 3 years, except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (C)(iv) shall be at the discretion of the Secretary. A director may be appointed to succeed himself or herself. A director may continue to serve on the Board until his or her successor is appointed.

"(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The Board of Directors shall develop the rules and regulations to govern the UCR Agreement and submit such rules and regulations to the Secretary for approval and adoption. The rules and regulations shall—

"(A) prescribe uniform forms and formats, for—

"(i) the annual submission of the information required by a Base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

"(ii) the transmission of information by a Participating State to the Unified Carrier Registration System;

"(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

"(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the Board of the intent of such entity to change its Base-State, and the procedures for a State to object to such a change under subparagraph (C) of this paragraph;

"(B) provide for the administration of the Unified Carrier Registration Agreement, including procedures for amending the Agreement and obtaining clarification of any provision of the Agreement;

"(C) provide procedures for dispute resolution that provide due process for all involved parties; and

"(D) designate a depository.

"(3) COMPENSATION AND EXPENSES.—Except for the representative of the Department of Transportation appointed pursuant to paragraph 1(D), no director shall receive any compensation or other benefits from the Federal Government for serving on the Board or be considered a Federal employee as a result of such service. All Directors shall be reimbursed for expenses they incur attending duly called meetings of the Board.

In addition, the Board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed pursuant to paragraph (5). The reimbursement of expenses to directors and subcommittee and task force members shall be based on the then applicable rules of the General Service Administration governing reimbursement of expenses for travel by Federal employees.

“(4) MEETINGS.—

“(A) IN GENERAL.—The Board shall meet at least once per year. Additional meetings may be called, as needed, by the Chairperson of the Board, a majority of the directors, or the Secretary.

“(B) QUORUM.—A majority of directors shall constitute a quorum.

“(C) VOTING.—Approval of any matter before the Board shall require the approval of a majority of all directors present at the meeting.

“(D) OPEN MEETINGS.—Meetings of the Board and any subcommittees or task forces appointed pursuant to paragraph (5) of this section shall be subject to the provisions of section 552b of title 5.

“(5) SUBCOMMITTEES.—

“(A) INDUSTRY ADVISORY SUBCOMMITTEE.—The Chairperson shall appoint an Industry Advisory Subcommittee. The Industry Advisory Subcommittee shall consider any matter before the Board and make recommendations to the Board.

“(B) OTHER SUBCOMMITTEES.—The Chairperson shall appoint an Audit Subcommittee, a Dispute Resolution Subcommittee, and any additional subcommittees and task forces that the Board determines to be necessary.

“(C) MEMBERSHIP.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or non-directors.

“(D) REPRESENTATION ON SUBCOMMITTEES.—Except for the Industry Advisory Subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f) of this section), each subcommittee and task force shall include representatives of the Federal Motor Carrier Safety Administration, the Participating States, and the motor carrier industry.

“(6) DELEGATION OF AUTHORITY.—The Board may contract with any private commercial or non-profit entity or any agency of a State to perform administrative functions required under the Unified Carrier Registration Agreement, but may not delegate its decision or policy-making responsibilities.

“(7) DETERMINATION OF FEES.—The Board shall determine the annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders pursuant to the Unified Carrier Registration Agreement. In determining the level of fees to be assessed in the next Agreement year, the Board shall consider—

“(A) the administrative costs associated with the Unified Carrier Registration Plan and the Agreement;

“(B) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the Participating States to achieve the revenue levels set by the Board; and

“(C) the parameters for fees set forth in subsection (f)(1).

“(8) LIABILITY PROTECTIONS FOR DIRECTORS.—No individual appointed to serve on the Board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the Board if—

“(A) the individual was acting within the scope of his or her responsibilities as a director; and

“(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

“(9) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Unified Carrier Registration Plan or its committees.

“(10) CERTAIN FEES NOT AFFECTED.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement.

“(e) STATE PARTICIPATION.—

“(1) STATE PLAN.—No State shall be eligible to participate in the Unified Carrier Registration Plan or to receive any revenues derived under the Agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2004, a plan—

“(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the Unified Carrier Registration Agreement in accordance with the rules and regulations promulgated by the Board of Directors of the Unified Carrier Registration Plan; and

“(B) containing assurances that an amount at least equal to the revenue derived by the State from the Unified Carrier Registration Agreement shall be used for motor carrier safety programs, enforcement, and financial responsibility, or the administration of the UCR Plan and UCR Agreement.

“(2) AMENDED PLANS.—A State may change the agency designated in the plan submitted under this subsection by filing an amended plan with the Secretary and the Chairperson of the Unified Carrier Registration Plan.

“(3) WITHDRAWAL OF PLAN.—In the event a State withdraws, or notifies the Secretary that it is withdrawing, the plan submitted under this subsection, the State may no longer participate in the Unified Carrier Registration Agreement or receive any portion of the revenues derived under the Agreement.

“(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary as required by paragraph (1) or withdraws its plan under paragraph (3), the State shall be prohibited from subsequently submitting or resubmitting a plan or participating in the Agreement.

“(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the initial Chairperson of the Board of Directors of the Unified Carrier Registration Plan not later than 90 days of appointing the Chairperson.

“(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The Unified Carrier Registration Agreement shall provide the following:

“(1) DETERMINATION OF FEES.—

“(A) Fees charged motor carriers, motor private carriers, or freight forwarders in connection with the filing of proof of financial responsibility under the UCR Agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder. Brokers and leasing companies shall pay the same fees as the smallest bracket of motor carriers, motor private carriers, and freight forwarders.

“(B) The fees shall be determined by the Board with the approval of the Secretary.

“(C) The Board shall develop no more than 6 and no less than 4 ranges of carriers by size of fleet.

“(D) The fee scale shall be progressive and use different vehicle ratios for different ranges of carrier fleet size.

“(E) The Board may adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

“(i) are insufficient to provide the revenues to which the States are entitled under this section; or

“(ii) exceed those revenues.

“(2) DETERMINATION OF OWNERSHIP OR OPERATION.—Commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder shall mean those commercial motor vehicles registered in the name of the motor carrier, motor private carrier, or freight forwarder or controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

“(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of subsection (e)(1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS–150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the each registration year of the Unified Carrier Registration System.

“(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their Base-State pursuant to the UCR Agreement.

“(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to Participating States as follows:

“(1) A State that participated in the Single State Registration System in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004 and complies with the requirements of subsection (e) of this section is entitled to receive a portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received under the SSRS in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004, as long as the State continues to comply with the provisions of subsection (e).

“(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with the requirements of subsection (e) of this section is entitled to receive an additional portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received from such interstate carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004, as long as the State continues to comply with the provisions of subsection (e).

“(3) States that comply with the requirements of subsection (e) of this section but did not participate in SSRS during the last calendar year ending before the date of enactment of the Unified Carrier Registration

Act of 2004 shall be entitled to an annual allotment not to exceed $500,000 from the UCR Agreement revenues generated under the Agreement as long as the State continues to comply with the provisions of subsection (e).

"(4) The amount of UCR Agreement revenues to which a State is entitled under this section shall be calculated by the Board and approved by the Secretary.

"(h) Distribution of UCR Agreement Revenues.—

"(1) Eligibility.—Each State that is in compliance with the provisions of subsection (e) shall be entitled to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

"(2) Entitlement to revenues.—A State that is in compliance with the provisions of subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR Agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a Participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the Board under subsection (d)(2)(D).

"(3) Distribution of funds from depository.—The excess funds collected in the depository shall be distributed as follows:

"(A) Excess funds shall be distributed on a pro rata basis to each Participating State that did not collect revenues under the UCR Agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross UCR Agreement revenues collected by a Participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

"(B) Any excess funds held by the depository after all distributions under subparagraph (A) have been made shall be used to pay the administrative costs of the UCR Plan and the UCR Agreement.

"(C) Any excess funds held by the depository after distributions and payments under subparagraphs (A) and (B) shall be retained in the depository, and the UCR Agreement fees for motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Board accordingly.

"(i) Enforcement.—

"(1) Civil Actions.—Upon request by the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with this section and with the terms of the Unified Carrier Registration Agreement.

"(2) Venue.—An action under this section may be brought only in the Federal court sitting in the State in which an order is required to enforce such compliance.

"(3) Relief.—Subject to section 1341 of title 28, the court, on a proper showing—

"(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

"(B) may issue an injunction requiring that the State or any person comply with this section.

"(4) Enforcement by states.—Nothing in this section—

"(A) prohibits a Participating State from issuing citations and imposing reasonable fines and penalties pursuant to applicable State laws and regulations on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

"(i) submit documents as required under subsection (d)(2); or

"(ii) pay the fees required under subsection (f); or

"(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 of this title on or in a commercial motor vehicle.

"(j) Application to Intrastate Carriers.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR Agreement to motor carriers and motor private carriers subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.".

SEC. 4266. IDENTIFICATION OF VEHICLES.

Chapter 145 is amended by adding at the end the following:

"§ 14506. Identification of vehicles

"(a) Restriction on Requirements.—No State, political subdivision of a State, interstate agency, or other political agency of 2 or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle, other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

"(b) Exception.—Notwithstanding paragraph (a), a State may continue to require display of credentials that are required—

"(1) under the International Registration Plan under section 31704 of this title;

"(2) under the International Fuel Tax Agreement under section 31705 of this title;

"(3) in connection with Federal requirements for hazardous materials transportation under section 5103 of this title; or

"(4) in connection with the Federal vehicle inspection standards under section 31136 of this title.".

SEC. 4267. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.

Section 31103(a) is amended by inserting "Amounts generated by the Unified Carrier Registration Agreement, under section 14504a of this title and received by a State and used for motor carrier safety purposes may be included as part of the State's share not provided by the United States." after "United States Government.".

SEC. 4268. CLERICAL AMENDMENTS.

(a) Section 13906 Caption.—The section caption for section 13906 is amended by inserting "**motor private carriers,**" after "**motor carriers,**".

(b) Table of Contents.—The chapter analysis for chapter 139 is amended by striking the item relating to section 13906 and inserting the following:

"13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders".

Subtitle C—Household Goods Movers

SEC. 4301. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) Short Title.—This subtitle may be cited as the "Household Goods Mover Oversight Enforcement and Reform Act of 2004".

(b) Amendment of Title 49, United States Code.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4302. FINDINGS; SENSE OF CONGRESS.

The Congress finds the following:

(1) There are approximately 1,500,000 interstate household moves every year. While the vast majority of these interstate moves are completed successfully, consumer complaints have been increasing since the Interstate Commerce Commission was abolished in 1996 and oversight of the household goods industry was transferred to the Department of Transportation.

(2) While the overwhelming majority of household goods carriers are honest and operate within the law, there appears to be a growing criminal element that is exploiting a perceived void in Federal and State enforcement efforts. The growing criminal element tends to prey upon consumers.

(3) The movement of an individual's household goods is unique and differs from the movement of a commercial shipment. A consumer may utilize a moving company once or twice in the consumer's lifetime and entrust virtually all of the consumer's worldly goods to a mover.

(4) Federal resources are inadequate to properly police or deter, on a nationwide basis, those movers who willfully violate Federal regulations governing the household goods industry and knowingly prey on consumers who are in a vulnerable position. It is appropriate that a Federal-State partnership be created to enhance enforcement against fraudulent moving companies.

SEC. 4303. DEFINITIONS.

In this title, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given such terms in section 13102 of title 49, United States Code.

SEC. 4304. PAYMENT OF RATES.

Section 13707(b) is amended by adding at the end the following:

"(3) Shipments of household goods.—

"(A) In general.—A carrier providing transportation for a shipment of household goods shall give up possession of the household goods transported at the destination upon payment of—

"(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

"(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

"(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

"(B) Calculation of prorated charges.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

"(C) Post-contract services.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

"(D) Impracticable operations.—Subparagraph (A) does apply to impracticable operations, as defined by the applicable carrier tariff, if the shipper agrees to pay the chaiges for such operations within 30 days after the goods are delivered.".

SEC. 4305. HOUSEHOLD GOODS CARRIER OPERATIONS.

Section 14104 is amended—

(1) by striking paragraph (1) of subsection (b) and inserting the following:

"(1) Requirement for written estimate.—A motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall provide to a prospective shipper a written estimate of all charges related to the transportation of the household goods, including charges for—

"(A) packing;

"(B) unpacking;

"(C) loading;

"(D) unloading; and

"(E) handling of the shipment from the point of origin to the final destination (whether that destination is storage or transit).";

(2) by redesignating paragraph (2) of such subsection as paragraph (4); and

(3) by inserting after paragraph (1), as amended by paragraph (1), the following:

"(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA-ESA-03-005 (or its successor edition or publication) entitled 'Ready to Move?'. Before the execution of a contract for service, a motor carrier shall provide the shipper a copy of the Department of Transportation publication OCE 100, entitled 'Your Rights and Responsibilities When You Move' required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation).

"(3) BINDING AND NONBINDING ESTIMATES.—The written estimate required by paragraph (1) may be either binding or nonbinding. The written estimate shall be based on a visual inspection of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate. The Secretary may not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and related services.";

(4) by redesignating subsection (c) as subsection (e); and

(5) by inserting after subsection (b), as amended by paragraphs (1) and (2), the following:

"(c) NOTIFICATION OF FINAL CHARGES.—If the final charges for a shipment of household goods exceed 100 percent of a binding estimate or 110 percent of a nonbinding estimate, the motor carrier shall provide the shipper an itemized statement of the charges. The statement shall be provided to the shipper within 24 hours prior to the delivery of the shipment unless the shipper waives this requirement or the shipper cannot be reached by fax, regular mail, or electronic mail. Such notification shall—

"(1) be delivered in writing at the motor carrier's expense; and

"(2) disclose the requirements of section 13707(b)(3) of this title regarding payment for delivery of a shipment of household goods.

"(d) REQUIREMENT FOR INVENTORY.—A motor carrier providing transportation of a shipment of household goods, as defined in section 13102(10), that is subject to jurisdiction under subchapter I of chapter 135 of this title shall, before or at the time of loading the shipment, prepare a written inventory of all articles tendered and accepted by the motor carrier for transportation. Such inventory shall—

"(1) list or otherwise reasonably identify each item tendered for transportation;

"(2) be signed by the shipper and the motor carrier, or the agent of the shipper or carrier, at the time the shipment is loaded and at the time the shipment is unloaded at the final destination;

"(3) be attached to, and considered part of, the bill of lading; and

"(4) be subject to the same requirements of the Secretary for record inspection and preservation that apply to bills of lading.".

SEC. 4306. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

Section 14706(f) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "A carrier"; and

(2) by adding at the end, the following:

"(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment, subject to rules issued by the Surface Transportation Board and applicable tariffs.

"(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as 'released rates') shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived in writing by the shipper.".

SEC. 4307. DISPUTE SETTLEMENT FOR SHIPMENTS OF HOUSEHOLD GOODS.

(a) IN GENERAL.—Section 14708(a) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) REQUIREMENT TO OFFER.—" before "As a condition"; and

(2) by striking "shippers of household goods concerning damage or loss to the household goods transported." and inserting "shippers. The carrier may not require the shipper to agree to use arbitration as a means to settle such a dispute."; and

(3) by inserting at the end, the following:

"(2) REQUIREMENTS FOR CARRIERS.—If a dispute with a carrier providing transportation of household goods involves a claim that is—

"(A) not more than $10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties; or

"(B) for more than $10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.".

(b) ARBITRATION REQUIREMENTS.—

(1) IN GENERAL.—Section 14708(b) is amended—

(A) by striking paragraph (4) and inserting the following:

"(4) INDEPENDENCE OF ARBITRATOR.—The Secretary shall establish a system for the certification of persons authorized to arbitrate or otherwise settle a dispute between a shipper of household goods and a carrier. The Secretary shall ensure that each person so certified is—

"(A) independent of the parties to the dispute;

"(B) capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously; and

"(C) authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(2) CONFORMING AMENDMENT.—Section 14708(d)(3)(A) is amended by striking "(b)(8)" and inserting "(b)(7)".

(c) ATTORNEY'S FEES TO CARRIERS.—Section 14708(e) is further amended by striking "only if" and all that follows through the period at the end and inserting "if—

"(1) the court proceeding is to enforce a decision rendered in favor of the carrier through arbitration under this section and is instituted after the shipper has a reasonable opportunity to pay any charges required by such decision; or

"(2) the shipper brought such action in bad faith—

"(A) after resolution of such dispute through arbitration under this section; or

"(B) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

"(i) the period provided under subsection (b)(7) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

"(ii) a decision resolving such dispute is rendered.".

(d) REVIEW AND REPORT ON DISPUTE SETTLEMENT PROGRAMS.—

(1) REVIEW AND REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a review of the outcomes and the effectiveness of the programs carried out under title 49, United States Code, to settle disputes between motor carriers and shippers and submit a report on the review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall describe—

(A) the subject of, and amounts at issue is, the disputes;

(B) patterns in disputes or settlements;

(C) the prevailing party in disputes, if identifiable; and

(D) any other matters the Secretary considers appropriate.

(2) REQUIREMENT FOR PUBLIC COMMENT.—The Secretary shall publish notice of the review required by paragraph (1) and provide an opportunity for the public to submit comments on the effectiveness of such programs. Notwithstanding any confidentiality or nondisclosure provision in a settlement agreement between a motor carrier and a shipper, it shall not be a violation of that provision for a motor carrier or shipper to submit a copy of the settlement agreement, or to provide information included in the agreement, to the Secretary for use in evaluating dispute settlement programs under this subsection. Notwithstanding anything to the contrary in section 552 of title 5, United States Code, the Secretary may not post on the Department of Transportation's electronic docket system, or make available to any requester in paper or electronic format, any information submitted to the Secretary by a motor carrier or shipper under the preceding sentence. The Secretary shall use the settlement agreements or other information submitted by a motor carrier or shipper solely to evaluate the effectiveness of dispute settlement programs and shall not include in the report required by this subsection the names or, or other identifying information concerning, motor carriers or shippers that submitted comments or information under this subsection.

SEC. 4308. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS.

(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section

14501(c)(2)(B) is amended by inserting "intrastate" before "transportation".

(b) Enforcement of Federal Law With Respect to Interstate Household Goods Carriers.—

(1) In general.—Chapter 147 is amended by adding at the end the following:

"§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

"(a) Enforcement by States.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions, as determined by the Secretary of Transportation, of this title that are related to the transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall, notwithstanding any provision of law to the contrary, be paid to and retained by the State.

"(b) State Authority Defined.—The term 'State authority' means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

"§ 14711. Enforcement by State attorneys general

"(a) In General.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions, as determined by the Secretary of Transportation, of this title that are related to the transportation of household goods in interstate commerce, or regulations or orders of the Secretary or the Board thereunder, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or a foreign motor carrier providing transportation registered under section 13902 of this title, that is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, promulgated under this part.

"(b) Notice.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

"(c) Authority To Intervene.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

"(1) be heard on all matters arising in such civil action; and

"(2) file petitions for appeal of a decision in such civil action.

"(d) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(e) Venue; Service of Process.—In a civil action brought under subsection (a)—

"(1) the venue shall be a judicial district in which—

"(A) the carrier, foreign motor carrier, or broker operates;

"(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

"(C) where the defendant in the civil action is found;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

"(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

"(f) Enforcement of State Law.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.".

(2) Conforming amendment.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following:

"14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.
"14711. Enforcement by State attorneys general.".

SEC. 4309. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State authorities that regulate the movement of household goods, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) Consultation.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

SEC. 4310. CONSUMER HANDBOOK ON DOT WEBSITE.

Within 6 months after the date of enactment of this Act, the Secretary shall take such action as may be necessary to ensure that the Department of Transportation publication OCE 100, entitled "Your Rights and Responsibilities When You Move" required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation), is prominently displayed, and available in language that is readily understandable by the general public, on the website of the Department of Transportation.

SEC. 4311. INFORMATION ABOUT HOUSEHOLD GOODS TRANSPORTATION ON CARRIERS' WEBSITES.

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a motor carrier or broker that is subject to such regulations and that establishes and maintains a website to prominently display on the website—

(1) the number assigned to the motor carrier or broker by the Department of Transportation;

(2) the OCE 100 publication referred to in section 4310; and

(3) in the case of a broker, a list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

SEC. 4312. CONSUMER COMPLAINTS.

(a) Requirement for Database.—Subchapter II of chapter 141 is amended by adding at the end the following:

"§ 14124. Consumer complaints

"(a) Establishment of System and Database.—The Secretary of Transportation shall—

"(1) establish a system to—

"(A) file and log a complaint made by a shipper that relates to motor carrier transportation of household goods; and

"(B) to solicit information gathered by a State regarding the number and type of complaints involving the interstate transportation of household goods;

"(2) establish a database of such complaints; and

"(3) develop a procedure—

"(A) to provide the public access to the database;

"(B) to forward a complaint, including the motor carrier bill of lading number related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(c)) in the State in which the complainant resides; and

"(C) to permit a motor carrier to challenge information in the database.

"(b) Requirement for Annual Reports.—The Secretary shall issue regulations requiring a motor carrier that provides transportation of household goods to submit to the Secretary, not later than March 31st of each year, an annual report covering the 12-month period ending on the preceding March 31st that includes—

"(1) the number of interstate shipments of household goods that the motor carrier received from shippers and that were delivered to a final destination during the preceding calendar year;

"(2) the number and general category of complaints lodged against the motor carrier during the preceding calendar year;

"(3) the number of shipments described in paragraph (1) that resulted in the filing of a claim against the motor carrier for loss or damage to the shipment for an amount in excess of $500 during the preceding calendar year; and

"(4) the number of shipments described in paragraph (3) that were—

"(A) resolved during the preceding calendar year; or

"(B) pending on the last day of the preceding calendar year.

"(c) Summary to Congress.—The Secretary shall transmit a summary each year of the complaints filed and logged under subsection (a) for the preceding calendar year to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.".

(b) Conforming Amendment.—The analysis for chapter 141 is amended by inserting after the item relating to section 14123 the following:

"14124. Consumer complaints.".

SEC. 4313. REVIEW OF LIABILITY OF CARRIERS.

(a) Review.—Not later than 1 year after the date of enactment of this Act, the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.

(b) DETERMINATIONS.—The review required by subsection (a) shall include a determination of—

(1) whether the current regulations provide adequate protection;

(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability;

(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods; and

(4) whether the section 14706 of title 49, United States Code, should be modified or repealed.

SEC. 4314. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS.

Section 14901(d) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "If a carrier"; and

(2) by adding at the end the following:

"(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

"(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 this title or provides broker services for such transportation without being registered under chapter 139 of this title to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".

SEC. 4315. CIVIL AND CRIMINAL PENALTY FOR FAILING TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

"§14915. Penalties for failure to give up possession of household goods

"(a) CIVIL PENALTY.—Whoever is found to have failed to give up possession of household goods is liable to the United States for a civil penalty of not less than $10,000. Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation. If such person is a carrier or broker, the Secretary may suspend for a period of not less than 6 months the registration of such carrier or broker under chapter 139 of this title.

"(b) CRIMINAL PENALTY.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 2 years, or both.

"(c) FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS DEFINED.—For purposes of this section, the term 'failed to give up possession of household goods' means the knowing and willful failure of a motor carrier to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A) of this title.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"14915. Penalties for failure to give up possession of household goods.".

SEC. 4316. PROGRESS REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the progress being made in implementing the provisions of this title.

SEC. 4317. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS.

Section 13902(a) is amended—

(1) by striking paragraphs (2) and (3);

(2) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (1) the following:

"(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS TRANSPORTATION.—Notwithstanding paragraph (1), the Secretary may register a person to provide transportation of household goods (as defined in section 13102(10) of this title) only after that person—

"(A) provides evidence of participation in an arbitration program and provides a copy of the notice of that program as required by section 14708(b)(2) of this title;

"(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c) of this title;

"(C) provides evidence that it has access to, has read, is familiar with, and will observe all laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and

"(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within the past 3 years.

"(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and, to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

"(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration."; and

(3) by adding at the end of paragraph (5), as redesignated, "In the case of a registration for the transportation of household goods (as defined in section 13102(10 of this title), the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.".

Subtitle D—Hazardous Materials Transportation Safety and Security

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the "Hazardous Material Transportation Safety and Security Reauthorization Act of 2004".

SEC. 4402. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

PART I—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 4421. PURPOSE.

The text of section 5101 is amended to read as follows:

"The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".

SEC. 4422. DEFINITIONS.

Section 5102 is amended as follows:

(1) COMMERCE.—Paragraph (1) is amended—

(A) by striking "or" after the semicolon in subparagraph (A);

(B) by striking the "State." in subparagraph (B) and inserting "State; or"; and

(C) by adding at the end the following:

"(C) on a United States-registered aircraft.".

(2) HAZMAT EMPLOYEE.—Paragraph (3) is amended to read as follows:

"(3) 'hazmat employee' means an individual—

"(A) who—

"(i) is employed or used by a hazmat employer; or

"(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft, transporting hazardous material in commerce; and

"(B) who performs a function regulated by the Secretary under section 5103(b)(1) of this title.".

(3) HAZMAT EMPLOYER.—Paragraph (4) is amended to read as follows:

"(4) 'hazmat employer' means a person—

"(A) who—

"(i) employs or uses at least 1 hazmat employee; or

"(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft, transporting hazardous material in commerce; and

"(B) who performs, or employs or uses at least 1 hazmat employee to perform, a function regulated by the Secretary under section 5103(b)(1) of this title.".

(4) IMMINENT HAZARD.—Paragraph (5) is amended by inserting "relating to hazardous material" after "of a condition".

(5) MOTOR CARRIER.—Paragraph (7) is amended to read as follows:

"(7) 'motor carrier'—

"(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title; but

"(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.".

(6) NATIONAL RESPONSE TEAM.—Paragraph (8) is amended—

(A) by striking "national response team" both places it appears and inserting "National Response Team"; and

(B) by striking "national contingency plan" and inserting "National Contingency Plan".

(7) PERSON.—Paragraph (9)(A) is amended by striking "offering" and all that follows and inserting "that—

"(i) offers hazardous material for transportation in commerce;

"(ii) transports hazardous material to further a commercial enterprise; or "(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce; but".

(8) SECRETARY OF TRANSPORTATION.—Section 5101 is further amended—

(A) by redesignating paragraphs (11), (12), and (13), as paragraphs (12), (13), and (14), respectively; and

(B) by inserting after paragraph (10) the following:

"(11) 'Secretary' means the Secretary of Transportation except as otherwise provided.".

SEC. 4423. GENERAL REGULATORY AUTHORITY.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103(a) is amended by striking "of Transportation".

(b) DESIGNATING MATERIAL AS HAZARDOUS.—Section 5103(a) is further amended—

(1) by striking "etiologic agent" and all that follows through "corrosive material," and inserting "infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,"; and

(2) by striking "decides" and inserting "determines".

(c) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended to read as follows:

"(A) apply to a person who—

"(i) transports hazardous material in commerce;

"(ii) causes hazardous material to be transported in commerce;

"(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce;

"(iv) prepares or accepts hazardous material for transportation in commerce;

"(v) is responsible for the safety of transporting hazardous material in commerce;

"(vi) certifies compliance with any requirement under this chapter;

"(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi) of this subparagraph; or

"(viii) performs any other act or function relating to the transportation of hazardous material in commerce; and".

(d) TECHNICAL AMENDMENT REGARDING CONSULTATION.—Section 5103 is amended—

(1) by striking subsection (b)(1)(C); and

(2) by adding at the end the following:

"(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.".

SEC. 4424. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103a is amended by striking "of Transportation" each place it appears in subsections (a)(1), (c)(1)(B), and (d) and inserting "of Homeland Security".

(b) COVERED HAZARDOUS MATERIALS.—Section 5103a(b) is amended by striking "with respect to—" and all that follows and inserting "with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce.".

(c) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL MATERIALS.—Section 5103a is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) of this title if the Secretary of Health and Human Services determines that such material or agent is a threat to the national security of the United States.".

(d) CONFORMING AMENDMENT.—Section 5103a(a)(1) is amended by striking "subsection (c)(1)(B)," and inserting "subsection (d)(1)(B),".

SEC. 4425. REPRESENTATION AND TAMPERING.

(a) REPRESENTATION.—Section 5104(a) is amended—

(1) by striking "a container," and all that follows through "packaging) for" and inserting "a package, component of a package, or packaging for"; and

(2) by striking "the container" and all that follows through "packaging) meets" and inserting "the package, component of a package, or packaging meets".

(b) TAMPERING.—Section 5104(b) is amended—

(1) by inserting ", without authorization from the owner or custodian," after "may not";

(2) by striking "unlawfully"; and

(3) by inserting "component of a package, or packaging," after "package," in paragraph (2).

SEC. 4426. TRANSPORTING CERTAIN HIGHLY RADIOACTIVE MATERIAL.

(a) REPEAL OF ROUTES AND MODES STUDY.—Section 5105 is amended by striking subsection (d).

(b) REPEAL OF REQUIREMENT FOR INSPECTIONS OF CERTAIN MOTOR VEHICLES.—Section 5105 is amended by striking subsection (e).

SEC. 4427. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5107 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c) (other than in paragraph (1)), (d), and (f).

(b) TRAINING GRANTS.—Section 5107(e) is amended—

(1) by striking "section 5127(c)(3)" and inserting "section 5128(b)(1) of this title";

(2) by inserting "and, to the extent determined appropriate by the Secretary, grants for such instructors to train hazmat employees"; after "employees" in the first sentence thereof.

SEC. 4428. REGISTRATION.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5108 is amended by striking "of Transportation" each place it appears in subsections (a), (b) (other than following "Department"), (d), (e), (f), (g), (h), and (i).

(b) PERSONS REQUIRED TO FILE.—

(1) REQUIREMENT TO FILE.—Section 5108(a)(1)(B) is amended by striking "class A or B explosive" and inserting "Division 1.1, 1.2, or 1.3 explosive material".

(2) AUTHORITY TO REQUIRE TO FILE.—Section 5108(a)(2)(B) is amended to read as follows:

"(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a package or packaging component that is represented as qualified for use in transporting hazardous material in commerce.".

(3) NO TRANSPORTATION WITHOUT FILING.—Section 5108(a)(3) is amended by striking "fabricate," and all that follows through "package or" and inserting "design, inspect, test, recondition, mark, or repair a package, packaging component, or".

(c) FORM AND CONTENT OF FILINGS.—Section 5108(b)(1)(C) by striking "the activity," and inserting "any of the activities,".

(d) FILING.—Section 5108(c) is amended to read as follows:

"(c) FILING.—Each person required to file a registration statement under subsection (a) of this section shall file the statement in accordance with regulations prescribed by the Secretary.".

(e) FEES.—Section 5108(g)(1) is amended by striking "may establish," and inserting "shall establish,".

(f) RELATIONSHIP TO OTHER LAWS.—Section 5108(i)(2)(B) is amended by inserting "an Indian tribe," after "subdivision of a State,".

(g) REGISTRATION AND ANNUAL FEES.—

(1) REDUCTION IN CAP.—Section 5108(g)(2)(A) is amended by striking "$5,000" and inserting "$2,000".

(2) RULEMAKING.—Any rule, regulation, or order issued by the Secretary of Transportation under which the assessment, payment, or collection of fees under section 5108(g) of title 49, United States Code, was suspended or terminated before the date of enactment of this Act is declared null and void effective 30 days after such date of enactment. Beginning on the 31st day after such date of enactment, the fee schedule established by the Secretary and set forth at 65 Federal Register 7297 (as modified by the rule set forth at 67 Federal Register 58343) shall take effect and apply until such time as it may be modified by a rulemaking proceeding.

(3) PLANNING AND TRAINING GRANTS.—Notwithstanding any other provision of law to the contrary, including any limitation on the amount of grants authorized by section 5116 of title 49, United States Code, not contained in that section, the Secretary shall make grants under that section from the account established under section 5116(i) to reduce the balance in that account over the 6 fiscal year period beginning with fiscal year 2004, but in no fiscal year shall the grants distributed exceed the level authorized by section 5116 of title 49, United States Code.

SEC. 4429. SHIPPING PAPERS AND DISCLOSURE.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5110(a) is amended by striking "of Transportation".

(b) DISCLOSURE CONSIDERATIONS AND REQUIREMENTS.—Section 5110 is amended—

(1) by striking "under subsection (b) of this section," in subsection (a) and inserting "in regulations,";

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) RETENTION OF PAPERS.—The first sentence of section 5110(d), as redesignated by subsection (b)(3) of this section, is amended to read as follows: "The person who provides the shipping paper, and the carrier required to keep it, under this section shall retain the paper, or an electronic format of it, for a period of 3 years after the date the shipping paper is provided to the carrier, with the paper and format to be accessible through their respective principal places of business.".

SEC. 4430. RAIL TANK CARS.

(a) REPEAL OF REQUIREMENTS.—Section 5111 is repealed.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5111.

SEC. 4431. HIGHWAY ROUTING OF HAZARDOUS MATERIAL.

The second sentence of section 5112(a)(1) is amended by striking "However, the Secretary of Transportation" and inserting "The Secretary".

SEC. 4432. UNSATISFACTORY SAFETY RATINGS.

(a) IN GENERAL.—The text of section 5113 is amended to read as follows:

“A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124 of this title.”.

(b) CONFORMING AMENDMENTS.—The first subsection (c) of section 31144 is amended—

(1) by striking “sections 521(b)(5)(A) and 5113” in paragraph (1) and inserting “section 521(b)(5)(A) of this title”; and

(2) by adding at the end of paragraph (3) “A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51 of this title, and shall be subject to the penalties in sections 5123 and 5124 of this title.”.

SEC. 4433. AIR TRANSPORTATION OF IONIZING RADIATION MATERIAL.

Section 5114(b) is amended by striking “of Transportation”.

SEC. 4434. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

(a) IN GENERAL.—Section 5115(a) is amended to read as follows:

“(a) IN GENERAL.—In coordination with the Director of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary shall maintain a current curriculum of lists of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material.”.

(b) REQUIREMENTS.—Section 5115(b) is amended—

(1) by striking “developed” in the matter preceding paragraph (1) and inserting “maintained”; and

(2) by striking “under other United States Government grant programs” in paragraph (1)(C) and all that follows and inserting “with Federal assistance; and”.

(c) TRAINING ON COMPLIANCE WITH LEGAL REQUIREMENTS.—Section 5115(c)(3) is amended by striking “Association.” and inserting “Association or by any other voluntary organization establishing consensus-based standards that the Secretary considers appropriate.”.

(d) DISTRIBUTION AND PUBLICATION.—Section 5115(d) is amended—

(1) by striking “national response team—” and inserting “National Response Team—”; and

(2) by striking “publish a list” in paragraph (2) and all that follows and inserting “publish and distribute the list of courses maintained under this section, and of any programs utilizing such courses.”.

SEC. 4435. PLANNING AND TRAINING GRANTS; EMERGENCY PREPAREDNESS FUND.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5116 is amended by striking “of Transportation” each place it appears in subsections (a), (b), (c), (d), (g), and (i).

(b) GOVERNMENT SHARE OF COSTS.—Section 5116(e) is amended by striking the second sentence.

(c) MONITORING AND TECHNICAL ASSISTANCE.—Section 5116(f) is amended by striking “national response team” and inserting “National Response Team”.

(d) DELEGATION OF AUTHORITY.—Section 5116(g) is amended by striking “Government grant programs” and inserting “Federal financial assistance programs”.

(e) EMERGENCY PREPAREDNESS FUND.—

(1) NAME OF FUND.—Section 5116(i) is amended by inserting after “an account” the following: “(to be known as the ‘Emergency Preparedness Fund’)”.

(2) PUBLICATION OF EMERGENCY RESPONSE GUIDE.—Section 5116(i) is further amended—

(A) by striking “collects under section 5108(g)(2)(A) of this title and”;

(B) by striking “and” after the semicolon in paragraph (2);

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) to publish and distribute an emergency response guide; and”.

(3) CONFORMING AMENDMENT.—Section 5108(g)(2)(C) is amended by striking “the account the Secretary of the Treasury establishes” and inserting “the Emergency Response Fund established”.

(f) REPORTS.—Section 5116(k) is amended—

(1) by striking the first sentence and inserting “The Secretary shall make available to the public annually information on the allocation and uses of planning grants under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107 of this title.”; and

(2) by striking “Such report” in the second sentence and inserting “The information”.

SEC. 4436. SPECIAL PERMITS AND EXCLUSIONS.

(a) SPECIAL PERMITS AND EXCLUSIONS.—

(1) IN GENERAL.—Section 5117(a)(1) is amended by striking “the Secretary of Transportation may issue” and all that follows through “in a way” and inserting “the Secretary may issue, modify, or terminate a special permit authorizing variances from this chapter, or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title, to a person performing a function regulated by the Secretary under section 5103(b)(1) of this title in a way”.

(2) DURATION.—Section 5117(a)(2) is amended to read as follows:

“(2) A special permit under this subsection—

“(A) shall be effective when first issued for not more than 2 years; and

“(B) may be renewed for successive periods of not more than 4 years each.”.

(b) REFERENCES TO SPECIAL PERMITS.—Section 5117 is further amended—

(1) by striking “an exemption” each place it appears and inserting “a special permit”; and

(2) by striking “the exemption” each place it appears and inserting “the special permit”.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of section 5117 is amended to read as follows:

“§ 5117. Special permits and exclusions”

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

“5117. Special permits and exclusions.”.

(d) REPEAL OF SECTION 5118.—

(1) Section 5118 is repealed.

(2) The chapter analysis for chapter 51 is amended by striking the item relating to section 5118 and inserting the following:

“5118. Repealed”

SEC. 4437. UNIFORM FORMS AND PROCEDURES.

The text of section 5119 is amended to read as follows:

“(a) IN GENERAL.—The Secretary may prescribe regulations to establish uniform forms and regulations for States on the following:

“(1) To register and issue permits to persons that transport or cause to be transported hazardous material by motor vehicles in a State.

“(2) To permit the transportation of hazardous material in a State.

“(b) UNIFORMITY IN FORMS AND PROCEDURES.—In prescribing regulations under subsection (a) of this section, the Secretary shall develop procedures to eliminate discrepancies among the States in carrying out the activities covered by the regulations.

“(c) LIMITATION.—The regulations prescribed under subsection (a) of this section may not define or limit the amount of any fees imposed or collected by a State for any activities covered by the regulations.

“(d) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, the regulations prescribed under subsection (a) of this section shall take effect 1 year after the date on which prescribed.

“(2) EXTENSION.—The Secretary may extend the 1-year period in subsection (a) for an additional year for good cause.

“(e) STATE REGULATIONS.—After the regulations prescribed under subsection (a) of this section take effect under subsection (d) of this section, a State may establish, maintain, or enforce a requirement relating to the same subject matter only if the requirement is consistent with applicable requirements with respect to such activity in the regulations.

“(f) INTERIM STATE PROGRAMS.—Pending the prescription of regulations under subsection (a) of this section, States may participate in the program of uniform forms and procedures recommended by the Alliance for Uniform Hazmat Transportation Procedures.”.

SEC. 4438. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

Section 5120 is amended by striking “of Transportation” each place it appears in subsections (a), (b), and (c)(1).

SEC. 4439. HAZARDOUS MATERIALS TRANSPORTATION SAFETY AND SECURITY.

The text of section 5121 is amended to read as follows:

“(a) GENERAL AUTHORITY.—

“(1) To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities.

“(2) Except as provided in subsections (c) and (d) of this section, the Secretary shall provide notice and an opportunity for a hearing before issuing an order directing compliance with this chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued under this chapter.

“(b) RECORDS, REPORTS, PROPERTY, AND INFORMATION.—A person subject to this chapter shall—

“(1) maintain records, make reports, and provide property and information that the Secretary by regulation or order requires; and

“(2) make the records, reports, property, and information available for inspection when the Secretary undertakes an inspection or investigation.

“(c) INSPECTIONS AND INVESTIGATIONS.—

“(1) A designated officer or employee of the Secretary may—

"(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property relating to a function described in section 5103(b)(1) of this title;

"(B) except for packaging immediately adjacent to the hazardous material contents, gain access to, open, and examine a package offered for or in transportation when the officer or employees has an objectively reasonable and articulable belief that the package may contain hazardous material;

"(C) remove from transportation a package or related packages in a shipment offered for or in transportation for which—

"(i) such officer or employee has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

"(ii) such officer or employee contemporaneously documents such belief in accordance with procedures set forth in regulations prescribed under subsection (e) of this section;

"(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for a package or packages to ascertain the nature and hazards of the contents of the package or packages;

"(E) as necessary under terms and conditions prescribed by the Secretary, order the offeror, carrier, or other person responsible for a package or packages to have the package or packages transported to an appropriate facility, opened, examined, and analyzed; and

"(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in activities carried out under this paragraph.

"(2) An officer or employee acting under the authority of the Secretary under this subsection shall display proper credentials when requested.

"(3) In instances when, as a result of an inspection or investigation under this subsection, an imminent hazards is not found to exist, the Secretary shall, in accordance with procedures set forth in regulations prescribed under subsection (e) of this section, assist the safe resumption of transportation of the package, packages, or transport unit concerned.

"(d) EMERGENCY ORDERS.—

"(1) If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) The action of the Secretary under paragraph (1) of this subsection shall be in a written emergency order that—

"(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

"(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

"(C) describe the standards and procedures for obtaining relief from the order.

"(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the issuance of the order for the action.

"(4) If a petition for review of an action is filed under paragraph (3) of this subsection and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

"(5) In this subsection, the term 'out-of-service order' means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

"(e) REGULATIONS.—The Secretary shall prescribe in accordance with section 553 of title 5 regulations to carry out the authority in subsections (c) and (d) of this section.

"(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—

"(1) The Secretary shall—

"(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk relating to the transportation of hazardous material and material alleged to be hazardous;

"(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, and other interested individuals, and officers and employees of the United States Government and State and local governments on meeting an emergency relating to the transportation of hazardous material; and

"(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

"(2) Paragraph (1) of this subsection shall not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

"(g) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

"(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;

"(2) to conduct research, development, demonstration, risk assessment and emergency response planning and training activities; or

"(3) to otherwise carry out this chapter.

"(h) REPORTS.—

"(1) The Secretary shall, once every 2 years, submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a comprehensive report on the transportation of hazardous material during the preceding 2 calendar years. Each report shall include, for the period covered by such report—

"(A) a statistical compilation of the accidents, incidents, and casualties related to the transportation of hazardous material during such period;

"(B) a list and summary of applicable Government regulations, criteria, orders, and special permits;

"(C) a summary of the basis for each special permit issued;

"(D) an evaluation of the effectiveness of enforcement activities relating to the transportation of hazardous material during such period, and of the degree of voluntary compliance with regulations;

"(E) a summary of outstanding problems in carrying out this chapter, set forth in order of priority; and

"(F) any recommendations for legislative or administrative action that the Secretary considers appropriate.

"(2) Before December 31, 2005, and every 3 years thereafter, the Secretary, through the Bureau of Transportation Statistics and in consultation with other Federal departments and agencies, shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the transportation of hazardous material in all modes of transportation during the preceding 3 calendar years. Each report shall include, for the period covered by such report—

"(A) a summary of the hazardous material shipments, deliveries, and movements during such period, set forth by hazardous materials type, by tonnage and ton-miles, and by mode, both domestically and across United States borders; and

"(B) a summary of shipment estimates during such period as a proxy for risk.

"(i) SECURITY SENSITIVE INFORMATION.—

"(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the Secretary may disclose such information only—

"(A) to the owner, custodian, offeror, or carrier of such hazardous material;

"(B) to an officer, employee, or agent of the United States Government, or a State or local government, including volunteer fire departments, concerned with carrying out transportation safety laws, protecting hazardous material in the course of transportation in commerce, protecting public safety or national security, or enforcing Federal law designed to protect public health or the environment; or

"(C) in an administrative or judicial proceeding brought under this chapter, under other Federal law intended to protect public health or the environment, or under other Federal law intended to address terrorist actions or threats of terrorist actions.

"(2) The Secretary may make determinations under paragraph (1) of this subsection with respect categories of information in accordance with regulations prescribed by the Secretary.

"(3) A release of information pursuant to a determination under paragraph (1) of this subsection shall not be treated as a release of such information to the public for purposes of section 552 of title 5.".

SEC. 4440. ENFORCEMENT.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5122(a) is amended by striking "of Transportation".

(b) GENERAL.—Section 5122(a) is further amended—

(1) by striking "chapter or a regulation prescribed or order"in the first sentence and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking the second sentence and inserting "In an action under this subsection,

the court may award appropriate relief, including a temporary or permanent injunction, civil penalties under section 5123 of this title, and punitive damages.".

(c) Imminent Hazards.—Section 5122(b)(1)(B) is amended by striking "ameliorate" and inserting "mitigate".

SEC. 4441. CIVIL PENALTIES.

(a) Reference to Secretary of Transportation.—Section 5123(b) is amended by striking "of Transportation".

(b) Penalty.—Section 5123(a)(1) is amended—

(1) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking "$25,000" and inserting "$100,000".

(c) Hearing Requirement.—Section 5123(b) is amended by striking "chapter or a regulation prescribed" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued".

(d) Civil Actions To Collect.—Section 5123(d) is amended by striking "section." and inserting "section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.".

(e) Effective Date.—(1) The amendments made by subsections (b) and (c) of this section shall take effect on the date of the enactment of this Act, and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

(2) The amendment made by subsection (d) of this section shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), which violations occur on or after the date of the enactment of this Act.

SEC. 4442. CRIMINAL PENALTIES.

(a) In General.—Section 5124 is amended—

(1) by inserting "(a) In General.—" before "A person"; and

(2) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval".

(b) Additional Matters.—That section is further amended by adding at the end the following:

"(b) Aggravated Violations.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter, who thereby causes the release of hazardous material shall be fined under title 18, imprisoned for not more than 20 years, or both.

"(c) Separate Violations.—A separate violation occurs for each day the violation, committed by a person who transports or causes to be transported hazardous material, continues.".

SEC. 4443. PREEMPTION.

(a) Reference to Secretary of Transportation.—Section 5125(b)(2) is amended by striking "of Transportation".

(b) Purposes.—Section 5125 is amended—

(1) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by inserting before subsection (b), as so redesignated, the following:

"(a) Purposes.—The Secretary shall exercise the authority in this section—

"(1) to achieve uniform regulation of the transportation of hazardous material;

"(2) to eliminate rules that are inconsistent with the regulations prescribed under this chapter; and

"(3) to otherwise promote the safe and efficient movement of hazardous material in commerce.";

(3) by striking subsection (g), as redesignated; and

(4) by redesignating subsection (h), as redesignated, as subsection (g).

(c) General Preemption.—Section 5125(b), as redesignated by subsection (b)(1) of this section, is further amended by striking "General.—Except as provided in subsection (b), (c), and (e)" and inserting "Preemption Generally.—Except as provided in subsections (c), (d), and (f)".

(d) Substantive Differences.—Section 5125(c), as so redesignated, is further amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking "subsection (c)" and inserting "subsection (d)";

(2) by striking subparagraph (E) of paragraph (1) and inserting the following:

"(E) the manufacturing, designing, inspecting, testing, reconditioning, or repairing of a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce."; and

(3) by striking "prescribes after November 16, 1990. However, the" in paragraph (2) and inserting "prescribes. The".

(e) Decisions on Preemption.—Section 5125(e), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." in the first sentence and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(f) Waiver of Preemption.—Section 5125(f), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(g) Emergency Waiver of Preemption; Additional Matters.—Section 5125 is further amended—

(1) by redesignating subsection (g), as redesignated by subsection (b)(4) of this section, as subsection (j); and

(2) by inserting after subsection (f), as redesignated by subsection (b)(1) of this section, the following:

"(g) Emergency Waiver of Preemption.—

"(1) The Secretary may, upon a finding of good cause, waive the preemption of a requirement of a State, political subdivision of a State, or Indian tribe under this section without prior notice or an opportunity for public comment thereon.

"(2) For purposes of paragraph (1) of this subsection, good cause exists when—

"(A) there is a potential threat that hazardous material being transported in commerce may be used in an attack on people or property; and

"(B) notice and an opportunity for public comment thereon are impracticable or contrary to the public interest.

"(3)(A) A waiver of preemption under paragraph (1) of this subsection shall be in effect for a period specified by the Secretary, but not more than 6 months.

"(B) If the Secretary determines before the expiration of a waiver of preemption under subparagraph (A) of this paragraph that the potential threat providing the basis for the waiver continues to exist, the Secretary may, after providing notice and an opportunity for public comment thereon, extend the duration of the waiver for such period after the expiration of the waiver under that subparagraph as the Secretary considers appropriate.

"(4) An action of the Secretary under paragraph (1) or (3) of this subsection shall be in writing and shall set forth the standards and procedures for seeking reconsideration of the action.

"(5) After taking action under paragraph (1) or (3) of this subsection, the Secretary shall provide for review of the action if a petition for review of the action is filed within 20 calendar days after the date of the action.

"(6) If a petition for review of an action is filed under paragraph (5) of this subsection and review of the action is not completed by the end of the 30-day period beginning on the date the petition is filed, the waiver under this subsection shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the potential threat providing the basis for the waiver continues.

"(h) Application of Each Preemption Standard.—Each standard for preemption in subsection (b), (c)(1), or (d) of this section, and in section 5119(b) of this title, is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

"(i) Non-Federal Enforcement Standards.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.".

SEC. 4444. RELATIONSHIP TO OTHER LAWS.

Section 5126 is amended—

(1) by striking "or causes to be transported hazardous material," in subsection (a) and inserting "hazardous material, or causes hazardous material to be transported,";

(2) by striking "manufactures," and all that follows through "or sells" in subsection (a) and inserting "manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented";

(3) by striking "must" in subsection (a) and inserting "shall";

(4) by striking "manufacturing," in subsection (a) and all that follows through "testing" and inserting "manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing"; and

(5) by striking "39." in subsection (b)(2) and inserting "39, except in the case of an imminent hazard.".

SEC. 4445. JUDICIAL REVIEW.

(a) In General.—Chapter 51 is amended—

(1) by redesignating section 5127 as section 5128; and

(2) by inserting after section 5126 the following:

"§ 5127. Judicial review

"(a) Filing and Venue.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals of the United States for the circuit in which the person or resides or has the principal place of business. The petition shall be filed not more than 60 days after the action of the Secretary becomes final.

"(b) Procedures.—When a petition on a final action is filed under subsection (a) of this section, the clerk of the court shall immediately send a copy of the petition to the

Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued as provided in section 2112 of title 28.

"(c) Authority of Court.—The court in which a petition on a final action is filed under subsection (a) of this section has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5 to affirm or set aside any part of the final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

"(d) Requirement for Prior Objections.—In reviewing a final action under this section, the court may consider an objection to the final action only if—

"(1) the objection was made in the course of a proceeding or review conducted by the Secretary; or

"(2) there was a reasonable ground for not making the objection in the proceeding.".

(b) Clerical Amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review.
"5128. Authorization of appropriations.".

SEC. 4446. AUTHORIZATION OF APPROPRIATIONS.

Section 5128, as redesignated by section 4445 of this title, is amended to read as follows:

"§ 5128. Authorization of appropriations

"(a) General.—In order to carry out this chapter (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116, and 5119 of this title), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2004, not more than $24,981,000.

"(2) For fiscal year 2005, not more than $27,000,000.

"(3) For fiscal year 2006, not more than $29,000,000.

"(4) For each of fiscal years 2007 through 2009, not more than $30,000,000.

"(b) Emergency Preparedness Fund.—There shall be available from the Emergency Preparedness Fund under section 5116(i) of this title, amounts as follows:

"(1) To carry out section 5107(e) of this title, $4,000,000 for each of fiscal years 2004 through 2009.

"(2) To carry out section 5115 of this title, $200,000 for each of fiscal years 2004 through 2009.

"(3) To carry out section 5116(a) of this title, $8,000,000 for each of fiscal years 2004 through 2009.

"(4) To carry out section 5116(b) of this title, $13,800,000 for each of fiscal years 2004 through 2009.

"(5) To carry out section 5116(f) of this title, $150,000 for each of fiscal years 2004 through 2009.

"(6) To carry out section 5116(i)(4) of this title, $150,000 for each of fiscal years 2004 through 2009.

"(7) To carry out section 5116(j) of this title, $1,000,000 for each of fiscal years 2004 through 2009.

"(8) To publish and distribute an emergency response guidebook under section 5116(i)(3) of title 49, United States Code, $500,000 for each of fiscal years 2004 through 2009.

"(c) Section 5121 Reports.—There are authorized to be appropriated to the Secretary of Transportation for the use of the Bureau of Transportation Statistics such sums as may be necessary to carry out section 5121(h) of this title.

"(c) Credit to Appropriations.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, political subdivision of a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, political subdivision, Indian tribe, or other authority or entity.

"(d) Availability of Amounts.—Amounts available under subsections (a) and (b) of this section shall remain available until expended.".

SEC. 4447. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.

(a) Title 49 Penalties.—Section 46312 is amended—

(1) by striking "part—" in subsection (a) and inserting "part or chapter 51 of this title—"; and

(2) by inserting "or chapter 51 of this title" in subsection (b) after "under this part".

(b) Title 18 Penalties.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by inserting "5124," before "46312,".

Part 2—Other Matters

SEC. 4461. ADMINISTRATIVE AUTHORITY FOR RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.

Section 112 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) Administrative Authorities.—

"(1) Grants, cooperative agreements, and other transactions.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

"(A) to conduct research into transportation service and infrastructure assurance; and

"(B) to carry out other research activities of the Administration.

"(2) Limitation on disclosure of certain information.—

"(A) Limitation.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, such information may be disclosed only to—

"(i) a person responsible for the security of the transportation service or infrastructure; or

"(ii) a person responsible for protecting public safety; or

"(iii) an officer, employee, or agent of the Federal Government, or a State or local government, who, as determined by the Administrator, has need for such information in the performance of official duties.

"(B) Treatment of release.—The release of information under subparagraph (A) shall not be treated as a release to the public for purposes of section 552 of title 5.".

SEC. 4462. MAILABILITY OF HAZARDOUS MATERIALS.

(a) Nonmailability Generally.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service under section 3018 of this title, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation as hazardous material under section 5103(a) of title 49.".

(b) Mailability.—

(1) In General.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3018. Hazardous material

"(a) In General.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mails.

"(b) Prohibitions.—No person may

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) Civil Penalty.—

"(1) In general.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable to the Postal Service for—

"(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

"(B) the costs of any clean-up associated with such violation; and

"(C) damages.

"(2) Knowing action.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) Knowledge of statute or regulation not element of offense.—Knowledge of the existence of a statutory provision or Postal Service regulation is not an element of an offense under this subsection.

"(4) Separate violations.—

"(A) Violations over time.—A separate violation under this subsection occurs for each day hazardous material, mailed or cause to be mailed in noncompliance with this section, is in the mail.

"(B) Separate items.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) Hearings.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing.

"(e) Penalty Considerations.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 4409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) LIMITATION.—In a civil action under paragraph (1), the validity, amount, and appropriateness of the civil penalty, clean-up costs, and damages covered by the civil action shall not be subject to review.

"(3) COMPROMISE.—The Postal Service may compromise the amount a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

"(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

"(h) DEPOSIT OF AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited into the Postal Service Fund under section 2003 of this title.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(c) CONFORMING AMENDMENT.—Section 2003(b) of title 39, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (7);

(2) by striking "purposes." in paragraph (8) and inserting "purposes; and"; and

(3) by adding at the end the following:

"(9) any amounts collected under section 3018 of this title.".

SEC. 4463. CRIMINAL MATTERS.

Section 845(a)(1) of title 18, United States Code, is amended by striking "which are regulated" and all that follows and inserting "that is subject to the authority of the Departments of Transportation and Homeland Security;".

SEC. 4464. CARGO INSPECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation may establish a program of random inspections of cargo at points of entry into the United States for the purpose of determining the extent to which undeclared hazardous material is being offered for transportation in commerce through such points of entry.

(b) INSPECTIONS.—Under the program under subsection (a)—

(1) an officer of the Department of Transportation who is not located at a point of entry into the United States may select at random cargo shipments at points of entry into the United States for inspection; and

(2) an officer or employee of the Department may open and inspect each cargo shipment so selected for the purpose described in subsection (a).

(c) COORDINATION.—The Secretary of Transportation shall coordinate any inspections under the program under subsection (a) with the Secretary of Homeland Security.

(d) DISPOSITION OF HAZARDOUS MATERIALS.—The Secretary of Transportation shall provide for the appropriate handling and disposition of any hazardous material discovered pursuant to inspections under the program under subsection (a).

SEC. 4465. INFORMATION ON HAZMAT REGISTRATIONS.

The Administrator of the Department of Transportation's Research and Special Programs Administration shall—

(1) transmit current hazardous material registrant information to the Federal Motor Carrier Safety Administration to cross reference the registrant's Federal motor carrier registration number; and

(2) notify the Federal Motor Carrier Safety Administration immediately, and provide a registrant's United States Department of Transportation identification number to the Administration, whenever a new registrant registers to transport hazardous materials as a motor carrier.

SEC. 4466. REPORT ON APPLYING HAZARDOUS MATERIALS REGULATIONS TO PERSONS WHO REJECT HAZARDOUS MATERIALS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the costs and benefits of subjecting persons who reject hazardous material for transportation in commerce to the hazardous materials laws and regulations. In completing this assessment, the Secretary shall—

(1) estimate the number of affected employers and employees;

(2) determine what actions would be required by them to comply with such laws and regulations; and

(3) consider whether and to what extent the application of Federal hazardous materials laws and regulations should be limited to—

(A) particular modes of transportation;

(B) certain categories of employees; or

(C) certain classes or categories of hazardous materials.

PART 3—SANITARY FOOD TRANSPORTATION

SEC. 4481. SHORT TITLE.

This part may be cited as the "Sanitary Food Transportation Act of 2004".

SEC. 4482. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(i) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—If the food is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.".

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 416. SANITARY TRANSPORTATION PRACTICES.

"(a) DEFINITIONS.—In this section:

"(1) BULK VEHICLE.—The term 'bulk vehicle' includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

"(2) TRANSPORTATION.—The term 'transportation' means any movement in commerce by motor vehicle or rail vehicle.

"(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated.

"(c) CONTENTS.—The regulations shall—

"(1) prescribe such practices as the Secretary determines to be appropriate relating to—

"(A) sanitation;

"(B) packaging, isolation, and other protective measures;

"(C) limitations on the use of vehicles;

"(D) information to be disclosed—

"(i) to a carrier by a person arranging for the transport of food; and

"(ii) to a manufacturer or other person that—

"(I) arranges for the transportation of food by a carrier; or

"(II) furnishes a tank vehicle or bulk vehicle for the transportation of food; and

"(E) recordkeeping; and

"(2) include—

"(A) a list of nonfood products that the Secretary determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and

"(B) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle.

"(d) WAIVERS.—

"(1) IN GENERAL.—The Secretary may waive any requirement under this section, with respect to any class of persons, vehicles, food, or nonfood products, if the Secretary determines that the waiver—

"(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

"(B) will not be contrary to the public interest.

"(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

"(e) PREEMPTION.—

"(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning transportation of food that is not identical to an authority or requirement under this section.

"(2) APPLICABILITY.—This subsection applies to transportation that occurs on or after the effective date of the regulations promulgated under subsection (b).

"(f) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.".

(c) INSPECTION OF TRANSPORTATION RECORDS.—

(1) REQUIREMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(A) by striking the section heading and all that follows through "For the purpose" and inserting the following:

"SEC. 703. RECORDS.

"(a) IN GENERAL.—For the purpose"; and

(B) by adding at the end the following:

"(b) FOOD TRANSPORTATION RECORDS.—A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 416(c)(1)(E).".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 703 of the Federal Food, Drug, and Cosmetic Act (as designated by paragraph (1)(A)) is amended by striking "carriers," and inserting "carriers, except as provided in subsection (b)".

(d) PROHIBITED ACTS.—

(1) RECORDS INSPECTION.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by inserting "416," before "504," each place it appears.

(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—The failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416.".

SEC. 4483. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57 of title 49, United States Code, is amended to read as follows:

"CHAPTER 57—SANITARY FOOD TRANSPORTATION

"Sec.

"5701. Food transportation safety inspections.

"§ 5701. Food transportation safety inspections

"(a) INSPECTION PROCEDURES.—

"(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall—

"(A) establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

"(i) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act; and

"(ii) meat subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

"(iii) poultry products subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a); and

"(B) train personnel of the Department of Transportation in the appropriate use of the procedures.

"(2) APPLICABILITY.—The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

"(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

"(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.".

SEC. 4484. EFFECTIVE DATE.

This part takes effect on October 1, 2003.

Subtitle E—Recreational Boating Safety Programs

SEC. 4501. SHORT TITLE.

This title may be cited as the "Sport Fishing and Recreational Boating Safety Act".

PART 1—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

SEC. 4521. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).

SEC. 4522. AUTHORIZATION OF APPROPRIATIONS.

Section 3 (16 U.S.C. 777b) is amended—

(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and

(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States, as provided for in section 4(b) of this title.".

SEC. 4523. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (d) and redesignating subsections (e), (f), and (g) as subsections (b), (c), and (d);

(2) by inserting before subsection (b), as redesignated, the following:

"(a) IN GENERAL.—For fiscal years 2004 through 2009, each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed as follows:

"(1) COASTAL WETLANDS.—18 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

"(2) BOATING SAFETY.—18 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) CLEAN VESSEL ACT.—1.9 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(4) BOATING INFRASTRUCTURE.—1.9 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)).

"(5) NATIONAL OUTREACH AND COMMUNICATIONS.—1.9 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this title. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (b) of this section.

"(6) SET-ASIDE FOR EXPENSES FOR ADMINISTRATION OF THIS CHAPTER.—

"(A) IN GENERAL.—2.1 percent to the Secretary of the Interior for expenses for administration incurred in implementation of this title, in accordance with this section, section 9, and section 14 of this title.

"(B) APPORTIONMENT OF UNOBLIGATED FUNDS.—If any portion of the amount made available to the Secretary under subparagraph (A) remains unexpended and unobligated at the end of a fiscal year, that portion shall be apportioned among the States, on the same basis and in the same manner as other amounts made available under this title are apportioned among the States under subsection (b) of this section, within 60 days after the end of that fiscal year. Any amount apportioned among the States under this subparagraph shall be in addition to any amounts otherwise available for apportionment among the States under subsection (b) for the fiscal year.";

(3) by striking "of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder" in subsection (b), as redesignated, and inserting "shall apportion 55.3 percent";

(4) by striking "per centum" each place it appears in subsection (b), as redesignated, and inserting "percent";

(5) by striking "subsections (a), (b)(3)(A), (b)(3)(B), and (c)" in paragraph (1) of subsection (d), as redesignated, and inserting "paragraphs (1), (3), (4), and (5) of subsection (a)"; and

(6) by adding at the end the following:

"(e) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".

SEC. 4524. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking "in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." in subsection (b)(2) and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this title."; and

(2) by striking "subsection (c) or (d) of section 4" in subsection (d)(3) and inserting "paragraph (5) or (6) of section 4(a)".

SEC. 4525. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended by striking "section 4(b)(3)(B)" and inserting "section 4(a)(4)".

SEC. 4526. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking "section 4(d)(1)" in subsection (a) and inserting "section 4(a)(6)"; and

(2) by striking "section 4(d)(1)" in subsection (b)(1) and inserting "section 4(a)(6)".

SEC. 4527. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this title.".

SEC. 4528. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

"(a) IN GENERAL.—

"(1) AMOUNT FOR GRANTS.—For each of fiscal years 2004 through 2009, 0.9 percent of each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.";

(2) by striking "section 4(e)" each place it appears in subsection (a)(2)(B) and inserting "section 4(b)"; and

(3) by striking "Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—" in subsection (e) and inserting "Of amounts made available under section 4(a)(6) for each fiscal year—".

PART 2—CLEAN VESSEL ACT AMENDMENTS

SEC. 4541. GRANT PROGRAM.

Section 5604(c)(2) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

PART 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

SEC. 4561. STATE MATCHING FUNDS REQUIREMENT.

Section 13103(b) of title 46, United States Code, is amended by striking "one-half" and inserting "75 percent".

SEC. 4562. AVAILABILITY OF ALLOCATIONS.

Section 13104(a) of title 46, United States Code, is amended—

(1) by striking "2 years" in paragraph (1) and inserting "3 years"; and

(2) by striking "2-year" in paragraph (2) and inserting "3-year".

SEC. 4563. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106(c) of title 46, United States Code, is amended—

(1) by striking "Secretary of Transportation under paragraphs (2) and (3) of section 4(b)" and inserting "Secretary under subsections (a)(2) and (e) of section 4"; and

(2) by inserting "a minimum of" before "$2,083,333".

SEC. 4564. MAINTENANCE OF EFFORT FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 131 of title 46, United States Code, is amended by inserting after section 13106 the following:

"§ 13107. Maintenance of effort for State recreational boating safety programs

"(a) IN GENERAL.—The amount payable to a State for a fiscal year from an allocation under section 13103 of this chapter shall be reduced if the usual amounts expended by the State for the State's recreational boating safety program, as determined under section 13105 of this chapter, for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year. The reduction shall be proportionate, as a percentage, to the amount by which the level of State expenditures for such previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year.

"(b) REDUCTION OF THRESHHOLD.—If the total amount available for allocation and distribution under this chapter in a fiscal year for all participating State recreational boating safety programs is less than such amount for the preceding fiscal year, the level of State expenditures required under subsection (a) of this section for the preceding fiscal year shall be decreased proportionately.

"(c) WAIVER.—

"(1) IN GENERAL.—Upon the written request of a State, the Secretary may waive the provisions of subsection (a) of this section for 1 fiscal year if the Secretary determines that a reduction in expenditures for the State's recreational boating safety program is attributable to a non- selective reduction in expenditures for the programs of all Executive branch agencies of the State government, or for other reasons if the State demonstrates to the Secretary's satisfaction that such waiver is warranted.

"(2) 30-DAY DECISION.—The Secretary shall approve or deny a request for a waiver not later than 30 days after the date the request is received.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 131 of title 46, United States Code, is amended by inserting after the item relating to section 13106 the following:

"13107. Maintenance of effort for State recreational boating safety programs.".

PART 4—MISCELLANEOUS

SEC. 4581. TECHNICAL CORRECTION TO HOMELAND SECURITY ACT.

Section 1511(e)(2) of the Homeland Security Act of 2002 (Pub. L. 107-296) is amended by striking "and to any funds provided to the Coast Guard from the Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety programs." and inserting "and any funds provided to the Coast Guard from the Highway Trust Fund and transferred into the Sport Fish Restoration Account of the Aquatic Resources Trust Fund for boating safety programs.".

Subtitle F—Rail Transportation

PART 1—AMTRAK

SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.

The text of section 24104 of title 49, United States Code, is amended to read as follows:

"There are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 for the benefit of Amtrak for operating expenses.".

SEC. 4602. ESTABLISHMENT OF CORPORATION.

There is established a nonprofit corporation, to be known as the "Rail Infrastructure Finance Corporation". The Rail Infrastructure Finance Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support rail transportation capital projects through the issuance of rail capital infrastructure bonds. The Corporation shall be subject to the provisions of this title and, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

PART 2—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.

"22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

"(A) directly to the class II or class III railroad; or

"(B) with the concurrence of the class II or class III railroad, to a State or local government.

"(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

"(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

"(iv) ensure that all such grants are awarded on a competitive basis.

"(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

"(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

"(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

"(f) Employee Protection.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) Labor Standards.—

"(1) Prevailing wages.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) Wage rates.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).".

(b) Conforming Amendment.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAIL-
ROAD TRACK .... 22301".

SEC. 4633. REGULATIONS.

(a) Regulations.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) Interim regulations.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) Final regulations.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) Inapplicability of Rulemaking Procedure to Interim Regulations.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) Criteria.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) Requirement for Study.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) Report.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

Part 3—Other Rail Transportation-Related Provisions

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) Establishment of Program.—

(1) Program requirements.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§ 20154. Capital grants for rail line relocation projects

"(a) Establishment of Program.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

"(b) Eligibility.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

"(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

"(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

"(3) meets the costs-benefits requirement set forth in subsection (c).

"(c) Costs-Benefits Requirement.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

"(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

"(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) Considerations for Approval of Grant Applications.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

"(3) Equitable treatment of the various regions of the United States.

"(e) Allocation Requirements.—

"(1) Grants not greater than $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

"(2) Limitation per project.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) Federal Share.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

"(g) State Share.—

"(1) Percentage.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) Forms of contributions.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) In-kind contributions.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) Costs not shared.—

"(A) In general.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(B) Determinations of the Secretary.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) Multistate Agreements To Combine Amounts.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) Regulations.—The Secretary shall prescribe regulations for carrying out this section.

"(j) State Defined.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.".

(2) Clerical amendment.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

SEC. 4662. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act) may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a more cost-effective alternative for efficiently maximizing mobility of individuals and goods than a passenger rail project.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section, the term "qualified project" means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ", or",

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "March 1, 2004" and inserting "October 1, 2009", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2009":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2009":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(A) by striking "2003" and inserting "2007", and

(B) by striking "2004" each place it appears and inserting "2008".

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking "2007" in subparagraph (C)(ii) and inserting "2010", and

(2) by striking "October 1, 2007" in subparagraph (D) and inserting "January 1, 2011".

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.".

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking "paragraph (4)(D) or (5)(B)" and inserting "paragraph (3)(D) or (4)(B)".

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: "The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.".

(3) Section 9504(a)(2) is amended by striking "section 9503(c)(4), section 9503(c)(5)" and inserting "section 9503(c)(3), section 9503(c)(4)".

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking "section 9503(c)(5)" and inserting "section 9503(c)(4)".

(5) Section 9504(e) is amended by striking "section 9503(c)(4)" and inserting "section 9503(c)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 YEARS"" in the heading for paragraph (3) and inserting "4 YEARS"".

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 5101. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 5102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 5211 and 5242 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) GASOLINE.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

"(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4), as amended by section 5101 of this Act, is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 5103. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and "(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (1) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.
"Subpart B. Special provisions applicable to fuels tax.".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

"(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

"(i) $395,000,000 in fiscal year 2005,
"(ii) $425,000,000 in fiscal year 2006,
"(iii) $429,000,000 in fiscal year 2007,
"(iv) $432,000,000 in fiscal year 2008, and
"(v) $435,000,000 in fiscal year 2009.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) In General.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) No Administrative Appeal for Third and Subsequent Violations.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) Effective Date.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) In General.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) Conforming Amendment.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) Refunds for use of diesel fuel in certain intercity buses.—

"(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) In General.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) Conforming Amendments.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking "ENTRY.—The penalty" and inserting: "ENTRY.—

"(A) Forfeiture.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) Assessable penalty.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) In General.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) Civil Penalty for Carrying Taxable Fuels by Nonregistered Pipelines or Vessels.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) Imposition of Penalty.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) Multiple violations.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) Publication of Registered Persons.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) In General.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) In general.—Every", and

(2) by adding at the end the following new paragraph:

"(2) Display of registration.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) Civil Penalty for Failure to Display Registration.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) In General.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) In general.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) Liquid sold as diesel fuel.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) Conforming Amendments.—

(1) Section 40A(b)(1)(B), as amended by section 5103 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—

(1) Refunds.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) Registered vendors permitted to administer certain claims for refund of diesel fuel and kerosene sold to farmers.—

"(A) In general.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) Payment to ultimate vendor.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Filing of claims.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) Special rule for vendor refunds with respect to farmers.—

"(A) In general.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) Conforming amendments.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) In general.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "farmers and".

(b) Effective Date.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) In General.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) Registered ultimate vendor to administer credits and refunds of gasoline tax.—

"(A) In general.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) Timing of claims.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) Credit Card Purchases of Diesel Fuel or Kerosene by State and Local Governments.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) In General.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) In General.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) Two-Party Exchange.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) No Proration of Tax Unless Vehicle Is Destroyed or Stolen.—

(1) In general.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) Proration of Tax Where Vehicle Sold, Destroyed, or Stolen.—

"(1) In general.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) Destroyed.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) Conforming amendments.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) Display of Tax Certificate.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) Display of tax certificate.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) Electronic Filing.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Electronic Filing.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) Repeal of Reduction in Tax for Certain Trucks.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) In General.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,
then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) OFF-HIGHWAY VEHICLES.—

"(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.".

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.".

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.".

(b) FUEL USED ON INLAND WATERWAYS.

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat

fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes shall be transferred", and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4), as amended by section 5102 of this Act, is amended—

(i) by adding "or" at the end of subparagraph (B),

(ii) by striking the comma at the end of subparagraph (C) and inserting a period, and

(iii) by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "Account in the Aquatic Resources".

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund".

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking "Account in the Aquatic Resources" in subparagraph (A), and

(ii) by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund" in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "Trust Fund", and

(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "AQUATIC RESOURCES" in the heading,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sports Fish Restoration", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund".

(D) Section 9504 is amended by striking "aquatic resources" in the heading and inserting "sport fish restoration".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration".

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end the following new paragraph:

"(5) an LED display.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting "or a portable aerated bait container" after "fish".

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking "ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH" and inserting "CERTAIN SPORT FISHING EQUIPMENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

.(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "and rate of tax" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER. The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers.".

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)".

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.".

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.

"Sec. 5733. Provisions relating to liability for occupational taxes.

"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking "January 1, 2004" and inserting "October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) ARROWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "ARROWS.—" in the heading and inserting "ARROW COMPONENTS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and",

and by adding at the end the following new paragraph:

"(8) for purposes of chapter 35 (relating to taxes on wagering).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler—

"(i) the number of cases of bottled distilled spirits—

"(I) which were bottled in the United States, and

"(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5103 of this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5103 of this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.".

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the commercial power takeoff vehicles credit under section 45G(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

"(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Commercial power takeoff vehicles credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

"(1) purchased by the taxpayer, and

"(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

"(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

"(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

"(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

"(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

"(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

“(19) the auxiliary power unit credit under section 45H(a).”.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

“(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.”.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

“Sec. 45H. Auxiliary power unit credit.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the “Commission”).

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the “Commission”). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) Obtaining Data.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) Report.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) Termination.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) In General.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) Audits.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) Enforcement Activities.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) In General.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) Study of Funding Mechanisms.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) Study on Field Test of On-Board Computer Assessment of Highway Use Taxes.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) Study.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) Report.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) Study.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) Regional Strategic Transportation Plan.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) Elements of Study and Plan.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) Authorization of Appropriations.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) In General.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) Inflation Adjustment Conforming Amendments.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

PART II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

SEC. 5611. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5612. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 5613. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

“(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

“(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

“(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term ‘noneconomic substance transaction understatement’ has the meaning given such term by section 6662B(c).

“(5) Cross reference.—

“For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).”.

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

“The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.”.

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

“(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

“(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

“(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

“(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

“(B) there is or was substantial authority for such treatment, and

“(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

“(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

“(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

“(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

“(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

“(B) Certain opinions may not be relied upon.—

“(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

“(I) the tax advisor is described in clause (ii), or

“(II) the opinion is described in clause (iii).

“(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

“(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

“(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

“(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

“(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

“(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

“(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

“(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

“(III) does not identify and consider all relevant facts, or

“(IV) fails to meet any other requirement as the Secretary may prescribe.”.

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting “for Underpayments” after “Exception”.

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 1274(b)(3)(C)”.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking “(as defined in section 6662(d)(2)(C)(iii))” in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

“(C) Tax shelter.—For purposes of subparagraph (B), the term ‘tax shelter’ means—

“(i) a partnership or other entity,

“(ii) any investment plan or arrangement, or

“(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.”.

(3) Section 6662(c)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking “this part” and inserting “section 6662 or 6663”.

(5) Subsection (b) of section 7525 is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 1274(b)(3)(C)”.

(6)(A) The heading for section 6662 is amended to read as follows:

“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.”.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

“Sec. 6662. Imposition of accuracy-related penalty on underpayments.

“Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.”.

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5614. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

“(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

“(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting ‘20 percent’ for ‘40 percent’ with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

“(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

“(1) In general.—The term ‘noneconomic substance transaction understatement’ means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

“(2) Noneconomic substance transaction.—The term ‘noneconomic substance transaction’ means any transaction if—

“(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

“(B) the transaction fails to meet the requirements of any similar rule of law.

“(d) Rules Applicable To Compromise of Penalty.—

“(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

“(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

“(f) Cross References.—

“(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

“(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).”.

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5615. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5616. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 5617. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) Required Disclosure Not Subject to Claim of Confidentiality.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) No claim of confidentiality against disclosure.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 5618. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Certain Rules To Apply.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 5619. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 5620. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified
conduct related to tax shelters
and reportable transactions.".

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 5621. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 5622. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 5623. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 5624. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, Etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 5625. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5626. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 5627. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 5628. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART III—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 5631. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) Result Not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502 20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 5632. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL CORPORATE INCOME TAX RETURN.

(a) In General.—The Federal tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer has established processes and procedures that ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) Effective Date.—This section shall apply to Federal tax returns filed after the date of the enactment of this Act.

SEC. 5633. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) In General.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) Fines, Penalties, and Other Amounts.—

"(1) In general.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) Exception for amounts constituting restitution.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) Exception for amounts paid or incurred as the result of certain court orders.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) Certain nongovernmental regulatory entities.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 5634. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) Disallowance of Deduction.—

(1) In general.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) Punitive damages.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) Conforming amendments.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) Treble damages.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "or Punitive Damages" after "Laws".

(b) Inclusion in Income of Punitive Damages Paid by Insurer or Otherwise.—

(1) In general.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) Reporting requirements.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) Section To Apply to Punitive Damages Compensation.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) Conforming amendment.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) Effective Date.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 5635. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) In General.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) In General.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) Increase in Monetary Limitation for Underpayment or Overpayment of Tax Due to Fraud.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) Increase in Penalties.—

(1) Attempt to evade or defeat tax.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) Willful failure to file return, supply information, or pay tax.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) Fraud and false statements.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) Effective Date.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 5636. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) General Rule.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable penalty.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Voluntary offshore compliance initiative.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) Participation.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART IV—ENRON-RELATED TAX SHELTER PROVISIONS

SEC. 5641. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) Limitations on Built-In Losses.—

"(1) Limitation on importation of built-in losses.—

"(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) Property described.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.".

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 5642. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

"(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 5643. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 11, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 5644. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 5645. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 5646. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

PART V—PROVISIONS TO DISCOURAGE EXPATRIATION

SEC. 5651. TAX TREATMENT OF INVERTED CORPORATE ENTITIES

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (B) APPLIES.—

"(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 5652. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION. A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC. In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) Special Liens for Deferred Tax Amounts.—

"(1) Imposition of lien.—

"(A) In general.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) Deferred amount.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) Period of lien.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) Certain rules apply.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Inclusion in Income of Gifts and Bequests Received by United States Citizens and Residents From Expatriates.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) Gifts and Inheritances From Covered Expatriates.—

"(1) In general.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) Exceptions for transfers otherwise subject to estate or gift tax.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) Termination of united states citizenship.—

"(A) In general.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) Dual citizens.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) Ineligibility for Visa or Admission to United States.—

(1) In general.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) Former citizens not in compliance with expatriation revenue provisions.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) Availability of information.—

(A) In general.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) Disclosure to deny visa or admission to certain expatriates.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) Safeguards.—

(i) Technical amendments.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) Conforming amendments.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) Technical amendments.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) Application.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 2, 2004.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) Application.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 2, 2004.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 2, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) Due date for tentative tax.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 5653. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) In General.—Subtitle D is amended by adding at the end the following new chapter:

"CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) Imposition of Tax.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) Value.—For purposes of subsection (a)—

"(1) In general.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) Date for determining value.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

"(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

"(e) DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

"(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

"(2) INVERTED CORPORATION; INVERSION DATE.—

"(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

"(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) SPECIFIED STOCK COMPENSATION.—

"(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) EXCEPTIONS.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or

"(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 5654. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

PART V—PROVISION TO REPLENISH THE GENERAL FUND

SEC. 5661. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS.

The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2009, and before October 1, 2009, shall be 119 percent of such amount.

TITLE VI—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

SEC. 6101. SENSE OF THE SENATE ON OVERALL FEDERAL BUDGET.

It is the sense of the Senate that—

(1) comprehensive statutory budget enforcement measures, the jurisdiction of which lies with the Senate Budget Committee and Senate Governmental Affairs Committee, should—

(A) be enacted this year; and

(B) address all areas of the Federal budget, including discretionary spending, direct spending, and revenues; and

(2) special allocations for transportation or any other categories of spending should be considered in that context and be consistent with the rest of the Federal budget.

SEC. 6102. DISCRETIONARY SPENDING CATEGORIES.

(a) DEFINITIONS.—

(1) HIGHWAY CATEGORY.—Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)(B)) is amended—

(A) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004"; and

(B) by adding at the end the following:

"(v) 69-8158-0-7-401 (Motor Carrier Safety Grants).

"(vi) 69-8159-0-7-401 (Motor Carrier Safety Operations and Programs).".

(2) MASS TRANSIT CATEGORY.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by striking subparagraph (C) and inserting the following:

"(C) MASS TRANSIT CATEGORY.—The term 'mass transit category' means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that Act:

"(i) 69-1120-0-1-401 (Administrative Expenses).

"(ii) 69-1134-0-1-401 (Capital Investment Grants).

"(iii) 69-8191-0-7-401 (Discretionary Grants).

"(iv) 69-1129-0-1-401 (Formula Grants).

"(v) 69-8303-0-7-401 (Formula Grants and Research).

"(vi) 69-1127-0-1-401 (Interstate Transfer Grants—Transit).

"(vii) 69-1125-0-1-401 (Job Access and Reverse Commute).

"(viii) 69-1122-0-1-401 (Miscellaneous Expired Accounts).

"(ix) 69-1139-0-1-401 (Major Capital Investment Grants).

"(x) 69-1121-0-1-401 (Research, Training and Human Resources).

"(xi) 69-8350-0-7-401 (Trust Fund Share of Expenses).

"(xii) 69-1137-0-1-401 (Transit Planning and Research).

"(xiii) 69-1136-0-1-401 (University Transportation Research).

"(xiv) 69-1128-0-1-401 (Washington Metropolitan Area Transit Authority).".

(b) Highway Funding Revenue Alignment.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

(1) in clause (i)—

(A) by inserting "for each of fiscal years 2006 through 2009" after "submits the budget";

(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to"; and

(C) by striking "provided in clause (ii)(I)(cc)." and inserting the following: "follows:

"(I) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in clause (iii), plus any amount previously calculated under clauses (i)(II) and (ii) for that year.

"(II) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

"(III) OMB shall—

"(aa) take the sum of the amounts calculated under subclauses (I) and (II) and add that amount to the obligation limitation set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the obligation limitation set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the budget year by adding the amount calculated under subclauses (I) and (II).";

(2) by striking clause (ii) and inserting the following:

"(ii) When the President submits the supplementary budget estimates for each of fiscal years 2006 through 2009 under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

"(I) OMB shall take the most recent estimate of highway receipts for the current year (based on OMB's Mid-Session Review) and subtract the estimated level of highway receipts in clause (iii) plus any amount previously calculated and included in the President's Budget under clause (i)(II) for that year.

"(II) OMB shall—

"(aa) take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the amount of obligations set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the budget year by adding the amount calculated under subclause (I)."; and

(3) by adding at the end the following:

"(iii) The estimated level of highway receipts for the purpose of this subparagraph are—

"(I) for fiscal year 2004, $29,945,938,902;

"(II) for fiscal year 2005, $36,294,778,392;

"(III) for fiscal year 2006, $37,766,517,123;

"(IV) for fiscal year 2007, $38,795,061,111;

"(V) for fiscal year 2008, $39,832,795,606; and

"(VI) for fiscal year 2009, $40,964,722,457.

"(iv) In this subparagraph, the term "highway receipts" means the governmental receipts and interest credited to the highway account of the Highway Trust Fund.".

(c) Continuation of Separate Spending Categories.—For the purpose of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)), the discretionary spending limits for the highway category and the mass transit category shall be—

(1) for fiscal year 2004—

(A) $28,876,732,956 for the highway category; and

(B) $6,262,000,000 for the mass transit category;

(2) for fiscal year 2005—

(A) $31,991,246,160 for the highway category; and

(B) $6,903,000,000 for the mass transit category;

(3) for fiscal year 2006—

(A) $35,598,640,776 for the highway category; and

(B) $7,974,000,000 for the mass transit category;

(4) for fiscal year 2007—

(A) $37,871,760,938 for the highway category; and

(B) $8,658,000,000 for the mass transit category;

(5) for fiscal year 2008—

(A) $38,722,907,474 for the highway category; and

(B) $9,222,000,000 for the mass transit category; and

(6) for fiscal year 2009—

(A) $40,537,563,667 for the highway category; and

(B) $9,897,000,000 for the mass transit category.

(d) Additional Adjustments.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking "fiscal years 2000, 2001, 2002, or 2003," and inserting "each of fiscal years 2006, 2007, 2008, and 2009,"; and

(B) in clause (ii), by striking "2002 and 2003" and inserting "2008 and 2009"; and

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking "1999" and inserting "2005";

(ii) by striking "2000 through 2003" and inserting "2006 through 2009"; and

(iii) by striking "section 8103 of the Transportation Equity Act for the 21st Century" and inserting "section 6102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004"; and

(B) in clause (ii), by striking "2000, 2001, 2002, or 2003" and inserting "2006, 2007, 2008, and 2009".

SEC. 6103. LEVEL OF OBLIGATION LIMITATIONS.

(a) Highway Category.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the highway category is—

(1) for fiscal year 2004, $34,651,000,000;

(2) for fiscal year 2005, $38,927,000,000;

(3) for fiscal year 2006, $40,186,000,000;

(4) for fiscal year 2007, $40,229,000,000;

(5) for fiscal year 2008, $40,563,000,000; and

(6) for fiscal year 2009, $45,622,000,000.

(b) Mass Transit Category.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2004, $7,265,877;

(2) for fiscal year 2005, $8,650,000;

(3) for fiscal year 2006, $9,085,123;

(4) for fiscal year 2007, $9,600,000;

(5) for fiscal year 2008, $10,490,000; and

(6) for fiscal year 2009, $11,430,000.

For the purpose of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.

SA 2286. Mr. WARNER (for himself, Mrs. Clinton, Mr. DeWine, and Mrs. Murray) proposed an amendment to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

Beginning on page 118, strike line 20 and all that follows through page 129, line 18, and insert the following:

"(3) Primary safety belt law.—The term 'primary safety belt law' means a law that authorizes a law enforcement officer to issue a citation for the failure of the operator of, or any passenger in, a motor vehicle to wear a safety belt as required by State law, based solely on that failure and without regard to whether there is any other violation of law.

"(4) Safety project under any other section.—

"(A) In general.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) Inclusion.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters; or

"(ii) enforce highway safety laws.

"(5) State highway safety improvement program.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

"(6) State strategic highway safety plan.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) persons responsible for administering section 130 at the State level;

"(vi) representatives conducting Operation Lifesaver;

"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

"(viii) motor vehicle administration agencies; and

"(ix) other major State and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, or local crash data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, public roads;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency; and

"(H) is consistent with the requirements of section 135(f).

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

"(B) produces a program of projects or strategies to reduce identified safety problems;

"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

"(D) submits to the Secretary an annual report that—

"(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

"(ii) contains an assessment of—

"(I) potential remedies to hazardous locations identified;

"(II) estimated costs associated with those remedies; and

"(III) impediments to implementation other than cost associated with those remedies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads;

"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall be—

"(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

"(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

"(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

"(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.

"(j) USE OF FUNDS.—

"(1) PROJECTS UNDER SECTION 402.—For fiscal year 2005 and each fiscal year thereafter, 10 percent of the funds made available to a State under this section shall be obligated for projects under section 402, unless by October 1 of the fiscal year, the State—

"(A) has in effect a primary safety belt law; or

"(B) demonstrates that the safety belt use rate in the State is at least 90 percent.

"(2) WITHHOLDING.—

"(A) IN GENERAL.—For fiscal year 2007, the Secretary shall withhold 2 percent, and for each fiscal year thereafter, the Secretary shall withhold 4 percent, of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) and section 144 if, by October 1 of that fiscal year, the State does not—

"(i) have in effect a primary safety belt law; or

"(ii) demonstrate that the safety belt use rate in the State is at least 90 percent.

"(B) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 90 percent, the apportionment of the State shall be increased by the amount withheld.

"(C) LAPSE.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 90 percent, the amount withheld shall lapse.".

SA 2287. Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1104, after line 25, insert the following:

TITLE __ WARTIME TREATMENT STUDY ACT

SEC. __01. SHORT TITLE.

This title may be cited as the "Wartime Treatment Study Act".

SEC. __02. FINDINGS.

Congress makes the following findings:

(1) During World War II, the United States successfully fought the spread of Nazism and fascism by Germany, Italy, and Japan.

(2) Nazi Germany persecuted and engaged in genocide against Jews and certain other groups. By the end of the war, 6,000,000 Jews had perished at the hands of Nazi Germany. United States Government policies, however, restricted entry to the United States to Jewish and other refugees who sought safety from Nazi persecution.

(3) While we were at war, the United States treated the Japanese American, German American, and Italian American communities as suspect.

(4) The United States Government should conduct an independent review to assess fully and acknowledge these actions. Congress has previously reviewed the United States Government's wartime treatment of Japanese Americans through the Commission on Wartime Relocation and Internment of Civilians. An independent review of the treatment of German Americans and Italian Americans and of Jewish refugees fleeing persecution and genocide has not yet been undertaken.

(5) During World War II, the United States Government branded as "enemy aliens" more than 600,000 Italian-born and 300,000 German-born United States resident aliens and their families and required them to carry Certificates of Identification, limited their travel, and seized their personal property. At that time, these groups were the two largest foreign-born groups in the United States.

(6) During World War II, the United States Government arrested, interned or otherwise detained thousands of European Americans, some remaining in custody for years after cessation of World War II hostilities, and repatriated, exchanged, or deported European Americans, including American-born children, to hostile, war-torn European Axis nations, many to be exchanged for Americans held in those nations.

(7) Pursuant to a policy coordinated by the United States with Latin American countries, many European Latin Americans, including German and Austrian Jews, were captured, shipped to the United States and interned. Many were later expatriated, repatriated or deported to hostile, war-torn European Axis nations during World War II, most to be exchanged for Americans and Latin Americans held in those nations.

(8) Millions of European Americans served in the armed forces and thousands sacrificed their lives in defense of the United States.

(9) The wartime policies of the United States Government were devastating to the Italian Americans and German American communities, individuals and their families. The detrimental effects are still being experienced.

(10) Prior to and during World War II, the United States restricted the entry of Jewish refugees who were fleeing persecution and sought safety in the United States. During the 1930's and 1940's, the quota system, immigration regulations, visa requirements, and the time required to process visa applications affected the number of Jewish refugees, particularly those from Germany and Austria, who could gain admittance to the United States.

(11) Time is of the essence for the establishment of commissions, because of the increasing danger of destruction and loss of relevant documents, the advanced age of potential witnesses and, most importantly, the advanced age of those affected by the United States Government's policies. Many who suffered have already passed away and will never know of this effort.

SEC. __03. DEFINITIONS.

In this title:

(1) DURING WORLD WAR II.—The term "during World War II" refers to the period between September 1, 1939, through December 31, 1948.

(2) EUROPEAN AMERICANS.—

(A) IN GENERAL.—The term "European Americans" refers to United States citizens and permanent resident aliens of European ancestry, including Italian Americans, German Americans, Hungarian Americans, Romanian Americans, and Bulgarian Americans.

(B) ITALIAN AMERICANS.—The term "Italian Americans" refers to United States citizens and permanent resident aliens of Italian ancestry.

(C) GERMAN AMERICANS.—The term "German Americans" refers to United States citizens and permanent resident aliens of German ancestry.

(3) EUROPEAN LATIN AMERICANS.—The term "European Latin Americans" refers to persons of European ancestry, including Italian or German ancestry, residing in a Latin American nation during World War II.

Subtitle A—Commission on Wartime Treatment of European Americans

SEC. __101. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF EUROPEAN AMERICANS.

(a) IN GENERAL.—There is established the Commission on Wartime Treatment of European Americans (referred to in this subtitle as the "European American Commission").

(b) MEMBERSHIP.—The European American Commission shall be composed of 7 members, who shall be appointed not later than 90 days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader.

(3) Two members shall be appointed by the majority leader of the Senate, in consultation with the minority leader.

(c) TERMS.—The term of office for members shall be for the life of the European American Commission. A vacancy in the European American Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) REPRESENTATION.—The European American Commission shall include 2 members representing the interests of Italian Americans and 2 members representing the interests of German Americans.

(e) MEETINGS.—The President shall call the first meeting of the European American Commission not later than 120 days after the date of enactment of this Act.

(f) QUORUM.—Four members of the European American Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The European American Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the European American Commission.

(h) COMPENSATION.—

(1) IN GENERAL.—Members of the European American Commission shall serve without pay.

(2) REIMBURSEMENT OF EXPENSES.—All members of the European American Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 102. DUTIES OF THE EUROPEAN AMERICAN COMMISSION.

(a) IN GENERAL.—It shall be the duty of the European American Commission to review the United States Government's wartime treatment of European Americans and European Latin Americans as provided in subsection (b).

(b) SCOPE OF REVIEW.—The European American Commission's review shall include the following:

(1) A comprehensive review of the facts and circumstances surrounding United States Government actions during World War II that violated the civil liberties of European Americans and European Latin Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21–24), Presidential Proclamations 2526, 2527, 2655, 2662, Executive Orders 9066 and 9095, and any directive of the United States Government pursuant to such law, proclamations, or executive orders respecting the registration, arrest, exclusion, internment, exchange, or deportment of European Americans and European Latin Americans. This review shall include an assessment of the underlying rationale of the United States Government's decision to develop related programs and policies, the information the United States Government received or acquired suggesting the related programs and policies were necessary, the perceived benefit of enacting such programs and policies, and the immediate and long-term impact of such programs and policies on European Americans and European Latin Americans and their communities.

(2) A review of United States Government action with respect to European Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21–24) and Executive Order 9066 during World War II, including registration requirements, travel and property restrictions, establishment of restricted areas, raids, arrests, internment, exclusion, policies relating to the families and property that

excludees and internees were forced to abandon, internee employment by American companies (including a list of such companies and the terms and type of employment), exchange, repatriation, and deportment, and the immediate and long-term effect of such actions, particularly internment, on the lives of those affected. This review shall include a list of all temporary detention and long-term internment facilities.

(3) A brief review of the participation by European Americans in the United States Armed Forces including the participation of European Americans whose families were excluded, interned, repatriated, or exchanged.

(4) A recommendation of appropriate remedies, including how civil liberties can be better protected during war, or an actual, attempted, or threatened invasion or incursion, an assessment of the continued viability of the Alien Enemies Acts (50 U.S.C. 21–24), and public education programs related to the United States Government's wartime treatment of European Americans and European Latin Americans during World War II.

(c) Field Hearings.—The European American Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) Report.—The European American Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 101(e).

SEC. 103. POWERS OF THE EUROPEAN AMERICAN COMMISSION.

(a) In General.—The European American Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this subtitle, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The European American Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) Government Information and Cooperation.—The European American Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the European American Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the European American Commission and furnish all information requested by the European American Commission to the extent permitted by law, including information collected as a result of Public Law 96–317 and Public Law 106–451. For purposes of the Privacy Act (5 U.S.C. 552a(b)(9)), the European American Commission shall be deemed to be a committee of jurisdiction.

SEC. 104. ADMINISTRATIVE PROVISIONS.

The European American Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such subtitle relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such subtitle;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

From funds currently authorized to the Department of Justice, there are authorized to be appropriated not to exceed $500,000 to carry out the purposes of this subtitle.

SEC. 106. SUNSET.

The European American Commission shall terminate 60 days after it submits its report to Congress.

Subtitle B—Commission on Wartime Treatment of Jewish Refugees

SEC. 201. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF JEWISH REFUGEES.

(a) In General.—There is established the Commission on Wartime Treatment of Jewish Refugees (referred to in this subtitle as the "Jewish Refugee Commission").

(b) Membership.—The Jewish Refugee Commission shall be composed of 7 members, who shall be appointed not later than 90 days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader.

(3) Two members shall be appointed by the Majority Leader of the Senate, in consultation with the minority leader.

(c) Terms.—The term of office for members shall be for the life of the Jewish Refugee Commission. A vacancy in the Jewish Refugee Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) Representation.—The Jewish Refugee Commission shall include 2 members representing the interests of Jewish refugees.

(e) Meetings.—The President shall call the first meeting of the Jewish Refugee Commission not later than 120 days after the date of enactment of this Act.

(f) Quorum.—Four members of the Jewish Refugee Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) Chairman.—The Jewish Refugee Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Jewish Refugee Commission.

(h) Compensation.—

(1) In general.—Members of the Jewish Refugee Commission shall serve without pay.

(2) Reimbursement of expenses.—All members of the Jewish Refugee Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 202. DUTIES OF THE JEWISH REFUGEE COMMISSION.

(a) In General.—It shall be the duty of the Jewish Refugee Commission to review the United States Government's refusal to allow Jewish and other refugees fleeing persecution in Europe entry to the United States as provided in subsection (b).

(b) Scope of Review.—The Jewish Refugee Commission's review shall cover the period between January 1, 1933, through December 31, 1945, and shall include, to the greatest extent practicable, the following:

(1) A review of the United States Government's refusal to allow Jewish and other refugees fleeing persecution and genocide entry to the United States, including a review of the underlying rationale of the United States Government's decision to refuse the Jewish and other refugees entry, the information the United States Government received or acquired suggesting such refusal was necessary, the perceived benefit of such refusal, and the impact of such refusal on the refugees.

(2) A review of Federal refugee policy relating to those fleeing persecution or genocide, including recommendations for making it easier for future victims of persecution or genocide to obtain refuge in the United States.

(c) Field Hearings.—The Jewish Refugee Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) Report.—The Jewish Refugee Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 201(e).

SEC. 203. POWERS OF THE JEWISH REFUGEE COMMISSION.

(a) In General.—The Jewish Refugee Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this subtitle, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Jewish Refugee Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) Government Information and Cooperation.—The Jewish Refugee Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the Jewish Refugee Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Jewish Refugee Commission and furnish all information requested by the Jewish Refugee Commission to the extent permitted by law, including information collected as a result of Public Law 96-317 and Public Law 106-451. For purposes of the Privacy Act (5 U.S.C. 552a(b)(9)), the Jewish Refugee Commission shall be deemed to be a committee of jurisdiction.

SEC. ___204. ADMINISTRATIVE PROVISIONS.

The Jewish Refugee Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. ___205. AUTHORIZATION OF APPROPRIATIONS.

From funds currently authorized to the Department of Justice, there are authorized to be appropriated not to exceed $500,000 to carry out the purposes of this subtitle.

SEC. ___206. SUNSET.

The Jewish Refugee Commission shall terminate 60 days after it submits its report to Congress.

SA 2288. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1104, after line 25, add the following:

TITLE V—BUY AMERICAN ACT IMPROVEMENTS

SEC. 5001. SHORT TITLE.

This title may be cited as the "Buy American Improvement Act of 2003".

SEC. 5002. REQUIREMENTS FOR WAIVERS.

(a) IN GENERAL.—Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) IN GENERAL.—Notwithstanding"; and

(2) by adding at the end the following:

"(b) SPECIAL RULES.—The following rules shall apply in carrying out the provisions of subsection (a):

"(1) PUBLIC INTEREST WAIVER.—A determination that it is not in the public interest to enter into a contract in accordance with this Act may not be made after a notice of solicitation of offers for the contract is published in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(2) DOMESTIC BIDDER.—A Federal agency entering into a contract shall give preference to a company submitting an offer on the contract that manufactures in the United States the article, material, or supply for which the offer is solicited, if—

"(A) that company's offer is substantially the same as an offer made by a company that does not manufacture the article, material, or supply in the United States; or

"(B) that company is the only company that manufactures in the United States the article, material, or supply for which the offer is solicited.

"(3) USE OUTSIDE THE UNITED STATES.—

"(A) IN GENERAL.—Subsection (a) shall apply without regard to whether the articles, materials, or supplies to be acquired are for use outside the United States if the articles, materials, or supplies are not needed on an urgent basis or if they are acquired on a regular basis.

"(B) COST ANALYSIS.—In any case where the articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis, before entering into a contract an analysis shall be made of the difference in the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies in the United States (including the cost of shipping) and the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies outside the United States (including the cost of shipping).

"(4) DOMESTIC AVAILABILITY.—The head of a Federal agency may not make a determination under subsection (a) that an article, material, or supply is not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality, unless the head of the agency has conducted a study and, on the basis of such study, determined that—

"(A) domestic production cannot be initiated to meet the procurement needs; and

"(B) a comparable article, material, or supply is not available from a company in the United States.

"(c) REPORTS.—

"(1) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

"(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

"(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

"(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

"(C) A summary of—

"(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

"(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

"(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.".

(b) DEFINITIONS.—Section 1 of the Buy American Act (41 U.S.C. 10c) is amended by striking subsection (c) and inserting the following:

"(c) FEDERAL AGENCY.—The term 'Federal agency' means any executive agency (as defined in section 4(1) of the Federal Procurement Policy Act (41 U.S.C. 403(1))) or any establishment in the legislative or judicial branch of the Government.".

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Buy American Act (41 U.S.C. 10a) is amended by striking "department or independent establishment" and inserting "Federal agency".

(2) Section 3 of such Act (41 U.S.C. 10b) is amended—

(A) by striking "department or independent establishment" in subsection (a), and inserting "Federal agency"; and

(B) by striking "department, bureau, agency, or independent establishment" in subsection (b) and inserting "Federal agency".

(3) Section 633 of the National Military Establishment Appropriations Act, 1950 (41 U.S.C. 10d) is amended by striking "department or independent establishment" and inserting "Federal agency".

SEC. 5003. GAO REPORT AND RECOMMENDATIONS.

(a) REQUIREMENT FOR REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall report to Congress recommendations for determining, for purposes of applying the waiver provision of section 2(a) of the Buy American Act—

(A) unreasonable cost; and

(B) inconsistent with the public interest.

(2) REPORT TO INCLUDE RECOMMENDED DEFINITIONS.—The report shall include recommendations for a statutory definition of unreasonable cost and standards for determining inconsistency with the public interest.

(b) WAIVER PROCEDURES.—The report described in subsection (a) shall also include recommendations for establishing procedures for applying the waiver provisions of the Buy American Act that can be consistently applied.

SEC. 5004. DUAL-USE TECHNOLOGIES.

The head of a Federal agency (as defined in section 1(c) of the Buy American Act (as amended by section 5002) may not enter into a contract, nor permit a subcontract under a contract of the Federal agency, with a foreign entity that involves giving the foreign entity plans, manuals, or other information that would facilitate the manufacture of a dual-use item on the Commerce Control List unless approval for providing such plans, manuals, or information has been obtained in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Export Administration Regulations (15 C.F.R. part 730 et seq.).

SA 2289. Mr. DAYTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 953, between the matter following line 11 and line 12, insert the following:

SEC. 1815. RURAL ROAD SAFETY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 176. Rural road safety program

"(a) FINDINGS.—Congress finds that it is in the vital interest of the Nation that a rural road safety program be established to ensure that the safety of the traveling public is enhanced on rural two-lane highways.

"(b) ESTABLISHMENT.—The Secretary shall establish and implement a rural road safety program in accordance with this section.

"(c) APPORTIONMENTS.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall apportion to each State to carry out this section an amount in the ratio of the percentage of the centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in each State bears to the total centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in all the States.

"(2) ALLOCATION OF APPORTIONED FUNDS.—Within each State, funds for the rural road safety program for each fiscal year shall be allocated among State, county, city, and other levels of government commensurate with each entity's ownership ratio of eligible two-lane road mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials.

"(d) LOCATION OF PROJECTS.—Funds authorized to carry out this section shall be available for expenditure only for activities described in subsection (g).

"(e) OBLIGATION OF FUNDS.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and the same extent as if such funds were apportioned under section 104(b) of title 23, United States Code, except that the Secretary is authorized to waive provisions that the Secretary considers inconsistent with the purposes of this section.

"(f) COST SHARING.—The Federal share of a project under this section shall be 80 percent of the total cost for such project.

"(g) TRANSFERABILITY.—Notwithstanding any other provision of law no portion of a State's apportionment allocated for the rural road safety program may be transferred to any other apportionment of the State for such fiscal year.

"(h) USE OF FUNDS.—A State that receives an apportionment under this section may use funds—

"(1) to improve horizontal and vertical alignment;

"(2) to eliminate wheel lane rutting, increase skid resistance, and smooth roadways;

"(3) to improve sight distances;

"(4) to widen lanes and shoulders;

"(5) to install dedicated turn lanes;

"(6) to install and upgrade guardrails, traffic barriers, crash cushions, protective devices, and rumblestrips;

"(7) to install traffic and safety lights, improve signage and pavement markings; and

"(8) to implement other safety activities designated by the Secretary.

"(i) PROGRAM.—Not later than 180 days after the date of enactment of this Act, each State that receives an apportionment under this section shall conduct and systematically maintain an engineering survey of all two-lane rural roads classified as minor and major collectors and minor arterials—

"(1) to identify dangerous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, pedestrians, impaired, and "older" drivers;

"(2) to assign priorities for the correction of such locations, sections, and elements; and

"(3) establish and implement a schedule of projects for improvement of such roads.

"(j) EVALUATION.—

"(1) IN GENERAL.—Each State shall establish an evaluation process approved by the Secretary to analyze and assess results achieved by safety improvement projects carried out in accordance with the procedures and criteria established by this section.

"(2) PRIORITIES.—Such evaluation process shall develop cost-benefit data for various types of corrections and treatments, which shall be used in setting priorities for safety improvement projects.

"(k) REPORTING.—

"(1) IN GENERAL.—Each State shall report to the Secretary not later than December 30 of each year, regarding the progress of implementing safety improvement projects for danger elimination and the effectiveness of such improvements.

"(2) STATE ASSESSMENT.—Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate dangers and the previous and subsequent accident experience at dangerous locations.

"(3) SECRETARY'S REPORT.—The Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year regarding the progress of the States in implementing the rural road safety program. The report shall—

"(A) include the number of projects undertaken, their distribution by cost range, road system, means and methods used, the previous and subsequent accident experience at improved locations and a cost-benefit analysis; and

"(B) analyze and evaluate each State's program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a), and include recommendations for future implementation of the rural road safety program.

"(l) DEFINITION OF RURAL ROAD.—In this section, the term "rural road" means all roads in rural areas.

"(m) AUTHORIZATION OF APPROPRIATIONS RURAL ROAD SAFETY PROGRAM.—To carry out the rural road safety program under this section there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2004 through 2009.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

"176. Rural road safety program.".

SA 2290. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle A of title IV, insert the following:

SEC. 4 . MULTI-STATE INTELLIGENT TRANSPORTATION SYSTEM OPERATIONS.

(a) IN GENERAL.—The Secretary of Transportation shall encourage regional operating organizations, in multistate metropolitan areas having multiple metropolitan planning organizations—

(1) to promote regional coordination and cooperation in the efficient, safe, and secure operation of regional transportation systems; and

(2) to implement these regional programs in a manner consistent with the needs of the public safety community.

(b) TRANSCOM'S INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—

(1) GRANTS.—The Secretary shall make grants to TRANSCOM for funding capital costs, annual operating costs, and maintenance costs of intelligent transportation system projects in the New Jersey—New York—Connecticut metropolitan region.

(2) PROJECT REQUIREMENTS.—A project shall not be eligible unless TRANSCOM demonstrates to the satisfaction of the Secretary that the project will assist the public safety community by—

(A) providing comprehensive transportation for responding to major regional incidents; and

(B) supporting evacuation planning for natural and manmade emergencies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $9,000,000 for fiscal year 2005 and each fiscal year thereafter to carry out the provisions of this section.

SA 2291. Mr. DAYTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 880, before line 7, insert the following:

SEC. 16___. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is readily available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

"(b) BIODIESEL.—

"(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

"(A) as of the date that is 5 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency.

"(3) REQUIREMENT OF FEDERAL LAW.—This subsection does not constitute a requirement of Federal law for the purposes of section 312.

"(c) EXEMPTION.—This section does not apply to fuel used in vehicles described in subparagraphs (A) through (H) of section 301(9).".

SA 2292. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. ___. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199)) is repealed.

SA 2293. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 2 and 3, insert the fol lowing;

"(i) MINIMUM APPORTIONMENT AND CRITERIA.—

"(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

"(2) CRITERIA.—To qualify for a grant under this subsection, a State—

(A) shall meet the requirements of subsection (a)(2) of this section; and

(B) shall—

"(i) meet 4 of the 7 criteria for qualifying for grants under subsection (b)(1) of this section (as that subsection was as in effect for fiscal year 2003 funding);

"(ii) for the most recent year for which data is available, have an alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the national average for that year or lower than the rate in that State in the second most recent year for which data is available; or

"(iii) for the most recent 3 years for which data is available, have an average alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the average of the national rate for those 3 years or lower than the average of such rate in that State for the fourth, fifth, and sixth most recent years for which data is available.

"(3) USES OF FUNDS.—Grants under this subsection may be used for—

"(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

"(B) any activity otherwise eligible under this section; and

"(C) any other activity undertaken by the State for the purpose of reducing impaired driving unless disapproved by the Secretary on the basis that it bears no relation to that objective.

SA 2294. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

INDEPENDENT TRANSPORTATION NETWORK GRANT PROGRAM.

(a) IN GENERAL.—Chapter 53, as amended by this Act, is further amended by adding at the end the following:

"§ 5341. Independent transportation network grant program

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to plan and implement community-based, nonprofit transportation services (referred to in this section as a 'service') to provide affordable transportation for elderly individuals and individuals with visual impairments.

"(2) MAXIMUM AMOUNTS.—

"(A) PLANNING GRANTS.—The Secretary shall not award a planning grant under subsection (b) in an amount which exceeds $25,000.

"(B) IMPLEMENTATION GRANTS.—The Secretary shall not award an implementation grant under subsection (c) in an amount which exceeds $500,000.

"(3) ELIGIBLE ENTITIES.—States, units of local government, and non-profit organizations are eligible for grants under this section.

"(b) PLANNING GRANTS.—

"(1) APPLICATION.—

"(A) IN GENERAL.—Each eligible entity desiring a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(B) SELECTION CRITERIA.—The Secretary, in consultation with the Federal Transit Administrator, shall authorize ITN*America* to periodically convene a diverse panel of experts who are familiar with the ITN business model, which shall select successful grantees based on—

"(i) the economic sustainability of the proposed service;

"(ii) community participation in the development of the service; and

"(iii) need for transportation services within the geographic area of the service.

"(2) USE OF FUNDS.—Planning grants awarded under this section shall be used to—

"(A) assess the transportation needs of elderly individuals and individuals with visual impairments within the geographic area of the service;

"(B) identify the resources available within the community to meet the needs described in subparagraph (A); and

"(C) develop a detailed business plan for the implementation of a service.

"(c) IMPLEMENTATION GRANTS.—

"(1) APPLICATION.—

"(A) IN GENERAL.—Each planning grant recipient shall submit an application for an implementation grant to the Secretary that contains a detailed business plan for the implementation of a service.

"(B) SELECTION CRITERIA.—The Secretary, in consultation with the Federal Transit Administrator, shall authorize ITN*America* to periodically convene a diverse panel of experts who are familiar with the ITN business model, which shall select successful grantees based on—

"(i) the economic sustainability of the proposed service;

"(ii) community participation in the development of the service; and

"(iii) need for transportation services within the geographic area of the service.

"(2) USE OF FUNDS.—Implementation grants awarded under this section may be used to—

"(A) recruit transportation volunteers;

"(B) acquire and repair used automobiles; and

"(C) provide transportation services for elderly individuals and individuals with visual impairments within the geographic area of the service.

"(d) MATCHING REQUIREMENT.—Not more than 50 percent of the amount expended on any activity funded through a planning grant or implementation grant under this section may be derived from government funds.

"(e) ITN*America*.—

"(1) ADMINISTRATIVE AND TECHNICAL SUPPORT.—The Secretary shall award a grant to ITN*America* to provide administrative and technical support to the other grantees under this section.

"(2) ANNUAL CONFERENCE.—ITN*America* shall convene a conference during each of the fiscal years 2007, 2008, and 2009 to provide an opportunity for service directors to share ideas and strategies.

"(3) REPORTING REQUIREMENTS.—Not later than 60 days after the end of each fiscal year for which it received financial assistance under this subsection, ITN*America* shall submit a report to the Secretary regarding any activities funded under this subsection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PLANNING GRANTS.—There are authorized to be appropriated to the Secretary for planning grants under subsection (b)—

"(A) $2,500,000 for fiscal year 2005;

"(B) $1,350,000 for fiscal year 2006;

"(C) $1,100,000 for fiscal year 2007;

"(D) $1,000,000 for fiscal year 2008; and

"(E) $800,000 for fiscal year 2009.

"(2) IMPLEMENTATION GRANTS.—There are authorized to be appropriated to the Secretary for implementation grants under subsection (c)—

"(A) $1,000,000 for fiscal year 2005;

"(B) $2,350,000 for fiscal year 2006;

"(C) $2,800,000 for fiscal year 2007;

"(D) $3,200,000 for fiscal year 2008; and

"(E) $3,600,000 for fiscal year 2009.

"(3) ADMINISTRATIVE AND TECHNICAL SUPPORT.—There are authorized to be appropriated to the Secretary for the administrative and technical support grant under subsection (e)—

"(A) $1,500,000 for fiscal year 2005;

"(B) $1,300,000 for fiscal year 2006;

"(C) $1,100,000 for fiscal year 2007;

"(D) $700,000 for fiscal year 2008; and

"(E) $600,000 for fiscal year 2009.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5341. Independent transportation network grant program.".

SA 2295. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 11, strike "and".

On page 28, line 15, strike "(3)." and insert "(3); and".

On page 28, between lines 15 and 16, insert the following:

(7) by inserting after subsection (d), as redesignated, the following:

"(e) MINIMUM APPORTIONMENT AND CRITERIA.—

"(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

"(2) CRITERIA.—To qualify for a grant under this subsection, a State—

"(A) shall meet the requirements of subsection (a)(2) of this section; and

"(B) shall—

"(i) meet 3 of the 6 criteria for qualifying for grants under this section (as this section was in effect for fiscal year 2003 funding); or

"(ii) for the most recent year for which data is available, have a seat belt utilization rate that is either higher than the national average for that year or higher than the utilization rate in that State in the second most recent year for which data is available.

"(3) USES OF FUNDS.—Grants under this subsection may be used for—

"(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

"(B) any activity otherwise eligible under this section, other than activities that are made eligible only for those States that meet the criteria set forth in subparagraph (b)(2)(A) of this section; and

"(C) any other activity undertaken by the State for the purpose of increasing seat belt utilization unless disapproved by the Secretary on the basis that it bears no relation to that objective.".

SA 2296. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 705, between lines 12 and 13, insert the following:

SEC. . STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the "Administrator") shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO–04–113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Ms. SNOWE. Mr. President, I wish to announce that the Committee on Small Business and Entrepreneurship will hold a hearing entitled "The President's FY2005 Budget Request for the SBA." The hearing will be held on Thursday, February 12, 2004, at 9:30 a.m. in 428A Russell Senate Office Building.

For further information please contact Wes Coulam 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 10, 2004, at 9:30 a.m., in open session to receive testimony on the defense authorization request for fiscal year 2005 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, February 10, 2004, at 10 a.m. to conduct a hearing on the "Proposals for Improving the Regulatory Regime of Government Sponsored Enterprises."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, February 10 at 10 a.m. to consider the President's proposed fiscal year 2005 budget for the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, February 10, 2004, at 10 a.m., to consider the nomination of Samuel W. Bodman, to be Deputy Secretary of the Treasury, U.S. Department of Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, February 10, 2004, for a hearing on the Administration's proposed Fiscal Year 2005 Department of Veterans Affairs budget. The hearing will take place in room 418 of the Russell Senate Office Building at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, February 10, 2004 from 10 a.m.-12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in room 628 of the Dirksen Senate Office Building, Tuesday, February 10, 2004, from 1:30 p.m. to 5:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Diana Harrington of my staff be granted the privilege of the floor during the pendency of S. 1072.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 2061

Mr. FRIST. I understand S. 2061, introduced by Senator GREGG and others, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2061) to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

Mr. FRIST. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

MEASURE READ THE FIRST TIME—S. 2062

Mr. FRIST. I understand S. 2062, introduced by Senator GRASSLEY and others, is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2062) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

Mr. FRIST. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF S. 610

Mr. FRIST. I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 354, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 354) to correct technical errors in the enrollment of the bill S. 610.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid on the table, and any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 354) was agreed to.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to 10 U.S.C. 4355(a)(2), appoints the Senator from Alabama, Mr. SESSIONS, from the Armed Services Committee, to the Board of Visitors of the U.S. Military Academy.

The Chair, on behalf of the majority leader, pursuant to Public Law 108–136, Title XV, Section 1501(b)(1)(C), appoints the following individual to serve on the Veteran's Disability Benefits Commission: Vice Admiral Dennis Vincent McGinn.

The Chair, on behalf of the majority leader, pursuant to Public Law 105–277, Section 710, 2(A)(ii), appoints the following individual to serve as a member of the Parents Advisory Council on Youth Drug Abuse: David C. Guth of Tennessee.

ORDERS FOR WEDNESDAY, FEBRUARY 11, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, February 11. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the minority leader or his designee and the final 30 minutes under the control of the majority leader or his designee, provided that following morning business, the Senate resume consideration of S. 1072, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume consideration of S. 1072, the highway bill. It is my expectation that following final remarks of several Senators, the chairman will move to table the Warner amendment on seatbelts. Therefore, Senators should expect the first vote tomorrow to occur prior to noon.

For the remainder of the day tomorrow, the Senate will continue to debate on the highway bill. It is my hope the bill's managers will be able to work through additional amendments during tomorrow's session. Senators should expect rollcall votes throughout the day tomorrow.

As a reminder, cloture was filed on the substitute which was offered earlier today. While it was not my preference to file cloture, it became obvious that we would be unable to move forward without forcing a cloture vote. A cloture vote on the substitute amendment will occur on Thursday.

I also remind all Senators that under cloture rules all first-degree amendments must be filed by 1 p.m. tomorrow.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator JOHN WARNER.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003—Continued

AMENDMENT NO. 2286, AS MODIFIED, TO AMENDMENT NO. 2285.

Mr. WARNER. Mr. President, the Senator from Virginia has at the desk an amendment which is the pending amendment, and I desire to modify it. Consequently, I ask unanimous consent to modify the pending amendment to reflect the concerns raised by the managers of the bill requesting that more time be given to States to meet the 90-percent seatbelt use rate on their own initiative, with their own plans. I now send my modified amendment to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 2286), as modified, is as follows:

Beginning on page 118, strike line 20 and all that follows through page 129, line 18, and insert the following:

"(3) PRIMARY SAFETY BELT LAW.—The term 'primary safety belt law' means a law that authorizes a law enforcement officer to issue a citation for the failure of the operator of, or any passenger in, a motor vehicle to wear a safety belt as required by State law, based solely on that failure and without regard to whether there is any other violation of law.

"(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters; or “(ii) enforce highway safety laws.

“(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

“(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means a plan developed by the State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

“(iii) representatives of major modes of transportation;

“(iv) State and local traffic enforcement officials;

“(v) persons responsible for administering section 130 at the State level;

“(vi) representatives conducting Operation Lifesaver;

“(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

“(viii) motor vehicle administration agencies; and

“(ix) other major State and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, or local crash data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, public roads;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

“(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency; and

“(H) is consistent with the requirements of section 135(f).

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

“(B) produces a program of projects or strategies to reduce identified safety problems;

“(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

“(D) submits to the Secretary an annual report that—

“(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

“(ii) contains an assessment of—

“(I) potential remedies to hazardous locations identified;

“(II) estimated costs associated with those remedies; and

“(III) impediments to implementation other than cost associated with those remedies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

“(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads;

“(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

“(B) as provided in subsection (e), for other safety projects.

“(2) USE OF OTHER FUNDING FOR SAFETY.—

“(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

“(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

“(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

“(f) REPORTS.—

“(1) IN GENERAL.—A State shall submit to the Secretary a report that—

“(A) describes progress being made to implement highway safety improvement projects under this section;

“(B) assesses the effectiveness of those improvements; and

“(C) describes the extent to which the improvements funded under this section contribute to the goals of—

“(i) reducing the number of fatalities on roadways;

“(ii) reducing the number of roadway-related injuries;

“(iii) reducing the occurrences of roadway-related crashes;

“(iv) mitigating the consequences of roadway-related crashes; and

“(v) reducing the occurrences of roadway-railroad grade crossing crashes.

“(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

“(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

“(A) the Internet site of the Department; and

“(B) such other means as the Secretary determines to be appropriate.

“(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall be—

“(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

“(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

“(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

“(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

"(i) Roadway Safety Improvements for Older Drivers and Pedestrians.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.

"(j) Use of Funds.—

"(1) Projects under section 402.—For fiscal year 2006 and each fiscal year thereafter, 5 percent of the funds made available to a State under this section shall be obligated for projects under section 402, unless by October 1 of the fiscal year, the State—

"(A) has in effect a primary safety belt law; or

"(B) demonstrates that the safety belt use rate in the State is at least 90 percent.

"(2) Withholding.—

"(A) In general.—For fiscal year 2008, the Secretary shall withhold 2 percent, and for each fiscal year thereafter, the Secretary shall withhold 4 percent, of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) and section 144 if, by October 1 of that fiscal year, the State does not—

"(i) have in effect a primary safety belt law; or

"(ii) demonstrate that the safety belt use rate in the State is at least 90 percent.

"(B) Restoration.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 90 percent, the apportionment of the State shall be increased by the amount withheld.

"(C) Lapse.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 90 percent, the amount withheld shall lapse.".

Mr. WARNER. Mr. President, I thank the distinguished Presiding Officer and the Senate for accommodating me.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 6:24 p.m., adjourned until Wednesday, February 11, 2004, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, February 10, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 10, 2004.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

AMERICAN MIDDLE-CLASS TAX

Mr. BLUMENAUER. Mr. Speaker, listening to the President's State of the Union speech and the Republican leadership in Congress, I have been struck by the false choices and misplaced priorities that have been presented to the American public.

We heard pledges from the Presidential candidates on the campaign trail in the year 2000 to save the Social Security surplus and put it in a lockbox.

The reality of the President's 2005 budget proposal is that he feels it is more important to reward those who need help the least, instead of correcting, for example, the looming crisis in Social Security. Perhaps, a cynic would say, because it does not explode until after the expiration of the next Presidential term.

Rather than protect future retirements for American workers, this administration would instead borrow more from the Social Security trust fund to finance tax breaks for people who already have gained the most. But the most disingenuous, insidious, and destructive of all of these policies to American middle-class families is the refusal to deal with the alternative minimum tax, which has become a cruel penalty on middle America.

This tax was established 35 years ago after a study revealed that there were 155 people who paid no Federal income tax at all despite having an annual income, in today's dollars, of over a million dollars. This led to the alternative minimum tax passed in 1969. It was designed to ensure that a few ultra-rich people at least paid something. This alternative minimum tax, the AMT, has now morphed into a money-raising bonanza for the Federal Government and a nightmare for middle America.

Because it was never indexed for inflation, more people pay this every year, people who were never designed to be subjected to it. Congress now uses these tax revenues to finance other tax cuts for more privileged people. The goal of the administration and the Republican Congress is to make dividend and investment income tax free, inheritances tax free.

As recently as 1997, less than 1 percent of the American tax payers were subjected to the alternative minimum tax. Because of inflation, rising incomes, and added gimmicks to the tax system, today, almost 2½ million families pay the AMT. By 2005, we will have five times as many people, over 12 million families; by 2010 over 33 million American families are going to be providing half the Federal income tax through the alternative minimum tax. By 2013, 10 years from now, 37 percent of all taxpayers, 41 million families, will pay it.

The tragedy is that instead of catching a few who avoid paying taxes, the alternative minimum tax is specifically penalizing hard-working families who are doing exactly what government and this administration ask. Rather than strike people who avoid paying taxes, the alternative minimum tax penalizes families who are because they pay high local property and income taxes. It penalizes people with children who take advantage of the child care deductions and family credits. It penalizes those who save for their own future with 401(k) or other tax-deferred programs. These things trigger the alternative minimum tax for doing exactly what people are asked by this government to do.

Finally, many people are going to pay more to a CPA to make complex calculations than the tax itself will cost them, thus a double tax penalty.

Where is the outrage from this administration and from the Republican leadership in Congress about this disaster that is befalling American families? They claim that they are for tax fairness and justice, yet they are addicted to the Federal Government raising revenues unfairly while they are cutting taxes for people whose taxes have already been cut and who need the help least of any Americans.

Federal taxes overall as a percentage of government spending are at the lowest level of national income since the 1950s; but they are being shifted. Because of the policies of my Republican friends in Congress and this administration, they are being shifted to America's hard-working families who deserve better.

There ought to be no more talk about tax cuts for the most well-off until we fix this nightmare. The failure to address the alternative minimum tax makes a mockery of alleged concern for middle America, for families, and for tax fairness.

WE DID THE RIGHT THING

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates for such time as he may consume.

Mr. DELAY. Mr. Speaker, there is one point to make in the debate about the war on Iraq and it is this: we did the right thing.

After September 11, President Bush declared war on the terrorists and all the regimes who support them. Saddam Hussein's dictatorship was the very definition of a terrorist regime. He started two wars, invaded two neighbors, and tried to assassinate an American President. He was obsessed with obtaining nuclear weapons and was bent on using them to blackmail the civilized world. He was a merciless tyrant with no respect for human life who butchered his own people and threatened the stability of a fragile region in the Middle East. He worked with terrorists and financed their operations. He was going to kill more Americans and help others to do so. In short, Mr. Speaker, Saddam Hussein was Iraq's weapons of mass destruction; and he had to be removed.

Yet, now in this political season, partisan opportunists suggest that the war was somehow illegitimate because we have not found massive World War II-style warehouses full of missiles. But

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

9-11 taught us that our enemies need not have conventional weapons to threaten us. If Saddam Hussein had just a briefcase full of one chemical or so much as a vile of another given his past, his hatred of the United States and his ties to international terrorism, he posed a grave and gathering threat to our national security, period.

Critics who now undermine the legitimacy of Operation Iraqi Freedom with their slanderous attacks against the President and the international intelligence community undermined our security at the same time. Revisionists these days seem to believe it was someone other than Saddam Hussein who deceived the international community during the buildup of this war. But by doing so, Mr. Speaker, they embolden our enemies. Every world leader, especially those of us with the honor to serve in this body, should stand up and speak with one voice on the war on terror and how it will be fought and how we should win it in Iraq and elsewhere. Undermining our mission in Iraq to score political points dishonors the victory we won there and the legacy of the men and women who gave their lives in its winning.

We did the right thing, Mr. Speaker; and we would do it again.

PRESIDENTIAL SUPPORT FOR OUTSOURCING JOBS IS OUTRAGEOUS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, today I picked up a newspaper, picked up a Los Angeles Times, and the headline of the Los Angeles Times, I believe the second largest daily paper in the Nation, said, "Bush Supports Shift of Jobs Overseas." The subheadline was, "The loss of work to other countries, while painful in the short term, will enrich our economy eventually," the President's report to Congress says.

Now, I thought maybe that was just an overzealous headline writer, so I looked at some other newspapers.

The Seattle Times headline was, "Bush Report: Sending Jobs Overseas Helps the United States."

Then I looked at the Pittsburg Post Gazette: "Bush Economic Report Praises Outsourcing Jobs," sending those jobs overseas. The Orlando Sentinel in the President's brother's home State: "Bush Says Sending Jobs Abroad Can Be Beneficial."

Now, this is a President of the United States who in 3 years has seen a job loss of 3 million people. In my home State of Ohio, we have lost 300,000 jobs. One out of six manufacturing jobs in Ohio has disappeared to Mexico, to China, somewhere overseas generally.

We have seen continued job loss in every State in this country. In fact, we have seen manufacturing job loss every single month of the Bush administration. And after I read these headlines and I read the articles which correspond precisely to the headlines, it makes me think maybe that is the Bush plan overall, that we are sending these jobs overseas. Maybe that is what he planned. And that does not make any sense, that the President of the United States would want to send jobs overseas; but this President supported the North American Free Trade Agreement running for Governor of Texas. Then he supported as Governor of Texas the Permanent Normal Trade Relations, the trade agreement with China. He supported Fast Track Trade Promotion Authority. He now supports the Central American Free Trade Agreement which will hemorrhage more jobs to Latin America. And his office is right now negotiating the Free Trade Act of the Americas, which will quadruple the size of the North American Free Trade Agreement, causing more hemorrhaging of jobs.

So when the President's head of Council of Economic Advisors, Gregory Mankiw, when he prepared this report, he said in this report, "Outsourcing is just a way of doing international trade. More things are tradeable than were tradeable in the past. And that is a good thing." He then goes on to claim that, as the gentleman from California (Mr. SHERMAN), who is with me here, points out, that this Bush plan will create 2.6 million jobs in 2004.

It is another promise of job creation, but we have seen manufacturing job loss every single month of the Bush administration. And now apparently they are saying this outsourcing, this job loss overseas is a good thing.

Now, the most interesting, maybe if not the most important because it is not as big as the job loss in manufacturing, but he talks about one particular group of people who happen to be radiologists. And I know of radiologists in the United States, they are the people that read the x-rays and the MRIs and all of that, who have said that when they take x-rays, when they do MRIs, sometimes those x-rays are literally e-mailed to India, read by radiologists in India, and then sent back. So radiologists are concerned about their work, frankly.

In his report he said, "Maybe we will outsource a few radiologists. What does that mean? Maybe the next generation of doctors will train fewer radiologists and will train more general practitioners or surgeons. Maybe we have learned that we do not have a comparative advantage in radiologists."

Maybe Mr. Mankiw has read too many economics text books when he says we do not have a comparative advantage in radiologists.

But the point, Mr. Speaker, is that this administration has totally lost touch with reality, if they can look in the eye a worker in Akron, Ohio, in the steel industry or in Lorraine or Cleveland or anywhere in this country, look them in the eye and they can say, outsourcing is a good thing. Your job going overseas is a good thing because then maybe you can get a job at Wal-Mart that pays $7 an hour with health care benefits. Or maybe you can get a job somewhere else part-time, or maybe you can figure out what is going to happen to your health insurance and what is going to happen to your pension.

The fact is that this administration's answer to everything is more tax cuts for the richest people and more trade agreements that hemorrhage jobs overseas. We have seen enough job loss in this country without the President piling on, without the President, as the L.A. Times says, supporting the shift of jobs overseas; without the President, as the Seattle Times said, sending jobs overseas helps the United States; without the President, as the Pittsburg Post Gazette says, his economic report praises outsourcing jobs; or as the Orland Sentinel says, sending jobs abroad can be beneficial.

It does not make sense for our country. It does not make sense for workers. It does not make sense for our people.

☐ 1245

DEFICIT ACCOUNTABILITY

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to the order of the House of January 20, 2004, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I would say to my colleague from Ohio that President Clinton of his party supported a lot of this free trade. In fact, President Clinton was very active in getting passed in previous Congresses many of these free trade agreements that the gentleman from Ohio is complaining about. So I think it is just a question of whether one is for free trade or not. I am for fair trade not free trade.

But, Mr. Speaker, I am here to talk about a deficit that is continuing quite dramatically, and now all of us are faced with a tough task of balancing the budget the next 5 years, and the President is committed to that.

One of the reasons this budget is in a deficit mode is because of the recession that President Bush inherited; also what happened on 9/11. It changed this country's perspective completely and, of course, with it our efforts to secure our homeland borders and security within our buildings. So, obviously, we have had to expend extra money to do that; and the President rightly did so and Congress agreed to reduce taxes so we could help the economy.

Obviously, there is no quick fix for the deficit. However, we must act decisively today in the budget process so that we do not put undue burden on future generations.

I believe that Members of Congress realize how accountability works. We want to support reduced spending around here, and that is why I am introducing a bill this day to underscore accountability that will connect all of us here in Congress with the rest of the country.

Year in and year out, we all have to explain to our constituents why we automatically receive a pay raise regardless of the deficit that occurs here in Congress. So why not have a bill simply to say that no automatic pay adjustments will be made for Members of Congress in the year following a fiscal year in which there is a Federal budget deficit? Something very simple. My bill, the Deficit Accountability Act of 2004, basically says that, again, no automatic pay adjustments are made for us here in Congress unless we balance the budget.

If this Congress can work together, I think we can control spending. We must lead by example, and I believe this simple measure could do just that. The bill would provide a real-world incentive for Members of Congress to curtail wasteful and abusive spending.

So it is a good-faith measure, Mr. Speaker. It is in a small way just symbolic, but I think our constituents would appreciate that, and that is why I am offering this bill today.

All of us have returned from our respective retreats, the Democrats and Republicans, and all of us, of course, are resolved to have a tougher stance on spending and try to balance the budget. There has been some talk again about having a line item veto. I would like to see that effort reenergized, reenacted; and I believe now is the time to support the shift in this fiscal environment towards a balanced budget.

Momentum is building in this House to write a congressional budget resolution that would freeze outright nondefense, nonhomeland security appropriations. Furthermore, many Members have introduced legislation that seeks to make deep cuts in the discretionary spending of the various departments. These departments have lots of accountability problems. There is waste and fraud in some of these Departments. The President's budget proposal makes a strong effort to address these problems.

Mr. Speaker, I just bring to my colleagues' attention a recent GAO report that showed that the collective departments, across the board every department in the budget reported a staggering $17.3 billion in unreconciled transactions in 2002. That is, to put it bluntly, we have lost $17 billion. It is unaccounted for. I know all Members will agree that these lost funds are staggering, and something must be done to get to the bottom of this, and obviously in this budget process we should do this.

At this time, we clearly have an opportunity to curtail wasteful spending and at the same time support our President as he seeks to balance the budget in the next 5 years. I believe starting today this body can make a statement of how we want spending in this Congress to proceed and also how to pay ourselves in the event we have a deficit. Mr. Speaker, we must draw a line on spending, and hopefully we can now remember it is the American taxpayers who occupy the most prominent position at the negotiating table here in Washington.

THE RULE OF LAW SHOULD MATTER

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from California (Mr. SHERMAN) is recognized during morning hour debates for 5 minutes.

Mr. SHERMAN. Mr. Speaker, just for a second I would like to go over the remarks of the gentleman from Ohio where he says that the Republican administration actually promotes the outsourcing of jobs, reducing jobs here in the United States. It almost makes it sound like the Bush administration does not care about Americans.

Keep in mind, for every 100 jobs we export, we create one or two very rich Americans; and, on balance, that may be thought to be a good thing by the Bush administration.

We also have a huge half trillion dollar trade deficit.

THEFT OF DOCUMENTS FROM JUDICIARY COMMITTEE

But I want to remind my colleagues of a day back in 1972 when we had a positive trade surplus and when the Watergate headquarters of the Democratic Party was burglarized. Howard Hunt and G. Gordon Liddy went to jail for that burglary because Republicans here in Washington believed that the rule of law was more important than Republican success.

Today, a similar crime has been committed. At the Senate Committee on the Judiciary, a computer server that was jointly used by Democrats and Republicans was burglarized, and thousands of the Democrats' documents were stolen, far more than Howard Hunt and G. Gordon Liddy ever thought to steal.

A shared computer server is not an unusual thing on Capitol Hill. My Democratic colleagues need to be reminded that every e-mail we send, every e-mail we receive goes through a shared computer server, under the control ultimately of the Speaker of this House and his staff. But we Democrats here in the House do not believe that the Speaker and his staff are criminals. We believe they are honorable men and women, and so we send e-mail today just as we do every other day.

What is happening in the other body, Mr. Speaker? A small cabal has decided to burglarize documents. That is the same as what happened back in 1972, but what is more interesting is that the predominant power in the Republican party, the predominant power here in Washington, wants to protect this act of robbery.

Sure, one staffer has been fired. Now that staffer is free to obtain lucrative employment and cash gifts without having to report it. Another staffer has left, and that staffer boasts about being in control of stolen documents, stolen property. Instead of going to jail for being in possession of stolen property, he trumpets how he is going to use this property for the support of the Republican position.

The rule of law should matter. We are told, though, that the rule of law is being upheld because a couple of staffers lost their jobs. Since when is it the criminal law in this country that if one steals something the only sanction is they have to go get employment elsewhere?

We are told that this crime is not a crime because it was a shared computer server. That is a little dangerous for Democrats in the House, where every e-mail is going through a shared server under Republican control.

It is also a complete repudiation of American criminal law. If two partners share a safe deposit box or a safe, that does not mean that one can use the combination to steal all the cash and valuables that the other has put in it. It is very clear. Sharing a box does not mean one gets to steal the other person's or other entity's property. Except that is what it seems to mean in the Republican lexicon.

Burglary and robbery are reasons for people to be indicted and sent to jail. That is what happened to G. Gordon Liddy, that is what happened to Howard Hunt, and we will see whether the Republicans in control of this House and the other body, and in control of Washington and all of its agencies, will make sure that there is a criminal investigation of this theft. Stealing from a safe is wrong, even if one has been trusted with the combination.

If this does not happen, then we in the House will have to look at the additional governmental expense involved in having a separate Democratic e-mail server. Because how can we trust a Republican Party that seems to have gone from a party that puts the rule of law first to one that glorifies burglary and defends criminals?

I look forward to the indictment of those who committed robbery.

19-CENTS-A-DAY CAMPAIGN ON SCHOOL FEEDING

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized during morning hour debates for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, I have come to the well of this floor many times to speak in support of the George McGovern-Robert Dole International Food for Education and Child Nutrition Program.

McGovern-Dole provides hungry children around the world at least one nutritious meal a day in a school setting. The Bush administration's own Department of Agriculture has evaluated this program and found it to be very effective at reducing child hunger, increasing academic attendance and performance, especially among girls, and strengthening community commitment to education.

The McGovern-Dole program is carried out in the field by a wide range of partners, principally through U.S. private voluntary organizations and the United Nations World Food Programme, which has a special unit specializing in school feeding programs.

Currently, the World Food Programme, or WFP, carries out McGovern-Dole-supported school feeding programs in Bhutan, Bolivia, Cambodia, Cameroon, the Ivory Coast, Ghana, Mozambique, Nepal, Pakistan, Tanzania and Uganda. But this is just part of WFP's worldwide effort in the area of school feeding, which reaches literally every corner of the world.

Mr. Speaker, over 840 million people do not have enough food to eat on a daily basis. Three hundred million of these are children, who go to sleep every night without enough food to eat. Today, and every day, 24,000 people will die because of hunger and its ugly effects. This is more than HIV and AIDS, malaria and tuberculosis combined, although hunger and disease are closely intertwined.

In short, between 8 and 10 million people die needlessly every year because of hunger and malnutrition.

Last year, the World Health Organization listed the top 10 health risks around the world. The number one risk is not cancer or HIV/AIDS or heart disease. It is not war or armed conflict or accidents. The number one health risk in the world is simply the lack of food.

In an effort to reach out to students and communities throughout the United States, the World Food Programme has launched a campaign to raise money and awareness about the hunger and educational needs of children in Third World countries.

This campaign will help shine a light on what life is like for the more than 300 million children who daily endure, suffer and die from hunger. Nearly half of these children, mainly girls, do not go to school. The campaign will give students in communities a simple yet concrete way to make a difference in these children's futures.

The campaign is called the 19-Cents-a-Day Campaign depicted in this poster here. Why 19 cents? Because 19 cents is the average daily cost to feed a child in a school setting.

Think about this for a moment, Mr. Speaker. Nineteen cents a day, a dime, a nickel and four pennies, that is half the cost of a first-class stamp. For about the cost of one Big Mac, a soda and an order of fries each month, we can feed a child for an entire school year.

Mr. Speaker, we know that one of the best steps anyone can take to reduce or escape poverty is to get an education. Offering a meal at school is a proven method of convincing poor families to send their children to school, including their daughters.

Last month, Judith Lewis, the Washington Director of WFP, traveled to her home State of Mississippi to officially launch the 19-Cents-a-Day Campaign. Mississippi is a place that knows something about hunger. Last year, over 392,000 Mississippi children received free or reduced school lunches. I am happy to report the response from the high school students in Brandon, Mississippi, was overwhelmingly positive, raising hundreds of dollars for WFP school feeding programs.

The 19-Cents-a-Day Campaign is a great way to talk about child hunger, both around the world and in our own congressional districts. It is a great way to raise awareness and funds and engage our own students and communities in the fight against hunger abroad and here at home.

☐ 1300

In the weeks to come, the campaign will be launched in high schools in Illinois, North Carolina, and California. I hope to launch a similar campaign in Massachusetts, my home State. I encourage my colleagues to contact the World Food Program to find out more about the 19 Cents a Day Campaign and how more students and communities can become involved.

Mr. Speaker, I firmly believe we can end hunger among children, both here in the United States and around the world. It only takes the time, commitment, and political will to do so.

RECESS

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 1 minute p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, did Your ancient seer David see people gathered on Capitol Hill when he asked: "Who shall climb the mountain of the Lord? Who shall stand in the Lord's awesome presence?"

Surely the Members of Congress know the answer to this question as did David's own: "Those with clean hands and pure hearts. Those who do not desire worthless things or have never taken an oath only to deceive their neighbor."

Lord, this great Nation and its fullness, the whole world and all its people are Yours. Renew Your blessings upon us today and make us humble enough to acknowledge that all is Your gift.

So we enter into Your presence to praise You now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Maine (Mr. MICHAUD) come forward and lead the House in the Pledge of Allegiance.

Mr. MICHAUD led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 9, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on February 9, 2004 at 1:03 p.m. and said to contain a message from the President whereby he submits the Economic Report of the President.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–145)

The SPEAKER pro tempore (Mr. COLE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Joint Economic Committee and ordered to be printed:

To the Congress of the United States:

As 2004 begins, America's economy is strong and getting stronger. Over the past several years, this Nation has faced major economic challenges resulting from the decline of the stock market beginning in early 2000, a recession that began shortly after, revelations about corporate governance scandals, slow growth among many of our major trading partners, terrorist attacks, and the war against terror, including in Afghanistan and Iraq. These challenges affected business and consumer confidence and resulted in hardship for people in many industries and regions of our Nation. Americans have responded to each challenge, and now we have the results: renewed confidence, strong growth, new jobs, and a mounting prosperity that will reach every corner of America.

This Report, prepared by my Council of Economic Advisers, describes the economic challenges we faced, the actions we took, and the results we are seeing. It also discusses our plan to continue growing the economy and creating jobs.

In May 2003, I signed a Jobs and Growth bill that focused on three key goals. First, we accelerated previously passed tax relief and let American households keep more of their own money to save, invest, and spend. Second, we increased incentives for small businesses to invest in new equipment and plant expansions. Third, we enacted important tax relief on dividend income and capital gains to help investors and businesses. These actions were designed to promote investment, job creation, and income growth. By all three measures of performance, we are seeing signs of success.

Since May 2003, we have seen the economy grow at its fastest pace in nearly 20 years. Consumers and businesses have gained confidence. Retail sales are strong, and Americans are buying, building, and renovating houses at a record pace. Investment has strengthened, with spending on business equipment the best in 5 years. The unemployment rate has fallen from it peak of 6.3 percent last June to 5.7 percent in December, and employment is beginning to rise as new jobs are created especially in small business. Productivity growth has been strong, leading to higher incomes for workers, while the tax relief we passed means that American families keep more of their money instead of sending it to Washington.

We are moving in the right direction, but have more to do. I will not be satisfied until every American who wants a job can find one. I have outlined a six-point plan to promote job creation and strong economic growth. This plan includes initiatives to help manage rising health care costs to make health care more affordable and accessible for American workers and families; reduce the burden of junk lawsuits on the economy; ensure a reliable and affordable energy supply; simplify and streamline government regulations; open foreign markets for American goods and services; and allow businesses and families to keep more of their hard-earned money and plan with confidence by making our tax relief permanent. This year, I will work with the Congress to achieve these goals.

I will also continue to work with the Congress on another important shared goal: controlling federal spending and reducing the deficit. The federal budget is in deficit, foremost because of the economic slowdown and then recession that began in 2000 and the additional costs of fighting the war on terror and protecting the homeland. We are continuing to take action to restrain spending and bring the deficit down. By carefully evaluating priorities and being good stewards of the taxpayer's money, we will cut the budget deficit in half over the next five years.

The task of reducing the deficit will become easier because America's economy is growing. We have taken the actions needed to restore growth, and we are pursuing additional policies to help create jobs for American workers and families. I'm optimistic about the future of our economy because I know the values of America and the decency and entrepreneurial spirit of our people.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 2004.*

PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

(Mr. RADANOVICH asked and was given permission to address the House for 1 minute.)

Mr. RADANOVICH. Mr. Speaker, the proliferation of weapons of mass destruction poses the most serious of dangers to the peace of the world. Chemical, biological, and nuclear weapons in the hands of terrorists could bring catastrophic harm to America and to our friends around the world. We must oppose that threat by any means necessary.

The men and women of our intelligence community have already found a very revealing component of Iraq's biological weapons program. Two mobile production facilities equipped to produce biological weapons. Iraqis allege that these trucks are pharmaceutical labs. But what possible reason could there be for two such mobile labs in the middle of the desert? And why, if these vehicles were merely pharmaceutical trucks, did the Iraqi soldiers wash them out with bleach while the war was going on?

President Bush's decisive action and leadership is keeping our country and allies safe from terrorist groups that are unrestrained in their choice of weapon and undeterred by conventional means. Our perseverance and our belief in the success of liberty assures our security, and we will not relent until this war is won.

OUTSOURCING OF U.S. SERVICE JOBS OVERSEAS

(Mr. MICHAUD asked and was given permission to address the House for 1 minute.)

Mr. MICHAUD. Mr. Speaker, I come to the floor today in total disbelief. The Washington Post reported this morning that President Bush's top economic adviser, Gregory Mankiw, said that outsourcing U.S. service jobs overseas is actually good for the Nation's economy. This is absolutely outrageous. Sending jobs overseas is good?

Just tell that to the 23,000 Mainers who lost their manufacturing jobs in the last 8 years. Tell that to the 2.2 million Americans who lost their jobs since President Bush took office. These people have seen their hard-earned jobs shipped overseas due to unfair trade agreements and terrible management of our economy. They are the ones who suffer.

I spent 30 years working in a paper mill. It went bankrupt last year. Maybe this administration should take a look at what is happening in places like my hometown, places that need these jobs all across America, before saying that shipping jobs overseas is a good idea.

It might give them a dose of reality that real Americans face every day.

COMMENDING FN MANUFACTURING, INC.

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, when Americans watch the nightly news images of U.S. troops on duty in Iraq and Afghanistan, they see them carrying out their most difficult duties, using the finest small arms in the world. Those weapons are proudly made in South Carolina's Second Congressional District by FNMI, FN Manufacturing, Incorporated, in Columbia, South Carolina.

Since the mid-1980s, FNMI has been building the M–16 rifle, the M 249 Squad Automatic Weapon, and the M–240 Medium Machine Gun for the U.S.

Armed Forces. In other words, FNMI is the principal supplier of small arms to the military. These arms are universally recognized as the finest infantry weapons in the world, perhaps the finest ever made. They are known for their ruggedness, reliability, and effectiveness and are on duty everywhere American troops are deployed in the war on terror, as I have seen first hand in Iraq.

Additionally, FNMI is one of the largest defense industries in South Carolina, employing approximately 450 dedicated personnel.

I ask all of my colleagues to join me in thanking the professional employees of FNMI Manufacturing, as their work makes it possible for our brave men and women to protect us in the war on terrorism.

In conclusion, may God bless our troops, and we will never forget September 11.

REMEMBERING CARLIE BRUCIA

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, it is with a saddened heart that I come to speak to this Chamber today. Last week our Nation was again rocked when we learned of another senseless death of an innocent child. Carlie Brucia, a beautiful young girl from Sarasota, Florida, was violently kidnapped and brutally murdered on her way home from a friend's house, not too far away from her own.

There is nothing I can say that will bring comfort to her family today. No parent should ever lose a child, and all communities throughout the country should shiver at what has happened in Florida this past week. This crime happened in daylight, on a major thoroughfare and in front of passersby. Carlie's death is not just her family's loss but a loss to us all.

This fallen angel's death must not be in vain. Police and prosecutors must ensure that her murderer will never see the light of day again, but that is not enough. We must come together as a community, and as a State, to make sure we never let such a crime happen in our backyard again.

The AMBER Alert system is the best tool we have, but it is just a tool. I wish there was something I could do to undo this terrible crime, but I cannot. What I can offer is my promise to Carlie's family that I will never stop working to ensure that law enforcement has the tools necessary to capture these pedophiles and that families are fully armed with the information they need to protect themselves and their children.

Mr. Speaker, all I can wish for is that I will never have to come to the House floor to talk about the murder of another child ever again. I want to offer my deepest condolences to Carlie's family. I hope that with the help of their family and friends they will be able to get through this terrible time. God bless Carlie.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Such record votes on postponed questions will be taken after 6:30 p.m. today.

AUTHORIZING PRINTING OF "HISTORY OF THE UNITED STATES CAPITOL"

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 358) authorizing the printing of "History of the United States Capitol" as a House document.

The Clerk read as follows:

H. CON. RES. 358

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF PRINTING.

(a) IN GENERAL.—There shall be printed as a House document the book entitled "History of the United States Capitol" by Glenn Brown, as prepared under the auspices of the Architect of the Capitol with support from the United States Capitol Preservation Commission and the United States Capitol Historical Society.

(b) SPECIFICATIONS.—The document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Clerk of the House of Representatives and the Secretary of the Senate.

SEC. 2. NUMBER OF COPIES.

In addition to the usual number, there shall be printed for the use of the House of Representatives and Senate the lesser of—

(1) 7,000 copies of the document described in section 1(a), to be allocated as determined jointly by the Clerk of the House of Representatives and the Secretary of the Senate; or

(2) such maximum number of copies of the document as does not have a total production and printing cost of more than $182,000, with distribution to be allocated as described in paragraph (1).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

☐ 1415

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to rise in support of House Concurrent Resolution 358. This is somewhat of a mundane measure. As a member of the Committee on House Administration, it is a housekeeping responsibility that we take care of obligations such as this.

This particular measure authorizes the printing of a new annotated edition of the United States Capitol by Glenn Brown. Brown's History of the United States Capitol represents the most scholarly publication on the United States Capitol to date. This book was originally written to celebrate the centennial of the move of Congress to the Capitol in 1800.

The volume by Brown continues to provide important information on the development of the United States Capitol building and is also a visual record of the building and the art collection at the turn of the century. The publication sets a new standard for architectural history, as well as being very well received in both this country and abroad.

Glenn Brown's book also played an important role in the revival of Pierre Charles L'Enfant's plan for Washington, D.C., through its influence on the 1901 McMillan Plan; and thus it has also had a very significant effect on the shape of this city, the District of Columbia, and how we see it through the twentieth century.

The idea of publishing a new annotated edition of Glenn Brown's history of the Capitol, published in 1900 and 1903, was first discussed back in 1987. This new annotated history will provide both historical context and contemporary perspective. Glenn Brown and his philosophy and achievements will be examined in the introductory biographical profile.

Annotation of the text will correct errors, review some very important, sometimes controversial issues, mention recently discovered documentation and direct the reader to relevant sources. The publication will be illustrated with high-quality photographs based on Glenn Brown's selection and will introduce color when appropriate to enhance the architectural renderings.

The book will be prepared under the auspices of the Architect of the Capitol, with support from the United States Capitol Preservation Commission and the United States Capitol Historical Society.

Glenn Brown's History of the United States Capitol will be of interest not only to Members of Congress but of significant value to the public, to libraries across the United States, and also to scholars investigating the rich history of the United States Capitol.

Mr. Speaker, I urge full support of House Concurrent Resolution 358. I am pleased to present it on behalf of the Committee on House Administration this afternoon.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to associate myself with the remarks of the distinguished gentleman from Florida.

As a sponsor of this resolution, I join our distinguished chairman, the gentleman from Ohio (Mr. NEY), and I am happy to help bring this publication to fruition. It has been a pleasure for me to work with the gentleman from Ohio (Chairman NEY) on this and other such collaborative matters as they regard the history of our great institution and the history of this Capitol.

The gentleman from Ohio will recall that we worked together in developing a history of the House, and his longstanding appreciation of the history of this great institution of ours and history in general go a long way towards keeping those relationships that accrue on our committee and throughout this institution at a level of deep understanding about the process and the procedure that goes on in this glorious building on a regular basis.

The gentleman from Florida (Mr. MICA) has outlined the importance of Glenn Brown's landmark two-volume History of the United States Capitol. Clearly, history should be updated from time to time, especially with the kind of annotated pictures that we can now provide for people, which yet unfolds the richness of this great institution and this marvelous building.

People that come to work here on a daily basis and those that visit the Capitol cannot help but be in awe of the marble and the alabaster of Statuary Hall and all the great symbolism and history represented here. So for us not to make sure that these publications continue to go forward and further enlighten and provide historical research and data about our institution would be a travesty.

Therefore, I am delighted to join with the gentleman from Florida (Mr. MICA) and again want to applaud the outstanding leadership of the gentleman from Ohio (Chairman NEY) and his willingness to collaborate on this specific publication, an interest that is both near and dear to both of our hearts with regard to historic preservation.

For more than two centuries, this Capitol has stood as a shrine to our democracy and a beacon to millions across the globe. We must preserve not only the bricks and mortar of this Capitol but also its history. The volume printed pursuant to this resolution will make a substantial contribution to that preservation. I urge an "aye" vote on this motion.

As the sponsor of the resolution, I join the distinguished chairman in support of his motion, and I am happy to help bring this publication to fruition. It has been a pleasure to work with the chairman in the past 5 years on matters of common interest, especially related to congressional history. The gentleman may recall that shortly after he became the chairman of the House Administration Committee, I visited his Longworth office and discussed placing a greater emphasis on the history of this institution. We have had significant success in this respect, as the gentleman had while serving in his state's legislature in Columbus. I look forward to working with the chairman further on history-related matters in the months and years ahead.

Mr. Speaker, the American people revere this historic Capitol, the temple of our democracy, and they are rightly proud of what it has come to represent. In the more than 227 years since our Founding Fathers charted a new course for our civilization, this experiment in self-government has not only survived, but flourished. The ideals symbolized by this Capitol inspire millions around the world, giving hope that they and their descendants may someday enjoy the liberty that Americans cherish.

Over a century ago, Congress celebrated the Capitols' centennial by publishing Glenn Brown's landmark two-volume History of the United States Capitol. Brown's handsome volumes chronicled the development of the Capitol and its art collection to that time. Brown's work set a new standard for architectural history, affecting the development of the Capitol, and of the capital city, in the years that followed.

The Capitol has changed considerably in the last century, and present generation should take care to document those changes and preserve the history of this magnificent structure for the future. Plans for an updated, annotated edition of the Glenn Brown History began as the Capitol's 2000 bicentennial approach, and Congress authorized such a volume in 1993. Today, only the final proofreading work remains, save for this renewed printing resolution, before the Government Printing Office can proceed to publish.

The new annotated volume will update the Glenn Brown work, correcting errors, adding new historical context and enhanced color photographs, among other improvements. The new edition, prepared by the Architect of the Capitol with the support of the U.S. Capitol Preservation Commission and the U.S. Capital Historical Society, will be published under the direction of the Joint Committee on Printing in consulting with the House Clerk and the Senate Secretary. The joint committee plans a single-volume format that is both economical and reader-friendly but, like the original, worthy of this splendid structure.

Mr. Speaker, I urge support for the motion. This body should ensure preservation of the Capitol's history, just as in 1999, with the gentleman from Ohio's strong support, the House passed my bill authorizing a written history of the House itself. That House history, being written by the distinguished historian Dr. Robert Remini, is well underway. As entertaining as he is learned, Professor Remini participated last November in the Cannon Centenary Conference on the modern speakership. Those fortunate to hear the professor's remarks left both enlightened and eager to read the completed work chronicling the House's role and contributions to America's history.

Mr. Speaker, for more than two centuries this Capitol has stood as a shrine to our democracy and a beacon to millions across the globe. We must preserve not only the bricks and mortar of this Capitol, but also its history. The volume printed pursuant to this resolution will make a substantial contribution to that preservation, and I urge an "aye" vote on the motion.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just in conclusion. I am very pleased that we can come together and take care of this housekeeping chore. During the discussion this afternoon on the passage of this resolution I would have liked to have been presented a copy of Mr. Brown's book. I am told the only volumes we have the Architect has, and they are too tattered to even leave his office. So it is time that Congress meet its obligation of preserving the rich history of this great building that is a symbol of liberty and democracy.

Mr. MICA. Mr. Speaker, I am pleased to yield back the balance of my time and ask for passage of this resolution.

The SPEAKER pro tempore (Mr. COLE). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 358.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MICA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 358.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 359) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The Clerk read as follows:

H. CON. RES. 359

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used on April 22, 2004, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge passage of House Concurrent Resolution 359, which permits the Capitol Rotunda to be used for a ceremony as part of the Days of Remembrance commemorating the victims of the Holocaust.

Mr. Speaker, it is necessary to go through this procedure to use the very sacred center of the Capitol for a ceremony and joint authorization by both the House and the other body because of the significance of this particular location and its significance and importance in this building.

The United States Holocaust Memorial Museum is mandated by Congress to educate Americans about the history of the Holocaust and to annually honor and remember the victims of this catastrophic, horrible event, and that is done on the National Days of Remembrance observance. The purpose of the Days of Remembrance is to ask all Americans to reflect on the Holocaust, to remember the victims and to renew and strengthen our commitment to democracy and to human rights for every person.

The very first Days of Remembrance ceremony was held in the United States Capitol Rotunda in the year 1979. It has been held there every year since, except when the Rotunda has been closed for renovations. At last year's National Days of Remembrance observance, Secretary of State Colin Powell gave the keynote address. The theme of this year's Days of Remembrance commemoration is entitled "Justice and Humanity." That title, Justice and Humanity, is in memory of the Jews of Hungary who were deported 60 years ago in the final stages of World War II. The commemoration will honor the courageous individuals, as well as the organizations and countries who attempted to rescue them.

In this country, official response to the mass murder of European Jews and others resulted in the creation of the War Refugee Board in 1944. Established by the Executive Order of President Franklin Delano Roosevelt, the War Refugee Board worked with Jewish organizations, diplomats from neutral countries and resistance groups in Europe to rescue Jews from occupied territories and provide relief to inmates of Nazi concentration camps. Although belated, this action saved thousands of lives, reminding us of the terrible consequences of indifference and of the ability of organizations, individuals and countries to confront and work to halt acts of genocide or related crimes against humanity.

How appropriate I believe it is, Mr. Speaker, at this time that we remember the victims of the World War II Holocaust. It is my hope also that during this ceremony we can reflect upon others who have lost their life to genocide and to murderous regimes. I have often wondered how the world could stand by in World War II and not do more to save people who were headed for extermination camps. Not being alive in that era, I have, however, been alive during an era of other holocausts, such as in Cambodia, where millions literally were murdered in a genocide.

□ 1430

During my term in office, I remember Rwanda where nearly a million Africans were slaughtered and the world did not come to their aid. And, once again, we remember and we should reflect during our Day of Remembrance on those in Iraq as we uncover hundreds of mass graves throughout that country. Our obligation, whether it is in Asia, Africa or the Middle East, is to make certain that a holocaust does not take place, to make certain that tens of thousands are not murdered by any despot regime.

This ceremony that will be conducted will be the centerpiece of similar remembrance observances to be held throughout our Nation in all 50 States. Members of Congress, government officials, foreign dignitaries, Holocaust survivors and citizens from all walks of life have attended previous commemorations. House Concurrent Resolution 359 provides for the 2004 commemoration to be held in the rotunda on the day of April 22 of this year.

Mr. Speaker, I urge the support of my colleagues for this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

I wish to associate myself with the remarks of the distinguished gentleman from Florida (Mr. MICA).

Mr. Speaker, I rise with a great deal of humility and strong support for House Concurrent Resolution 359, authorizing the use of the Capitol rotunda for the Days of Remembrance ceremony on April 22.

During the week of April 18, similar Holocaust remembrance days will take place all across this country, as the distinguished gentleman from Florida pointed out. As this body has done every year since 1979, Congress will use the historic rotunda location to reflect on one of the most painful moments in all of world history: the Holocaust.

This very special day of remembrance, along with the creation of the United States Holocaust Memorial Museum, was established by Congress to permanently honor these victims. They were created not only to remember those who perished but also to educate the world about human rights.

The 2004 Days of Remembrance asks us to honor the memory of the Jews of Hungary, who were deported 60 years ago in the final stages of World War II, and to honor those courageous individuals as well as the few organizations and countries who attempted to rescue them. This year's theme is "For Justice and Humanity." It has specific poignancy for me as a Member from Connecticut, knowing that Hadassah Lieberman's mother was part of that.

I had the honor in Connecticut as Senate President to preside over the Days of Remembrances for 8 years. I often reflect on how solemn and important those ceremonies were, and still are. I can still see the survivors and their family members coming forward to light the candles and the solemnness of the occasion.

Given the current conflicts around the world, it is especially important to remember the message of the Holocaust victims who said, do not forget us. We cannot forget them or the evil that sent them to their deaths. Tragically, we need only to watch the nightly news to realize that this evil still exists in the world.

The ceremony we are authorizing today reminds us that when we respect the lessons of the past, we strengthen the values of every future generation.

Mr. Speaker, I urge passage of this concurrent resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I am very pleased to yield such time as he may consume to the gentleman from Ohio (Mr. LATOURETTE), the sponsor of this resolution.

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman from Florida (Mr. MICA), my friend, for yielding me this time; and I also want to thank him and the gentleman from Connecticut (Mr. LARSON) for managing this concurrent resolution. I also, Mr. Speaker, want to thank the chairman of the Committee on House Administration, the gentleman from Ohio (Mr. NEY), for permitting me to carry this piece of legislation.

I have had the pleasure for the last 10 years to be a member of the Holocaust Governing Council, one of the five appointed Members of Congress. During my time in Congress I have seen such giants in this institution as Ben Gilman of New York and recently the gentleman from Virginia (Mr. CANTOR) and the gentleman from California (Mr.

LANTOS) in bringing this resolution to the floor, and it is an honor for me to have the opportunity to be a part of that today.

Mr. Speaker, H. Con. Res. 359 permits the United States Holocaust Memorial Museum to use the Capitol rotunda for the Days of Remembrance observation. This annual event, which takes place in the symbolic heart of our American democracy, honors the victims of the Holocaust and is a reminder to all of us that freedom and liberty have both rights and responsibilities.

Since the opening of the museum and the beginning of the Days of Remembrance sponsored by the museum, world events have continued to demonstrate that it is imperative that we remember and study the Holocaust. From the violent breakup of Yugoslavia and the cataclysmic terror in Rwanda, to the rise of anti-semitism around the world that continues today, we live in a time when the great strides in human rights made over the last half century are in danger of losing ground to ignorance and intolerance.

That is why the theme of this year's commemoration, "For Justice and Humanity," is so timely. The title comes from a statement made by President Franklin D. Roosevelt who, when he called for the rescue of the Jewish population in Hungary in March of 1944, said, "In the name of justice and humanity, let all freedom-loving people rally to this righteous undertaking." By honoring rescuers along with the victims in this year's commemoration, we are shining a light on the brave acts of individuals and organizations that can teach important lessons today.

Of course, we know that it was too late for many Jews in Hungary in 1944. With the war entering its final stages, Nazi and Hungarian authorities deported about 440,000 Jews. At least half of those were murdered in gas chambers immediately upon their arrival at the labor camp Auschwitz. By the time the Nazis and their Hungarian collaborators were driven out of Hungary in April, 1945, nearly four-fifths of the Hungarian Jewish community had been killed.

Yet there were some individuals, organizations and countries that asserted the value of human life in the face of the systematic murder of men, women and children. The War Refugee Board, established in January of 1944 by President Roosevelt, had the mandate to take "all measures to rescue victims of oppression in imminent danger of death."

Raoul Wallenberg, a Swedish diplomat based in Hungary, led the War Refugee Board's most extensive rescue efforts by distributing protective Swedish passports or travel papers to tens of thousands of Hungarian Jews. Carl Lutz, a Swiss diplomat, issued certificates of emigration, placing nearly 50,000 Jews in Budapest under Swiss protection. Italian businessman Giorgio Perlasca issued forged visas and established safe houses. When Budapest was liberated in February of 1945, more than 100,000 Jews still remained in the city because of the efforts of Wallenberg, Lutz, Perlasca and other diplomats and individuals. The War Refugee Board played a crucial role in the rescue of as many as 200,000 Jews in German-occupied Europe.

This year, as we commemorate the lives of the millions of victims of the Holocaust, we also pay tribute to the rescuers for their courageous efforts rallying "to this righteous undertaking."

The first visit that I had to the Holocaust Museum following my election in 1994, I was taken around by the son of a Holocaust survivor; and there are two exhibits that I would commend to my colleagues on their next visit. One was a temporary exhibit that detailed the sailing of the steamship *St. Louis* and how that boat was turned from port to port to port as no one would take the Jews into their country.

The second is the failed conference that took place in Avignon, France, where countries from around the world, aware of the "Jewish problem" during the Second World War and some of the solutions that Nazi Germany was prepared to undertake, country after country declined to take affirmative action to take Jewish immigrants into its borders, the United States being one of them.

As we ponder not only the Days of Remembrance, I hope that we as legislators also learn the lessons of the *St. Louis* and the conference at Avignon; and I would ask all of my colleagues to join us in supporting House Concurrent Resolution 359.

Mr. LARSON of Connecticut. Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Again, I would like to close on this particular resolution before the House, a simple resolution to allow the use of the rotunda for this ceremony. But when we enter the rotunda, the sacred center of the Capitol building on April 22, it is important that we do remember those victims who were lost in this horrific slaughter of human beings in World War II. We remember, as the gentleman from Ohio said so eloquently, that there were incidents like the turning away of the steamship St. Louis that went from port to port, and hundreds met a horrible fate because of the nations, and even the United States, who turned their backs.

The good Lord gave the United States the responsibility now, as the superpower of the world, an important responsibility that we should not lose sight of.

So as we reflect upon those victims, as we reflect upon those who ignored their responsibility, and as we recognize our responsibility in the world today, it is important that again we reflect at this time on what occurred, what was done, and what was left undone, and that we also make certain as we reflect on April 22 that we do not allow a holocaust of our time.

So with those comments, Mr. Speaker, I urge my colleagues to support this resolution.

Mr. CANTOR. Mr. Speaker, I rise today to express my support for House Concurrent Resolution 359, permitting the use of the rotunda of the Capitol to commemorate the Days of Remembrance of victims of the holocaust.

It is appropriate that we commemorate those who perished during the Holocaust. It is also important that we not forget that genocide and human rights abuses continue to occur elsewhere around the world. As the leader of the Free World, the United States must use its power and influence to bring stability to the world. History serves as a lesson to all, and we must ensure that the horrors of the Holocaust must never happen again.

I am proud to be a founding trustee of the Virginia Holocaust Museum and am pleased that a growing number of community-based Holocaust museums around the county are a reflection of our increasing awareness of the lessons of the Holocaust. Only when every person understands the magnitude of death, destruction, and utter horrors of the Holocaust can we feel we have done everything to prevent its recurrence.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my support of H. Con. Res. 359, to allow the use of the Capitol Rotunda for a ceremony to commemorate victims of the Holocaust. Our Nation's Capitol is a symbol of freedom and democracy to so many. This resolution gives us a forum to pay service to the victims of the Holocaust. I pray that such a tragedy should never touch the world again.

A Holocaust memorial is not something to be taken lightly, or to be rushed without its due respect. The Holocaust is a product of authoritarian government and evil intentions, and we must continue to study and remember it, lest it be repeated. Hate, genocide, racial supremacism still occur in parts of the world and I believe that we as Americans can still focus our efforts on stopping them before they grow to an uncontrollable magnitude.

My heart goes out to the victims and survivors of Adolf Hitler's death camps. Every time I reexamine the Holocaust, and pay tribute to what happened, I am still shocked and pained by the organized, methodical killing that went on in Europe.

For the 12 million people that Nazi Germany exterminated, we must remember. For each of the six million Jews killed, we must respond. For the Gypsies, the gays, the political dissenters and any of the righteous people who spoke out against what they thought was evil—for this we commemorate and remember the Holocaust. It can never happen again.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLE). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 359.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MICA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H. Con. Res. 359.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY TO AWARD CONGRESSIONAL GOLD MEDAL TO DR. DOROTHY HEIGHT

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 357) permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height.

The Clerk read as follows:

H. CON. RES. 357

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used on March 24, 2004, for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise this afternoon in support of House Concurrent Resolution 357. This is a resolution authorizing again the use of the rotunda for a ceremony which will be conducted on March 24 honoring Dr. Dorothy Height. Dorothy Height will receive a great honor of the United States Congress when she is awarded in that ceremony the Congressional Gold Medal.

Mr. Speaker, as we just authorized the use of the rotunda for a different ceremony, and that particular ceremony and the previous action for a memorial service, this is a service of celebration and also of the life of a distinguished American, Dr. Dorothy Height.

□ 1445

This is a service of celebration and also of the life of the distinguished American, Dr. Dorothy Height. On December 6, 2003, the resolution awarding Dr. Dorothy Height the Congressional Gold medal became public law. That is the purpose for our requesting a ceremony in the Capitol rotunda; and, of course, as I said before, we need permission of the House and the other body to conduct this ceremony.

I want to talk a little bit about Dorothy Height and tell a little bit about her history. She is an outstanding American and truly deserving of this great honor.

Dorothy Height was born in Richmond, Virginia, in 1912. At an early age she moved with her family to Rankin, Pennsylvania. While in high school, Dorothy Height was awarded a scholarship to New York University where she studied and earned a master's degree. At a very early age she established herself as a dedicated student with exceptional oratorical skills.

After graduating from New York University, Dr. Height began her career working as a case worker with the New York City Welfare Department. At the age of 25, she began her journey as a civil rights activist when she joined the National Council of Negro Women. In 1957, Dr. Height was named president of the council, a position which she held until 1977.

During the height of the civil rights movement in the late 1960s, Dorothy organized Weekdays in Mississippi, which brought together black and white women from the North and the South to create a dialogue of mutual understanding.

Throughout her life, Dr. Height fought for equal rights for both African Americans and also for women. And in 1944 she joined the national staff of the Young Women's Christian Association, the YWCA. She remained active with the organization until 1977. During her tenure at the YWCA, she developed leadership training and other programs and other projects promoting racial and religious tolerance and understanding.

Dr. Height has served our Nation in a number of different capacities during her distinguished career, including as a consultant on African Affairs to the Secretary of State, also as a member of both the President's Committee on Employment of the Handicapped and on the President's Committee on the Status of Women. Her tireless efforts for equal rights have earned her the praise and recognition of numerous organizations as well. She has received the Presidential Medal of Freedom, the Franklin Delano Roosevelt Freedom From Want Award, and the NAACP Springarn Medal and now the Congressional Gold Medal. Dr. Height has also been inducted into the National Women's Hall of Fame.

Dr. Height's work has helped countless women in America and around the world participate in democratic reform resulting in new opportunities for themselves, for their families, and their communities.

Finally, Mr. Speaker, if you ever had a chance to hear or see Dorothy Height, you had an opportunity to see one of the most distinguished advocates for women, an advocate for minorities that has ever been in our country's history.

If you have not seen Dr. Dorothy Height, you missed the glow in her eyes, you missed the sparkle in her voice, you missed the strength of an individual who has gone beyond so many barriers in her life, again, opening doors and offering opportunities to women, to minorities, and to all Americans.

I am a strong admirer of this lady and what she has done. I know a former Member of the House, Connie Morella, often talked about Dr. Height and her accomplishments; and others will come forward when we pass this resolution to honor her accomplishments. So I am absolutely delighted this afternoon to be here to offer this resolution to authorize the use of the Capitol rotunda where we will present this distinguished medal to a great American, Dr. Dorothy Height.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again would like to associate myself with the remarks of the distinguished gentleman from Florida (Mr. MICA), who is eloquent and noteworthy in his praise. This has been a historic afternoon in so many respects, pausing to honor the works of Glenn Brown in the historic writings as they relate to this great Capitol facility, pausing to reflect and remember and reserve the great rotunda to participate in the Days of Remembrance with regard to the Holocaust, and now to step forward and pay homage and honor a living legend.

I urge all Members to join all of us in supporting the distinguished chairman's motion. There can be no more appropriate use of the Capitol rotunda than for a ceremony to honor Dr. Dorothy Irene Height for a lifetime of achievement of social equality and justice.

The author of the original legislation, our distinguished colleague, the gentlewoman from California (Ms. WATSON), could not be here today, but deserves credit for having had the persistency to make sure that not only would Dr. Height receive the gold medal, but also that we would, as this Congress is required, reserve the rotunda for this great ceremony.

It is important for me today to note that Dr. Height is in my home State of Connecticut at a book signing as I speak. I am pleased that the appropriate ceremony will be approaching next month.

Congress reserves its highest civilian honor for men and women whose contributions to American society exemplify the highest traditions and ideals of public service. By every measure, Dr. Dorothy Height's lifelong commitment to the principles of freedom, equality, and social justice compels this award.

Beginning during the administration of Franklin Roosevelt and continuing to the present day, Dorothy Height has fought to promote human and civil rights throughout our society. For decades she has worked tirelessly to promote the appointment of qualified women to senior Federal positions. As president of the National Council of Negro Women since 1957, Dr. Height has been an especially forceful advocate for the advancement of African Americans. In addition, and on a personal note, I would like to acknowledge the work of Mrs. Mary A. Ballard, who leads the Hartford section of the National Council of Negro Women in my home district.

Mr. Speaker, as Congress recognized last year, there is no doubt that America is a far better place thanks to the labor and commitment of Dr. Dorothy Height on behalf of not only those among us who face the burdens of injustice but all of us. She deserves great credit. The use of the Capitol rotunda to award the gold medal to Dorothy Height is not only fitting; it is required and long overdue.

I urges all Members to join in supporting the resolution.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to first of all commend the gentlewoman from California (Ms. WATSON) for introducing this resolution, and I want to thank the gentleman for yielding me time.

Dr. Dorothy Height is a steadfast pioneer of women's rights and racial justice for people of color. She has set an example of what can be achieved through commitment and group activism.

As the fourth elected president of the National Council of Negro Women, Dr. Height led a crusade for justice for black women. To help strengthen the black family, she conceived of and organized the Black Family Reunion Celebration, which has been held here in Washington since 1986, an activity in which I have participated.

Under the leadership of Dr. Height, the NCNW achieved tax exempt status; raised funds on behalf of thousands of women in support of erecting a statue of Mary McLeod Bethune, NCNW's founder, in a Federal park; she developed several model programs to combat teenage pregnancy and address hunger in rural areas; and established the Bethune Museum and Archives for Black Women, the first institution devoted to black women's history. She was instrumental in the initiation of NCNW-sponsored food, child care, housing and career educational programs.

No stranger to political activism, in the 1960s Dr. Height called on the NCNW to sponsor Wednesdays in Mississippi when interracial groups of women would help out at Freedom Schools and conduct voter registration drives in the North and voter registration in the South. She worked with Dr. Martin Luther King, Jr., and Roy Wilkins to prevent lynchings, desegregate the Armed Forces, reform the criminal justice system, and provide equal access to public accommodations.

Dr. Dorothy Irene Height has a long legacy as a leader in the struggle for equality and human rights. She has through her words and deeds proven distinguished service to humanity and her many contributions for equality, social justice and human rights for all people. She is commended for her efforts. And even at this stage of her life, every time I go to an event, an activity, she is generally there in her wheel chair. Someone is pushing her, bringing her, but she is there.

I grew up as a great fan of Dr. Mary McLeod Bethune. And Dr. Height inherited the legacy. I also work with two women who are very close to Dr. Height, Ms. Rosie Bean and Ms. Arnetta Wilson. I am sure that they are both rejoicing to note that their distinguished leader who is deserving of such an honor is to be recognized.

Mr. LARSON of Connecticut. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to again support this resolution that I think is somewhat overdue to present and conduct this ceremony for the presentation of the gold medal for Dr. Dorothy Height.

Dr. Dorothy Height, as I said, is a delightful lady. She just celebrated, I am told, her 91st birthday just some 2 weeks ago. She has an incredible career that has spanned nearly this century, and she has a public career that spans over 65 years. She unquestionably has been recognized as one of the preeminent social and civil rights activist of our time. In fact, Dorothy Height, I am told, was the only female at the table when Dr. Martin Luther King planned the civil rights movement.

□ 1500

She has all her life struggled for equality, for social justice and for human rights for all people.

Mr. Speaker, when young people need role models, and certainly in the time that we live in they need role models, we have had two women so honored. Soon Dorothy Height will receive this honor. The other I remember is Rosa Parks since I have been in Congress. She was awarded a gold medal, and certainly Dorothy Height is in the same category and deserving of recognition of this honor by Congress.

So I think, whether it is Rosa Parks who changed the course of history in this country or someone who worked tirelessly through their life and has an incredibly distinguished career, as we heard, promoting the rights of all individuals, women and minorities in our society, that we take this time to honor her in this ceremony in March. I urge the passage of this resolution.

Mr. HOLT. Mr. Speaker, I rise to honor one of America's great citizens—Dr. Dorothy Height.

For more than six decades, Dorothy Height has tirelessly fought for those who are less fortunate, for those who have been denied access to an education, and for those who have been denied equal rights. Both through personal example and her commitment to social equality, Dorothy Height has provided women and minorities with hope to dream and the tools to realize their potential.

During the civil rights movement, Dorothy Height led the fight for inter-racial schooling, and spearheaded African American voter registration drives. She worked closely with Dr. Martin Luther King, Jr., Roy Wilkins, Whitney Young, A. Philip Randolph, and others as they developed plans for obtaining civil rights. It should be noted that she was the only woman allowed to be present in several high-powered strategy sessions with those great leaders.

Dorothy Height was an advocate for women's rights during a time when few African American women were engaged in the feminist movement. She fought tirelessly to implement her vision of full and equal employment, fair pay, and access to education for all women.

In addition to her work for equality in the United States, Dr. Dorothy Height has been a leader in the struggle for international human rights. In 1975 she helped establish the sole African-American private voluntary organization working in Africa. She has improved the quality of life for women in developing countries, and has worked to combat the AIDS crisis in Africa.

A Congressional Medal of Honor is well deserved, and one of many honors earned by Dr. Dorothy Height over her long and distinguished career. I am very pleased to join my colleagues in the House in marking this honor for an individual who dedicated her life to the struggle for social equality and justice.

Mr. CUMMINGS. Mr. Speaker, it is with a great sense of pride that I stand before this chamber as we act on legislation that moves us one step closer to awarding the Congressional Gold Medal to Dr. Dorothy Height.

Two months have passed since the bill bestowing this great honor upon Ms. Height (H.R. 1821) was signed into public law. Now, during the celebration of Black History, I can think of no better time to put the proper procedures in place for Dr. Height to receive her award on March 24, 2004. I can also think of no better place to bestow this award on Dr. Height than in the Capitol rotunda's Statuary Hall—a place that memorializes the giants of our country. I think Dr. Height is a giant in her own right and apparently many people in our country agree.

Who would have imagined some 90 years ago that the daughter of James Edward Height and Fannie (Borroughs) Height of Richmond, Virginia would one day be receiving the Nation's highest civilian honor.

Born in 1912 in Richmond, Virginia, Dr. Dorothy Irene Height distinguished herself at an early age as a dedicated student with exceptional oratorical skills. As a young girl she fearlessly and vehemently stood up to the racist and sexist climate of the times. At the age of 25 she heeded the call of her mentor, Mary McLeod Bethune, founder of the National Council of Negro Women, and joined the struggle for women's full and equal employment and educational advancement. She has and continues to dedicate her life to the struggle for equality, social justice, and human rights for all peoples.

Mr. Speaker, throughout her illustrious career as a civil rights advocate, Dr. Height tirelessly worked to prevent lynching, encourage voter registration, desegregate the armed forces, reform the criminal justice system, and create equal access to public accommodations.

And a long career it has been. In fact, her public career spans 65 years. She was a valued advisor to First Lady Eleanor Roosevelt and encouraged Presidents Eisenhower and Johnson to desegregate the Nation's public schools and to appoint African American women to sub-Cabinet positions. Since 1957, she has served as President of the National Council of Negro Women, an umbrella organization for 250 local groups and 38 national organizations dedicated to economic development and women's issues.

Mr. Speaker, the numerous awards and accolades Dr. Height has received over the years is a testimony to her invaluable contributions to the progress of this Nation. The NAACP has awarded her The Spingarn Award, its highest honor. She is also the proud recipient of the John F. Kennedy Memorial Award from the National Council of Jewish Women; the Ministerial Interfaith Association Award; the Lovejoy Award; and the Congressional Black Caucus's William L. Dawson Award for her decades of public service to people of color and particularly women. However, Dr. Height is not one to rest on her laurels. She continues to lead the fight against social injustice and inequality. Her profound love for our youth is unmatched. As a direct link to the civil rights movement of the 1960s, Dr. Height continues to inspire future generations of civil rights activists.

What is truly remarkable about this grand dame is that at age 90 she does not plan on slowing down. And although she spends much of her time in a wheelchair, she continues to stand up for equality and social justice.

Mr. Speaker, once again, I am proud to stand before this body as we move ever closer to bestowing upon Dr. Dorothy Height our Nation's highest civilian honor.

I want to thank my colleagues from the House Administration Committee, Mr. LARSON and Mr. NEY for setting the procedural stage to allow this great ceremony to take place in the Capitol rotunda. I especially thank my friend, Diane Watson for sponsoring this legislation as well as for sponsoring the original legislation honoring Dr. Height that passed in the House.

Ms. WATSON. Mr. Speaker, H. Con. Res. 357, authorizing the use of the capital rotunda to award the congressional gold medal to Dr. Dorothy Height, is offered today to sanction the venue for the upcoming award of the medal to Dr. Height on March 24, 2004.

I want to thank Congressman NEY, Chairman of the Committee on House Administration, and Congressman LARSON, Ranking Member, for their cooperation and support in bringing this bill to the floor in an expeditious manner. I also want to thank Maria Robinson and Catherine Tran, House Administration Committee staff members, for their work.

Mr. Speaker, on December 6, 2003, President Bush signed into law P.L. 108–162, which authorizes Congress to present a congressional gold medal to Dr. Height in recognition of her many distinguished contributions to the nation. The presentation of the congressional medal to Dr. Height will appropriately recognize her long and productive public career and her superior service to our Nation.

Dr. Height's numerous accomplishments span the history of the 20th Century. She is currently President of the National Council of Negro Women (NCNW), a position to which she was appointed in 1957 upon the retirement of Dr. Mary McLeod Bethune, one of the most influential African-American women in U.S. history. Under Dr. Height's leadership, the National Council of Negro Women implemented a number of new and innovative programs, including leadership training for African-American women in the rural South; the Bethune Museum and Archives, devoted to African-American women's history; the Black Family Reunion, a nationwide annual gathering to celebrate not only the black family, but all families; and Operation Woman Power, a project to expand business ownership by women and to provide funds for vocational training.

In addition to her many accomplishments as president of the NCNW, Dr. Height had a persistent, active, and significant presence during our Nation's historic civil rights movement. As a member of the so-called "big six" civil rights leaders, which included A. Philip Randolph, Martin Luther King, and Roy Wilkins, Dr. Height was the only female who participated in the major planning of one of the most important movements in U.S. history. She has been an advisor to presidents, and remains and active and respected advocate for human rights around the globe.

Dr. Height is the recipient of numerous awards over her long and active life, including the Citizens Medal Award, presented by President Reagan, and the Presidential Medal of Freedom, awarded by President Clinton.

Mr. Speaker, I urge my colleagues to support H. Con. Res. 357 so that Congress can appropriately honor a woman who has done and given so much to better our Nation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it is indeed a great honor to rise before this body as a strong supporter of the H. Con. Res. 357.

I first want to thank my distinguished colleague, Ms. WATSON for her diligent work on this resolution. And I also wish her a speedy recovery.

Mr. Speaker, it is because of people like Dorothy Height that we can all enjoy the freedom that America bestows upon her people. Ms. Height is a pioneer and trail-blazer. Like other pioneers, both celebrated and unknown, she has opened the doors of opportunity to all, making America the free country it is today.

From the very beginning, Dorothy Height was a crusader. During the depths of the Great Depression she managed to do something very few of her contemporaries were able to accomplish.

She knew that education was a key to making one's way in the world and the way to enlighten the path for others. She graduated from New York University with a bachelors and a master's degree in Education in 1933.

Immediately afterward, she launched a career in civil rights. She has remained on the battlefield for six decades. Her first venue for advocating the rights of others was the Young Women's Christian Association (YWCA). Here she led an advocacy movement aimed at improving conditions for black domestic workers.

Within the YWCA, she worked to integrate an organization that still had separate facilities for blacks and whites. Because of her determined and dogged efforts, women of all racial backgrounds could use the same facilities with the same privileges.

Her leadership at the national level resulted in the YWCA adopting an interracial charter in 1946 that called on the organization and its members to stand against racial injustice in the United States.

After her work with the YWCA, Ms. Height became president of the National Council of Negro Women. She steered the organization through the civil rights struggle of the 1960's.

She helped organize voter registration in the South, at a time when it was dangerous and nearly impossible to be an African-American voter below the Mason-Dixon line.

Ms. Height also organized voter education programs and scholarship programs for student civil rights workers.

In 1970 Dorothy Height expanded the goals of the NCNW to encompass vocational training and assist women in opening businesses, forms of education that were not readily available to women at the time.

Since then, Dorothy Height has served as a social services expert on local, state, and federal governmental committees concerned with women's issues. She has also led numerous campaigns for the war on drugs, encouraging youngsters to take advantage of education and vocational training.

Mr. Speaker, in 1996, the United States Government recognized Dorothy Height's achievements with the Presidential Medal of Freedom.

I am pleased, Mr. Speaker, to join my friend, the gentlewoman from California, Ms. WATSON, in support of this most appropriate use of the rotunda of the Capitol of the United States.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to support this legislation that honors and salutes a giant and to acknowledge my good friend the gentlewoman from California (Ms. WATSON) for her leadership and insight on an effort long overdue.

We have all truly been blessed with Dr. Dorothy Irene Height, born on March 24, 1912 in Richmond, Virginia and raised in Rankin, Pennsylvania. Many of us have had the fortunate opportunity to study Dr. Height's personal and professional history and her numerous contributions-which are extensive, as she has given the greater part of her life to the service of others. Therefore, some might describe her as an activist for social justice and civil rights, a servant of the people, one who has served a number of Presidents, a humanitarian, an American hero, and a patriot, to name a few. The above-mentioned titles are merely words but are given color and meaning when one actually meets the acquaintance of Dr. Dorothy Height. Her charm, energy, insight, intellect, wisdom, and her compassion easily captivate others. I am honored to have had the opportunity, among others, to share in her vision. It is wonderful to know that she can speak eloquently about Mary McLeod Bethune, that she can speak to the concept of ownership for African American people, having led the effort to erect the first African American-owned building on Pennsylvania Avenue just two blocks away from the White House. She believes in women's rights and the economic empowerment of minorities and is a strong, passionate activist for these causes.

Mr. Speaker, I am delighted to be here today because our words are simply that, simple words, mere words. But if our presence on the floor today commemorates the honor that is being given to Dr. Dorothy Height under the leadership of the gentlewoman from California (Ms. WATSON), I urge my colleagues to join us in acting to honor and salute this great leader. Dr. Height, we love you.

Dorothy Height's lifetime of achievement measures the liberation of Black America, the advance of women's rights, and a determined effort to lift the poor and the powerless into the Halls of Power and influence in our Nation. She began her career as a staff member of the YWCA in New York City, becoming director of the Center for Racial Justice. She became a volunteer with the National Council of Negro Women (NCNW), where she worked with its founder, Mary McLeod Bethune.

When Bethune died, Height became president, a position she continues to hold. NCNW, an organization of national organizations and community sections with outreach to four million women, develops model national and international community-based programs, sent scores of women to help in the Freedom Schools of the civil rights movement, and spearheaded voter registration drives. Height's collaborative leadership style brings together people of different cultures for mutual benefit.

Because of Dorothy Height's commitment to the "Black family," she has hosted the Black Family Reunion Celebration since 1986, in which almost 10 million have participated. As stated above, Dr. Height was born in Richmond, Virginia, and moved with her parents to Ranklin, Pennsylvania at an early age. Winner of a scholarship for her exceptional oratorical skills, she entered New York University where she earned the Bachelor and Master degrees in 4 years.

While working as a caseworker for the welfare department in New York, Dr. Height joined the NCNW in 1937 and her career as a pioneer in civil rights activities began to unfold. She served on the national staff of the YWCA of USA from 1944 to 1977 where she was active in developing its leadership training and interracial and ecumenical education programs. In 1965 she inaugurated the Center for Racial Justice which is still a major initiative of the National YWCA. She served as the 10th national president of the Delta Sigma Theta Sorority, Inc., from 1946 to 1957 before becoming president of the NCNW in 1958.

Working closely with Dr. Martin Luther King, Jr., Roy Wilkins, Whitney Young, A. Philip Randolph and others, Dr. Height participated in virtually all major civil and human rights events in the 1950's and 1960's. For her tireless efforts on behalf of the less fortunate, President Ronald Reagan presented her the Citizens Medal Award for distinguished service to the country in 1989.

Dr. Height is known for her extensive international and developmental education work. She initiated the sole African American private voluntary organization working in Africa in 1975, building on the success of NCNW's assignments in Asia, Africa, Europe, and South America.

In three decades of national leadership, she has served on major policy-making bodies affecting women, social welfare, economic development, and civil and human rights, and has received numerous appointments and awards. As president of NCNW, Dorothy Irene Height has an outstanding record of accomplishments. As a self-help advocate, she has been instrumental in the initiation of NCNW sponsored food, child care, housing and career educational programs that embody the principles of self-reliance. As a promotor of Black family life she conceived and organized the Black Family Reunion Celebration in 1986 to reinforce the historic strengths and traditional values of the African American Family. Now in its ninth year, this multi-city cultural event has attracted some 11.5 million people.

Dr. Height's lifetime of achievement measures the liberation of Black America, the brilliant advance of women's rights, and the most determined effort to lift up the poor and the powerless. Still fighting, pushing, and advocating, Dr. Dorothy Height—mother, wife, grandmother, great-grandmother, doctor, civil/human rights activist, and freedom fighter continues unrelentingly to serve our country in the health and most meaningfully—the civil arena at the age of 91.

Dr. Height is a commendable and formidable woman. She has whole-heartedly devoted her life to public service, struggling for social justice, the eradication and education of HIV/AIDS, unprivileged children, equal rights, voting rights, women's rights, and education opportunities for all citizens irrespective of color, ethnicity, gender, disability, sexuality and other markers of difference.

She as the leading lady in the civil rights movement, sitting as the only female on the planning table with Whitney Young, Dr. Martin Luther King, James Farmer, A. Phillip Randolph, and Roy Wilkins. She has been and continues to be emulated internationally. Needless to say, Dr. Height is a jewel in the African American community and an influential and exemplary leader in the country.

Many examples of her work stand out in our minds. To give just one—under her leadership of the National Negro Women's Council, she introduced and implemented many initiatives and programs geared towards the betterment of the Afro-American community, the advancement of minority women in all sectors of society, most notably, in business and non-traditional careers. Serving in all capacities imaginable, she has served distinguishably.

Dream giver and earth shaker, Dr. Dorothy Height has followed and expanded on the original purpose of the National Council of Negro Women, giving new meaning, new courage and pride to women, youth and families everywhere. While most individuals resolve to retirement at her current age, Dr. Dorothy Height continues to extend and commit herself beyond measures; she has done so not for recognition or national esteem, but as a labor of love. For the above-mentioned reasons, it is our rightful duty to honor her in recognition of her many priceless contributions to the civil growth of this nation and the beautiful legacy she will leave by awarding her a congressional gold medal.

For the above reasons, Mr. Speaker, I support H. Con. Res. 357.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLE). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 357.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 357.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING ISSUANCE OF PROCLAMATION COMMEMORATING 200TH ANNIVERSARY OF BIRTH OF CONSTANTINO BRUMIDI

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 264) authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

The Clerk read as follows:

H. CON. RES. 264

Whereas Constantino Brumidi, born in Rome, Italy, on July 26, 1805, landed at New York Harbor on September 18, 1852, as a political exile, making his flight from Italy to the United States because of his love for liberty;

Whereas Constantino Brumidi's love for his adopted country led him to seek citizenship 2 years after his arrival;

Whereas in 1855, Constantino Brumidi began his artistic work in the Capitol, and spent more than 25 years of his life painting, decorating, and beautifying the corridors, committee rooms, and Rotunda of the Capitol;

Whereas Constantino Brumidi created many magnificent paintings and decorations, depicting the history, inventions, values, and ideals of the United States, thus enhancing the dignity and beauty of the Capitol and inspiring millions of visitors;

Whereas in 1865, Constantino Brumidi painted, in just 11 months, his masterpiece "The Apotheosis of Washington" in the canopy of the eye of the Capitol dome;

Whereas in 1871, Constantino Brumidi created the first tribute to an African-American in the Capitol when he placed the figure of Crispus Attucks at the center of his painting of the Boston Massacre;

Whereas in 1877, at the age of 72, Constantino Brumidi began his last work, the fresco frieze encircling the top of the Rotunda, and 3 years later fell from a slipped scaffolding and was never able to return to work;

Whereas Constantino Brumidi died as a result of this experience 3 months later in February 1880;

Whereas Constantino Brumidi has been called "the Michelangelo of the Capitol" by historians; and

Whereas the year 2005 marks the 200th anniversary of the birth of Constantino Brumidi, as well as the 150th anniversary of the beginning of his artistic career in the Capitol and the 125th anniversary of his death: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President is authorized and requested to issue a proclamation commemorating the 200th anniversary of the birth of Constantino Brumidi and calling upon the people of the United States, State and local governments, and interested organizations to commemorate this anniversary with appropriate ceremonies, activities, and programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to offer a resolution, the fourth measure today. This bill passed the Committee on Government Reform and will be considered by the full House at this time, a resolution which would honor the memory of Constantino Brumidi.

Not too many people have probably heard of Constantino Brumidi. He is not exactly a household word or name in America, but Constantino Brumidi has been called the Michelangelo of the United States Capitol Building. House Concurrent Resolution 264 was introduced to honor both the life and also the work and creative genius of Constantino Brumidi.

Mr. Brumidi was an Italian immigrant who spent 25 years, from 1855 to 1880, painting, decorating and making the United States Capitol as we know it even today a more beautiful place to live and visit and have as a treasure for our country.

Brumidi was born in Italy in 1805, and he worked as an artist in Rome. He also worked in the Vatican, where he had many commissions, including a famous portrait of Pope Pius IX.

In 1852, Brumidi immigrated to the United States; and he dedicated really the balance of his life to making this building, our United States Capitol, one of the most impressive structures in our great Nation.

In 1865, Brumidi spent 11 months walking dangerously and working high atop the Capitol rotunda where he labored on his masterpiece. His masterpiece, and we can see it today if we walk out into the rotunda and look up, is called The Apotheosis of Washington, and it is located in the very center, in the eye of the dome of the ceiling of the Capitol.

Six years later, he created the first tribute to an African American in the Capitol when he placed the figure of Crispus Attucks at the center of his painting of the Boston Massacre.

In 1878, at the age of 72 and in poor health, Brumidi began work on the rotunda frieze. If we look in the Capitol around the frieze, about midway, we can see his work. The frieze chronicles the history of the United States.

Constantino Brumidi's life and work exemplifies the lives of millions of immigrants who came to the United States, and they came from all lands, sometimes to escape adverse conditions, to build a better life, to leave the problems of their native lands, and they brought their skills and their hard work and their talents, which not only bettered their lives and those of their children but immensely created the art, the trade, the richness that we have in the United States and enjoy today.

There are many organizations supporting this resolution, including NAIF, which is the National American Italian Foundation. That is an organization that promotes Italian American relations, cultural and business relations. We also have other numerous United States Italian American groups who support the recognition that we are bringing forward today, again to recognize the life and talents of Constantino Brumidi.

The year 2005 is the bicentennial of Brumidi's work, and I can think of no better way to honor this patriotic Italian American's contribution to our great Nation, to this incredibly historic building, than by passing this resolution.

Mr. Speaker, I urge passage of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I would consume.

Let me, first of all, commend the gentleman for his introduction of this resolution.

Mr. Speaker, H. Con. Res. 264 honors the 200th anniversary of the birth of Constantino Brumidi. Mr. Brumidi was a wonderful artist who dedicated over 25 years to painting the Capitol Building. He is a symbol of the American dream. Born in Italy, he moved to the United States and, like so many other immigrants, made wonderful contributions to our great country.

Although Mr. Brumidi was known for his masterpiece, The Apotheosis of Washington, located in the Capitol dome, I would like to mention the fact that he was first to use the Capitol to pay tribute to an African American when he painted Crispus Attucks in his portrayal of the Boston Massacre.

Another treasure is Brumidi's corridors, the beautifully decorated corridors on the first floor of the Senate wing in the Capitol.

Mr. Brumidi's work is enjoyed by the millions of visitors to the Capitol each year, as well as by those of us who have the privilege of using the Capitol for official business.

Mr. Speaker, an outstanding artist, whose work continues to delight and inspire millions of people each and every year as they come and visit the Capitol, as they view portraits of the Capitol and as they recognize the tremendous masterpiece that this edifice is, and so I commend my colleague, the gentleman from Florida (Mr. MICA), for introducing this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

In closing, I urge my colleagues to support House Concurrent Resolution 264, a resolution again recognizing the 200th anniversary of the birth of Constantino Brumidi. I urge its adoption.

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of the proclamation to commemorate the 200th anniversary of Constantino Brumidi's birth. Often referred to as the Michelangelo of the Capitol, Constantino Brumidi's frescoes decorate the Capitol Rotunda, House Chamber, committee rooms, and corridors of the Capitol with their incorporation of classical artistic traditions and patriotic American themes.

Born in Italy in 1805, Constantino Brumidi studied at the Italian Academy of Arts and demonstrated his talent for fresco painting at a young age, painting several Roman palaces and working three years in the Vatican. He immigrated to America in 1852 at the age of forty-seven and settled in New York City. The artist later took on other important works such as the frescoes in St. Stephen's Church and an allegorical depiction of the Holy Trinity in a Mexico City cathedral. It was upon his return from Mexico that Constantino Brumidi stopped in Washington and visited the Capitol where he was excited about the opportunity to decorate its interiors.

Constantino Brumidi was hired by Captain Montgomery Meigs and his first art work in the Capitol was in the House Committee on Agriculture's room. Because his art garnered such favorable attention, he was awarded more commissions and eventually became a Government painter. While Brumidi created scores of frescoes depicting allegories and scenes from American history, perhaps his most important work was "The Apotheosis of George Washington" which appears in the Rotunda of the Capitol dome and depicts Washington's ascension to heaven. Today, no visit to the Capitol is complete without viewing this incredible work. Although immigrating to America later in life, he drew from his Italian artistic experience and blended it with the history of his new country. The artist took great pride in his new home, even signing one fresco, "C. Brumidi Artist Citizen of the U.S."

Mr. Speaker, on behalf of my district's more than 62,000 constituents of Italian descent, I am proud to join this body in celebrating Constantino Brumidi's lasting contributions to our country as the 200th anniversary of his birth approaches.

Mr. PAYNE. Mr. Speaker, as a cosponsor of H. Con. Res. 264, I am very pleased to join in this effort to honor the life and accomplishments of Constantino Brumidi. An Italian immigrant of partial Greek descent, his beautiful works of art grace our greatest symbol of democracy, our Capitol building where we gather to conduct the nation's business and where we welcome hundreds of thousands of visitors from around the world each year.

Constantino Brumidi spent 25 years of his life, from 1855 to 1880, painting, decorating and enhancing the beauty of the United States Capitol. This talented artist was born in Rome, Italy to Stauros Brumidi from Greece and Anna Bianchini Brumidi of Rome on July 26, 1805. He was trained as an artist and painted in Rome and at the Vatican. He arrived in New York City as a political refugee on September 18, 1852 and became an American citizen in 1857. He began painting in the U.S. Capitol on February 19, 1855 and spent more than 25 years of his life painting, decorating and beautifying the corridors, committee rooms and the Rotunda of the Capitol. Brumidi created many magnificent paintings and decorations depicting the history, inventions, values and ideals of the United States, thus enhancing the dignity and beauty of the Capitol and inspiring tens of millions of visitors. In 1865, he painted in just 11 months his masterpiece, The Apotheosis of Washington in the canopy of the eye of the Capitol dome. In 1871, Brumidi created the first tribute to an African American in the Capitol when he placed the figure of Crispus Attucks at the center of his painting of the Boston Massacre. He died on February 19, 1880, exactly 25 years to the day that he first began work in the Capitol.

Brumidi also painted in Catholic churches in cities along the east coast, including Washington, DC (St. Aloyisus Church), Baltimore, Md., Philadelphia Pa. and most especially, in St. Stephen's Catholic Church in New York City. Brumidi is buried in Glenwood Cemetery in Washington, DC. His grave marker there was authorized and paid for by the U.S. Congress in 1950.

Mr. Speaker, I would like to commend the Constantino Brumidi Society, and its Chair, Joseph N. Grano, for all of their hard work in promoting a deeper appreciation of the works of this great artist. The Constantino Brumidi Society was organized in February 2000 by individuals with a special interest in the U.S. Capitol and Italian culture for the purpose of educating the public about the life and work of Constantino Brumidi.

The lofty goal of the Constantino Brumidi Society is to make Americans more familiar with his works of art in the Capitol and elsewhere, and to encourage an appreciation for the fine art traditions of the Italian High Renaissance and Baroque which Brumidi studied and employed. They also aim to support and encourage the preservation and conservation of Brumidi's paintings and frescoes in the Capitol and elsewhere, particularly at Our Lady of the Scapular and St. Stephen's Catholic Church in New York City.

In forming this organization, it was also their hope that by celebrating Constantino Brumidi's life and art, this Italian immigrant and American citizen who did so much to beautify the most important building in his adopted country would become a household name, and that every American would come to know this wonderful story. His life story should be seen as emblematic of all the millions of immigrants who came to the United States to better themselves and in consequence enormously enriched their new homeland. In the moving words of Brumidi himself, "I have no longer any desire for fame or fortune. My one ambition and my daily prayer is that I may live long enough to make beautiful the Capitol of the one country on earth in which there is liberty."

The Society has as its special focus the year 2005, which will be the bicentennial of Constantino Brumidi's birth, the 150th anniversary of his commencing work in the Capitol and the 125th anniversary of his death.

Mr. Speaker, I urge my colleagues to join me in supporting this resolution to honor a man who has secured a special place in our history and in our hearts, both as an extraordinary artist and an outstanding patriot.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 264.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MICA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of H. Con. Res. 264, the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 11 minutes p.m.), the House stood in recess until approximately 6:30 p.m. today.

☐ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 6 o'clock and 30 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–417) on the resolution (H. Res. 520) providing for consideration of the Senate amendment to the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Concurrent Resolution 358, by the yeas and nays;.

House Concurrent Resolution 359, by the yeas and nays; and

House Concurrent Resolution 264, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

AUTHORIZING PRINTING OF "HISTORY OF THE UNITED STATES CAPITOL"

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 358.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 358, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 29, as follows:

[Roll No. 19]

YEAS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emanuel
English
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—1

Ose

NOT VOTING—29

Andrews
Ballenger
Boyd
Brady (PA)
Cardin
Clay
DeGette
DeMint
Doggett
Doyle
Edwards
Emerson
Engel
Eshoo
Fattah
Gephardt
Hinojosa
Honda
Kucinich
Larsen (WA)
Ortiz
Rahall
Slaughter
Stark
Tauzin
Wamp
Watson
Weldon (PA)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1854

Ms. WOOLSEY changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ENGEL. Mr. Speaker, on rollcall No. 19, had I been present, I would have voted "yea."

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 359.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 359, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 30, as follows:

[Roll No. 20]

YEAS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Ehlers
Emanuel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa

Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)

Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta

Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—30

Andrews
Ballenger
Boyd
Brady (PA)
Cardin
Clay
Cooper
Cox
DeGette
DeMint

Doggett
Doyle
Dunn
Edwards
Emerson
Engel
Fattah
Gephardt
Honda
Keller

Kucinich
Ortiz
Rahall
Slaughter
Stark
Tauzin
Wamp
Watson
Weldon (PA)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1901

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ENGEL. Mr. Speaker, on rollcall No. 20, had I been present, I would have voted "yea."

AUTHORIZING ISSUANCE OF PROCLAMATION COMMEMORATING 200TH ANNIVERSARY OF BIRTH OF CONSTANTINO BRUMIDI

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 264.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 264, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 28, as follows:

[Roll No. 21]

YEAS—404

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine

Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom

Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode

Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch

Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen

Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—28

Andrews
Ballenger
Boyd
Brady (PA)
Cardin
Clay
DeGette
DeMint
Doggett
Doyle
Edwards
Emerson
Fattah
Gephardt
Honda
King (IA)
Kucinich
Mollohan
Ortiz
Radanovich
Rahall
Slaughter
Stark
Tauzin
Wamp
Watson
Weldon (PA)
Young (FL)

☐ 1918

So (two thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DEMINT. Mr. Speaker, I was absent during rollcall votes 19, 20, and 21. Had I been present, I would have voted "yea" on each of those votes.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

A CALL FOR INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, it is becoming increasingly obvious to people across the country that this House of Representatives is failing in its responsibility with regard to its oversight of the executive branch. I am referring here, of course, specifically to the assertions that have been made by various people in the administration, Secretary of Defense, the Vice President, others, even the President himself, with regard to the necessity to go to war in Iraq.

This Congress was told and the American people were told that we needed to go to war in Iraq because of the association that existed between Saddam Hussein and al Qaeda and also because the regime of Saddam Hussein possessed so-called weapons of mass destruction. Time and time again people in the administration raised the specter of the mushroom cloud to create the impression that the government of Iraq was in the process of creating nuclear weapons that could be used either directly or indirectly against the United States and therefore that the government of Saddam Hussein constituted a direct and immediate threat to the people of our country.

Here, for example, are some of the words of President Bush himself. On September 12 of 2002 he said: "The history, the logic, and the facts lead to one conclusion. Saddam Hussein's regime is a grave and gathering danger. To assume this regime's good faith is to bet the lives of millions and the peace of the world in a reckless gamble, and this is a risk we must not take."

We know that he was wrong, and we have every reason to suspect that he knew he was wrong when he said that. But what has happened, more than 500 American lives have been lost, more than 530 to be exact. Tens of thousands of Americans have been wounded and taken out of Iraq as a result of those wounds. Hundreds of thousands of others have been killed and wounded all on the basis of what now increasingly seems clear to be fraudulent information presented to this Congress and to the American people.

This House of Representatives has a responsibility. It has a responsibility to ensure that the executive branch is acting within the confines of the Constitution. It has a responsibility to make sure that the laws of this country are being obeyed, and it has a responsibility to make sure that the administration is not acting in ways that put American citizens in danger unnecessarily.

It is increasingly clear that the war in Iraq was not a war of necessity but rather it was a war of choice, and that choice was made by high-ranking people in the Bush administration.

So what is our obligation? Our obligation is clear. This Congress should at this moment be preparing to conduct a comprehensive and complete investigation into the allegations made by members of the administration. Supposedly those allegations were based upon intelligence that was supplied to the administration from the Central Intelligence Agency and other intelligence agencies within the Federal Government. But evidence that we have now suggests that the intelligence supplied to the administration was manipulated by people within the administration, perhaps even falsified, in order to justify our war in Iraq.

If that is the case, and it increasingly seems obvious that it is, this Congress has a responsibility to engage in an investigation to get at the truth. To what extent have our intelligence agencies been compromised by this administration? To what extent are our intelligence agencies now less reliable than they were before? And if they have been compromised, as it seems they have, and if they are less reliable, as it seems they are, as a result of the administration's activities, then this Congress has a responsibility to engage in that investigation.

The President just recently has said that he is going to establish a commission to look at some of the intelligence; but we know already, based upon the language coming out of the administration, some of the names of the people who have been suggested as members of that commission, and the limited direction and responsibility of the commission, we know that that commission is not going to conduct the kind of investigation that needs to be conducted if the American people can have some sense of security in the sanity and proper conduct of their intelligence agencies and the way that that information is used by the administration. This Congress needs to begin that investigation, and it needs to begin it immediately.

TEA–21 REAUTHORIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to discuss the reauthorization of highway funding, the Transportation Equity Act for the 21st Century.

Our transportation system in this country has a direct and significant impact on the daily lives of all Americans. While the United States has benefited greatly from having a strong transportation network, we are indeed approaching a crossroads.

My area, north Texas, has experienced an increase in traffic over the past 3 decades, and this is a result of unprecedented population and employment growth and the underinvestment of Federal funds in my area. In many ways this is a silent crisis, rarely recognized by residents until they find themselves in an unbearable commute to work or unable to make the necessary connections between home, work, and the countless other activities our daily lives demand.

In Texas, our identified transportation needs outstrip available funding three to one. Texas has several specific transportation needs: supporting the international trade transportation, more efficient environmental processes, and expanding innovative financing techniques. Congress and the administration continue to discuss the need for increased funding in the transportation reauthorization bill. But we need to ensure the current Federal transportation dollars are being spent wisely. Our charge as congressional representatives is to protect dollars taken from the taxpayer by streamlining and improving the activities of our Federal Government. There are many important Federal programs such as our transportation programs that are being hurt and neglected with expenditures that could be handled with greater care.

As a member of the committee, I wanted to be certain that the Department of Transportation was ensuring the most efficient business practices within the agency. Last year, just a few months after being sworn in, I met with the Department of Transportation Inspector General, Kenneth Mead, to discuss the business practices of the agency and how Congress can better facilitate the decrease of inappropriate expenditures related to transportation spending. Inspector General Mead and I discussed the need for greater stewardship and oversight of all of the functions of the Department of Transportation.

To date, the Department has not changed the way the agency distributes transportation funding to State and local entities since President Eisenhower was in office. The Inspector General recommended that if 1 percent of the $500 billion spent over the last 10 years on transportation, if that 1 percent was saved, that would generate an additional $5 billion; and, in fact, this $5 billion could equate to the amount of funding needed for four of the 11 major transportation projects going on in this country right now. I believe this practice could better assist the Department of Transportation in spending of taxpayers' dollars more wisely.

There are several successful transportation projects that can be used as examples for government efficiency. For example, Highway 15 in Utah was rehabilitated ahead of schedule and under budget. In north Texas, the Dallas Area Rapid Transit system worked within their budget last year and actually returned over $20 million in transit funding to the government. Sadly, there are bad examples of transportation projects that are over budget and behind schedule. The Springfield interchange in Virginia and the Central Artery Project in Boston come to mind. We need to address the misuse of Federal transportation expenditures as soon as possible.

Furthermore, the General Accounting Office has estimated that from fiscal years 1998 to 2001 the highway trust fund lost over $6 billion because of the ethanol tax exemption. And using the Department of Treasury's projections of the tax receipts based on current law, it is estimated that the highway account will not collect $13 billion because of the tax exemption from fiscal years 2002 to 2012 and almost $7 billion from the General Fund transfer between the same years.

Prior to the Transportation Equity Act for the 21st Century, the highway trust fund earned interest on its balance. If the highway trust fund had continued to earn interest on its balance, the Department of Treasury estimates that the highway trust fund would have earned about $4 billion from 1999 to 2002.

Between modifying the Department's practices with State and local governments and reevaluating the true purposes of the highway trust fund, we can work together to ensure our government is more effective and more efficient for the taxpayer.

I believe we need to have policies included in the TEA-21 reauthorization bill to allow States flexibility to complete large projects in less time and save money. I believe streamlining the design-build process will achieve this goal, and I have asked for its inclusion in the final reauthorization legislation. More funding and modifications of current transportation programs will equate to better roads, bridges and transit facilities, ultimately less congestion, and ultimately a safer environment for our constituents.

I remain committed to working with Federal, State, and local officials during the reauthorization this year to address the long-term needs while ensuring that our Federal Government wisely spends the taxpayers' dollars on infrastructure.

Mr. Speaker, finally, it is important to me because constituents in my district spend so much time in traffic jams, and my goal is to make certain that they have just as much time at the dinner table for family discussions as they spend waiting patiently in traffic.

☐ 1930

ADMINISTRATION SUPPORTS SHIFT OF JOBS OVERSEAS

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, even though I come from Ohio, I picked up the Los Angeles Times today and just could not believe the headline. It said, "President Bush Supports Shift of Jobs Overseas." "The loss of work to other countries," this is the sub-headline, "while painful in the short-term, will enrich the economy eventually, the President's report to Congress says."

I thought, that cannot be it. It is some overzealous headline writer that really did not understand this.

Well, then I started looking at some other papers. I saw the Seattle Times writes, "Bush report: Sending Jobs Overseas Helps U.S."

Then I looked at the Pittsburgh Post-Gazette, just down the road a couple hours from where I live in Lorain, Ohio. The headline was, "Bush Economic Report Praises Outsourcing Jobs."

Then the Orlando Sentinel in the home State of the President's brother, Governor Bush, the headline was, "Bush Says Sending Jobs Abroad Can Be Beneficial."

Now, this is pretty hard to understand. The President of the United States, his top economic adviser would issue a report saying it is a great thing we are sending jobs overseas. I began to read about this, and it says, "The movement of American factory jobs and white-collar work to other countries," according to the Bush administration, "is part of a positive transformation that will enrich the U.S. economy over time, even if it causes short-term pain and dislocation."

Gregory Mankiw, the chief economic adviser for the President, the chief economic adviser for the United States of America, said, "Outsourcing is just a new way of doing international trade. That is a good thing."

Now, I want Mr. Mankiw, I want him to look in the eyes of a steelworker in Lorain, Ohio, and look in the eyes of a computer programmer in Palo Alto, California, and look in the eyes of a telephone operator in Akron, Ohio, or look in the eyes of a radiologist and say that outsourcing is a good thing.

But Mr. Mankiw has something today about radiologists, too. Do you remember when we passed other trade agreements in this Congress, past trade agreements, I always said if you get enough education, then you are all set. You just get ahead. You go to school, you get an education, you got a job. That is the way it works.

Well, Mr. Mankiw, the chief economic adviser for the President of the United States, said, "Maybe we will outsource a few radiologists. What does that mean? Well, maybe the next generation of doctors will train fewer radiologists and will train more general practitioners and more surgeons. Maybe we've learned we don't have a comparative advantage in radiologists."

Obviously, Mr. Mankiw has been reading economic textbooks. He has not been talking to the computer programmer in Palo Alto, he is not talking to the steelworker in Lorain, he is not talking to the telephone operator in Akron, and he is not talking to any radiologists.

Now, why would President Bush's economic adviser say that outsourcing is a good idea? These are the same people that support the North American Free Trade Agreement, that support PNTR, the most-favored-nation trade advantages for China, the same people that support trade promotion authority, Fast Track, and now the same people that are pushing the Central American Free Trade Agreement and are pushing the Free Trade Area of the Americas, which will quadruple, quadruple, the size of the North American Free Trade Agreement.

Every time there is an economic problem in this country, every time another report comes out about unemployment, President Bush's economic advisers and the President himself says, all we got to do is do more tax cuts for the most privileged, then the benefits will trickle down to the rest of the country, and all we have to do is more trade agreements.

You know what happens? Every single time they promise 200,000 increased jobs a month, and every time these tax cuts for the rich, they do not trickle down. In fact, we have seen job loss in manufacturing every month of the Bush administration. We have seen with this President the first President since Herbert Hoover to have job loss during his time in office.

In my State, one out of six, as the gentlewoman from Toledo, Ohio (Ms. KAPTUR) knows, one out of six manufacturing jobs in my State has disappeared since George Bush took office. But every time there is a problem, every time there are more bad news statistics about jobs lost, the President says, let's do more tax cuts for the rich, let's do more free trade agreements and hemorrhage jobs overseas.

You know why? Because the people who benefit from these kinds of predictions, the people who benefit from these kinds of job losses, the people who benefit from this outsourcing of jobs, are the investors. And those are the people, the wealthiest investors in the country, those are the people that contribute money to George Bush's campaign, those are the people that benefit from the tax cuts, those are the people that benefit from trade agreements, as they line their pockets. But it might help the wealthiest in this country, it might help George Bush, but it hurts workers, it hurts families, it hurts communities, and it hurts our Nation.

MERCURY AND AUTISM: A "PLAUSIBLE" ARGUMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, for about the past 4 years we have been talking about children with autism. We have gone from 1 in 10,000 children who are autistic to 1 in 150 to 200. It is an absolute epidemic. And we have had hearing after hearing where we brought in scientists from around the world who told us that one of the major reasons for children to become autistic and have ADHD and other mental problems and psychological problems is because of an additive that was put into vaccines called thimerosal. It is a mercury-based additive, a preservative, that is supposed to preserve the vaccine if you put it in multiple shot vials.

Recently, a study was done by researchers from Johns Hopkins University, Northeastern University in Boston, the University of Nebraska and Tufts University, and it was published in the Vancouver Sun. It was not in any American newspaper, but in the Vancouver, British Columbia, Sun. It had a headline, "Vaccine additive linked to brain damage in children. Mercury-based preservative tied to autism, ADHD, U.S. researchers say."

After that came out, there was a flurry of activity over at Health and Human Services, and the Institute of Medicine's Immunization Review Board met yesterday and said, well, there is no conclusive evidence that this is causing that kind of a problem.

No conclusive evidence? One in 10,000 children used to be autistic; now it is 1 in 150 to 200. It is going to cost us billions and trillions of dollars to take care of them over the years to come because they are not going to be able to cope with society. This study is going to be published in a scientific journal in April called Molecular Psychiatry.

This meeting that took place yesterday with the Institute of Medicine's Immunization Review Board, they had the people that were on the side of the pharmaceutical companies saying, oh, there is no proof that the mercury in vaccines is causing these neurological problems.

The fact of the matter is, almost all of the people who were taking that position were people who had a vested interest in the pharmaceutical industry's position. They were getting money for research grants. Their universities where they study were getting grants from the pharmaceutical industry. Many of these people work for pharmaceutical companies, and they are taking the position that mercury in vaccines does not cause brain damage.

But it does not just affect kids. An article that came out just a couple of days ago said that one in four women aged 55 and older are going to suffer from dementia or Alzheimer's, and one in six men aged 55 and older are going to suffer from dementia or Alzheimer's. So the mercury in our vaccines is not just damaging our kids and hurting our society for future generations, but it is hurting seniors as well.

Something has to be done about it. We have to get mercury, which everybody knows is a toxic substance, out of anything that goes into the human body, especially vaccines.

Now because of our hearings and raising cain over the past 4 years, we have been able to get it out of all children's vaccines except two, but they are still putting it in two children's vaccines. We need to get it out of all of them.

Adults, for my friends in Congress, if you are interested, when you get your flu vaccine, it has mercury in it; and almost every vaccination you get when you go overseas to visit Iraq and every place else has mercury in it. Our troops in the Persian Gulf were getting as many as 11 shots in one day that had mercury in it; and those people, if these researchers are correct, are going to suffer at some point in their life neurological damage.

So I would like to say to my colleagues who may be paying attention tonight, these are pictures of children who have been damaged who are autistic. Their parents have to deal with them on a daily basis. Many of them grow up to be 14 or 15 years old, and they go into fits because of their mental disorder and because of autism. The parents are scared to death of them, but they do not want to put their kids in a mental institution, they want to keep them at home, and they do not have the funds to deal with it.

It is just an American tragedy, a tragedy that does not need to occur if we would just get mercury out of all vaccines, especially children's vaccines. We need to do it now, and the people at HHS and FDA and the pharmaceutical industry need to come to the truth and tell the American people that there is a problem.

I would like to end with a quote from a prominent scientist. His name was Charles Sanders Pierce. He was a renowned American scientist. He said, "There is one thing even more vital to science than intelligent methods; and that is the sincere desire to find the truth, whatever it may be."

So I say to my friends at HHS and the pharmaceutical industry, get with the program. Let the American people know the truth and get mercury out of vaccines.

TOP ECONOMIC ADVISER SAYS OUTSOURCING OF JOBS A GOOD THING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I would like to follow up on the remarks of my colleague, the gentleman from Ohio (Mr. BROWN), about the unbelievable report that this White House has produced in which the President's top economic adviser, not an intern who is studying for a master's degree or a bachelor's degree, his top economic adviser says, "Outsourcing of jobs is just a new way of doing international trade. And that's a good thing."

Well, coming from the State of Ohio, I would like to say to this President, bring 'em on. Come right over to us.

The day after the State of the Union address, the President flew and landed in Toledo, Ohio, my home district, a State in which hundreds of thousands of people are out of work, with people where he has cut off their unemployment benefits and has not extended them. They cannot find jobs. There are people in my church who stopped looking. They do not know where else to go.

We have some jobs available to work in our primary election March 2, and I have been telling people to at least apply at the Board of Elections to work for $85 a day. At least it is one day's wages. The job scene out there is really rough, and it is extraordinarily rough in the State of Ohio.

The day after the President left, the unemployment rate in Ohio ticked up. Then last week, just a few days after he left, another plant closure was announced in Sandusky, Ohio. The little Dixie Cups, everybody knows Dixie Cups, 207 more people permanently out of work, people who have families to support, people who depend on their check, people who depend on their health benefits and people who depend on the retirement benefits that they had worked so hard for, some for as many as 30 years.

What is going on in this great land? I turned the news on the other night. Domino Sugar in New York City, closing down. The yellow and white bags have been a fixture in our family since I was a little kid and learned how to bake from my grandmother. Gone.

Just north of the line of where I live in the State of Ohio, Electrolux up in Greenville, Michigan, 2,700 jobs permanently gone, closed down.

What is happening under this presidency? Nearly 3 million manufacturing jobs out the window, and the President's top adviser in a written report says that the movement of American factory jobs, along with white collar work, is a good thing.

Where do these people live? You know what? I have a hunch most of them are the privileged children of privileged parents. They do not have any idea of what struggle is really about. And the rest of us who think we know something about struggle have to be polite, we have to be refined, we have to have upper-class and middle-class behavior, when you really want to take the people who took your jobs and level them.

That is what it feels like when you lose everything, when people in your district lose their health benefits.

A company in my district called Pilkington was promised that their health benefits would be there in their retirement years. Now they are being charged $170 more a month for their health benefits. I talked to some of these folks over the weekend, 80-years-old, 84-years-old. Their hands shake. Promises were not kept.

□ 1945

I would say to the President of the United States, it would have been a good thing had he ever had to work for a living. If he had, his chief economic adviser would not have prepared a report which was in the L.A. Times and the headline read, "Bush Supports Shift of Jobs Overseas." The Seattle Times says, "Bush Report Sending Jobs Overseas Helps the United States." In the Pittsburgh Post-Gazette, a city that knows a whole lot about outsourcing, "Bush Economic Report Praises 'Outsourcing' Jobs." And way down in Florida, the Orlando Sentinel, "Bush Says Sending Jobs Abroad Can Be Beneficial."

I would tell my colleagues whose job I would like to send abroad, and we have about 7 or 8 more months to do it. I would really like to see any President who says this to the people of Ohio carry a single vote in our State.

Mr. Speaker, I really am very proud to be a Member of this Congress, and I try to be a voice for the people who have been so adversely affected. I urge every American who is out of work and everyone who is worried about their jobs being outsourced to register to vote, vote in your primaries, vote in the general election on November 2. Let us change the direction of this Nation once and for all.

BUSH ADMINISTRATION SUFFERING FROM CREDIBILITY DEFICIT

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, last week we learned the administration's budget projects a $521 billion deficit. What we also have learned, based on that budget, is that not only are they running a budget deficit, or a fiscal deficit; they are also running a credibility deficit. It is impossible to wage three wars with three tax cuts and expect a different result. They have, time and again, whether we are dealing with the issue of weapons of mass destruction, the benefits of their tax cut, or with the issue of Medicare, on point after point, they are running a credibility deficit.

The other day, Time Magazine ran a cover story about the growing credibility gap for the President of the United States. It is all because of the actions he has taken. Let us take the issue of Medicare. We debated here whether we were going to charge the taxpayers $400 billion for a prescription drug benefit; and before a single benefit has been issued, which is questionable, but before a single benefit has been issued to a single senior citizen, the taxpayers were charged another $150 billion, and the administration knew all about it all along. We did nothing to bring down the price of prescription drugs, which are going up next year 15 percent and are going up the following year another 15 percent. Yet they knew all along, while we were debating a prescription drug benefit that will not be seen by a single senior citizen for another 2 years, they knew the bill was actually $550 billion. That is what our seniors and our taxpayers are going to be charged, and we did nothing to drive down or bring down the prices, which will continue to go up. That was the beginning of a credibility deficit.

Now, the President has submitted a budget with a $500 billion to $520 billion deficit that his administration calls "manageable," "within acceptable range." Yet the International Monetary Fund said it is the single largest drag on the economy. Goldman Sachs, the respected firm of Goldman Sachs where the President's Director of the Office of Management and Budget comes from, referred to the budget that the President submitted as "not credible" and "an accounting fiction."

And we learned recently in Ron Suskind's book on "The Price of Loyalty" that the President of the United States knew all along the reason for the deficit. Mitch Daniels said, Mr. President, if you pass this tax cut, you are going to have deficits for the entire first and second terms of your administration. Yet now he wants to blame it on 9-11. He wants to blame it on an inherited recession, which was not a recession, and he wants to blame it on corporate scandals. Yet he was told by his own Director of the Office of Management and Budget that the reason for deficits are his tax cuts, which have nothing to do with economic recovery. But the President of the United States had the wisdom to ask, appropriately: Have we not done enough for the top rate? Have we not taken care of the very wealthy yet?

He knew that his economic program and his first tax cut had taken care of the wealthy, but he went along and decided to once again repeat a tax cut to the very wealthy in this country at the expense of middle-class families who are seeing no increases in assistance in college education, who are seeing no increases in health care, 33 million Americans who work and who have no health care. And he knew that that tax cut was going to take care of the wealthy and drive us into a deficit. Yet he went along and tried to pass it for something it was not, and then accused every Democrat who raised the same question the President of the United States raised as waging class warfare. The President of the United States went along with a tax cut that was skewed to the wealthiest.

On the issue of weapons of mass destruction, the issue is not whether Saddam Hussein was developing weapons of mass destruction. The issue was whether he was an imminent threat, and we were told he was an imminent threat. Now we learn, after having derided and belittled the United Nations, that the President of the United States went out on TV and said one thing, knowing the facts to be something else.

That is why this President now has with the American people, for the first time in his Presidency, when he had the benefit of the doubt from what happened to this country, to all Americans after 9-11, he has a growing credibility deficit. If we listen to what he says and we see what he does, the two things are not the same, from tax cuts to the deficit to Medicare, to weapons of mass destruction. Let us take the issue of the weapons of mass destruction. We will have to have the countries of the world be on our side when we face North Korea and our word must be important.

Then, and let me read one last thing and I will finish, as Time Magazine reported, "Any of those challenges might have been manageable alone. The problem was that each news cycle brought a new question about Bush's judgment and candor, which Democrats lost no time exploiting. Fiscal conservatives have been howling for months about a budget that seemed totally out of control."

Mr. President, this country now is facing a credibility gap, not only around the world, but your administration is, because of its words and its actions.

BUSH BUDGET LACKS CREDIBILITY, AND BALLOONING DEFICIT LEFT TO FUTURE GENERATIONS IS IMMORAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILL) is recognized for 5 minutes.

Mr. HILL. Mr. Speaker, back in the 1980s, a budgetary theory was advanced called "supply side economics." Some called it voodoo economics back in those days. It was the theory that you cut taxes, increase spending and, somehow, you get more money in. It did not work back then, and it has not worked again, because we have supply side economics all over again.

On January 28, 2003, during the State of the Union last year, the President said, "This country has many challenges. We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents, and other generations."

Last week, Members of Congress received copies of the President's proposed budget, and it is already clear this budget fails to meet the standards the President outlined last year. Today, my friends in the Blue Dog Coalition, a group that is well-known in Washington for our work on balancing the budget and reducing the deficit, are going to join me here to outline the dangerous course this budget outlines for our Nation.

This budget makes it clear to my constituents in southern Indiana and Americans across this country that this White House and Congress are mortgaging our future to pay for today. As this chart shows, we are backsliding into a deficit ditch, and there is no end in sight. Look at this: 1989. These are figures where in the year 2000; we had an actual surplus of $236 billion. We had an election in the year 2000, and look what has happened in the last 3 years. We have gone from a $236 billion surplus to this year, a projected $520 billion deficit. It is incredible that this could happen so quickly. In only a few short years, we have gone from record surpluses to these record deficits.

By 2009, the national debt will have eclipsed $10 trillion. Put it another way, that is nearly $40,000 for every man, woman, and child living in the United States today. It is simply immoral to strap future generations with trillions of dollars of debt that they did not create. It is immoral to increase the debt tax, the mandatory costs we must pay up front every year to cover the interest of the national debt, that every family is going to have to pay on the debt.

I have a second chart. The President's budget raises the debt tax dramatically. In 2004, right here, a family of four will owe $4,367. As my colleagues can see, over the next 10 years, each family will go from $4,367 of our national debt to $10,368 of our national debt.

Ballooning deficits are going to impose some impossible choices on future generations. Without a show of fiscal responsibility, we will squander away any hope for future generations to address pressing needs of their time because they will be stuck cleaning up the multitrillion-dollar mess we are making for them today. Leaving future generations with huge debts is immoral, but that is not the only problem with this budget. This budget simply lacks credibility.

The President proposes to limit spending this year. That is good. I agree with the President that Congress should limit spending, but that is not the whole truth. Spending in Congress is out of control today. In 3 years, with almost complete control of the Congress and the White House, this side of the aisle has increased spending as a percentage of the GDP every single year. And in 8 years, under the prior administration, spending decreased in relation to the Gross Domestic Product 8 years in a row.

So, yes, we must control spending, but we have to do more than that. We must mean it.

This budget fails to include a dime of spending for troops in Iraq and Afghanistan, and we should make it clear to the troops stationed overseas on 12-month rotations that we will provide the resources they need, rather than playing games with the budget to artificially hold down the size of this deficit on paper.

As my colleagues in the Blue Dog Coalition have said, we believe everyone, Democrats and Republicans, Congress and the White House need to sit down, put everything on the table, and get our economic house in order, not mortgage our future to pay for today.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BERRY. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Tennessee (Mr. TANNER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

THE PERFECT STORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes.

Mr. BERRY. Mr. Speaker, it is a sad day when we have to come to the well of this House and talk about the credibility gap of the President of the United States. It is the most disappointing thing to have the President issue a budget that is just simply fantasy. He just simply made up numbers.

Mr. Speaker, there is no funding in the budget for Iraq and Afghanistan, and we know that that is going to have to be done. It fails to address the repeal of the AMT, which we know is going to have to happen if there is going to be any fairness left in the Tax Code. Then, he puts out an economic report on this Nation and talks about how good it is to outsource jobs, to shift our jobs overseas. Where is the credibility?

☐ 2000

Over and over and over again, we are presented with a report or a request or a budget or appropriations bills that just simply do not have any credibility.

Our Nation is facing the perfect economic storm in a very short period of time. We just saw the charts. The deficit is in a nose dive, and nobody knows what to do about it. The cost of the interest that each family will have to pay in this country in the next 10 years is going to reach over $10,000 per family, a tax that cannot be repealed. We have the President's own economists talking about what a good thing it is that we are outsourcing high-tech jobs from this country.

Where is the credibility? None of this makes any sense.

The President just the other day in New Hampshire made a speech and said the Federal Government's got plenty of money. We do not need any more money. We have got plenty of money.

Where is the credibility? If we have got so much money, if the economy is doing so well, why are we broke? Why are we losing jobs? Why are the prospects for the next generation so dismal?

When this generation came into office, the Blue Dog Coalition that I am a member of met with the Vice President first. And we said, Mr. Vice President, we want to work with you. If you want to cut taxes, let us talk about it. Let us figure out a way to cut spending so we can make this work and we do not get back in the deficit ditch, because many of the people in that room at that time had dealt with this before, and they knew how tough it was. And he said, You do not understand. We have the majority. We do not need you. We think you are nice people, but we just do not need you. And we are going to do what we want to do, and what we want to do is have massive tax cuts and let somebody else worry about the deficit.

This is the same man that said in a meeting in the White House with the President, Deficits do not matter.

Well, tell that to these families that are going to have to come up with $10,000 to pay the interest on the national debt as their part. But, again, where is the credibility? Over and over we see this.

Then the Blue Dogs met with Mitch Daniels, the head of the Office of Management and Budget, and he explained it another way. Also, again, we did not understand. We had these massive surpluses. There was money flowing in the street, and he said this to us, You do not understand. We are going to have so much money, and after we cut taxes we are going to have even more. We are going to have so much money that we are going to pay off all of the national debt, and there will not be a safe place to invest your money. There will not be a U.S. Treasury bond anymore.

I remember him saying that so well. I wish Mr. Daniels was here tonight to face this perfect economic storm that we are about to pass on to our children and grandchildren because I think it is a terrible, terrible thing; and I think it is time that there be some credibility introduced into the national debate, and it needs to be brought to the table by the President.

TELL US THE TRUTH

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Tennessee (Mr. COOPER) is recognized for 5 minutes.

Mr. COOPER. Mr. Speaker, I am here tonight to make one very simple point. Sometimes the simplest points are the most powerful.

Families across America are probably eating supper about this time, a little worried about the future of the country, wondering whom they can trust.

Well, just a few weeks ago in this Chamber, we had the great speech of the year, the President's State of the Union message. And the President walked down this aisle in a crowded Chamber, most of the House and the Senate and the Supreme Court and other dignitaries were here. It was broadcast, of course, live on national television. And at this podium right here the President spoke and delivered a powerful message. There were many lines where there was applause; and one of them was this one, because we knew on that day, on January 20, that the President would be delivering his budget. That is a very complicated document. It is thousands of pages long. It takes months to prepare, and probably on that very night it was already at the printers, the type being set.

Well, perhaps the President was poorly served by one of his speech writers, but one of the lines in the President's important message was this one: the President said on the night of January 20 in this Chamber, he said that "in two weeks I will send you a budget that funds the war, protects the homeland, and meets important domestic needs."

Well, in 2 weeks he did send us a budget. It arrived here on February 2. Most of us have had a chance, especially those of us who have the privilege of serving on the Committee on the Budget, to dig through that budget and find what is in and what is not there. And to our surprise and disappointment, especially after the President's remarks just a few weeks ago in this Chamber on live national television, the budget does not fund the war. In fact, to read the President's budget, you would think that we are not at war at all.

Now, the President's budget does include over $400 billion to fund our Defense Department, and that is good; and most of this Chamber will support it and support it strongly. But that is largely a peace-time budget. That number would have been the same whether we were involved in fighting in Afghanistan or Iraq or not. So the budget that the President promised us that funds the war, and presumably he meant here the war on terrorism, the war where 120,000 of our troops are currently serving in Iraq and 10,000 of our troops are currently serving in Afghanistan, presumably the President meant the war most Americans worry about when they go to bed and pray about when they wake up in the morning because almost every day there is a casualty.

I think American families want the truth. We support our President. We want him to succeed. We want our Nation to succeed. We want our troops to win in Iraq and Afghanistan, but we need to be told the truth. We need to be told the extent of the sacrifice that we are being asked to make.

The rumor around here is that we will be asked after November's election to come up with another $50 billion to fund the war. I will probably support that. I supported the $87 billion supplemental request that the President asked us to support because we cannot leave our troops hanging in the fields. We have to support our men and women in uniform, and I am delighted to do that. But should we not be told the cost up front?

In the President's budget, which he promised to deliver to us and which would fund the war, he has essentially a zero figure for funding our men and women in uniform. Zero, nada, zilch, nothing.

Well, that is not accurate. That is not fair. That is not honest. I think that undermines the support of our men and women in uniform who are out there risking their lives for us and for our freedom every day. And in our budget, our central planning document for this government, we have nothing for them.

Many of us are aware of the shortcomings of supplies for our troops already. Our troops did not have the bullet-proof vests that they have needed to protect themselves in Iraq. Many of our vehicles, our Humvees and Bradleys, did not have sufficient spare parts. We did not have sufficient equipment to try to deal with the IEDs, the improvised explosive devices, that our troops are threatened with every day.

There are many needs that our troops have that we have not adequately funded and that we should fund and that the American taxpayer, I think, would be glad to pay for. But we have to be told the price. And it is only fair and honest to tell us the price before the election, not to hide it until after election day.

Mr. Speaker, I think most Americans as they sit at home eating dinner, and as we try to do our jobs in this body, want to listen to and believe the President's message, want to follow as much as we can what he asks us to do because he is our Commander in Chief, but he has got to tell us the truth.

WE WILL PAY FOR OUR TAX CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, just 3 years ago the state of our economy was strong. We had just seen 20 million new jobs created. We had seen the fastest growth in 30 years, the lowest unemployment in 30 years, the lowest poverty rates in 20 years, and the first back-to-back surpluses in 42 years, up to a surplus of $236 billion.

Alan Greenspan and others wondered aloud about the danger of an America that was debt free. What we would do, what we would give to have an America that is debt free now. But instead, our economy is in a different place. Instead, we have lost 2.2 million jobs in the last 3 years; and despite a rise in the stock market and productivity gains, there are no new jobs. People are searching for work longer and finding less.

This result was not unforeseeable. For years, members of the Blue Dog Coalition warned we were spending money we did not have, that the administration had no economic plan, that tax cuts alone were not a substitute for an economic plan for our country's future. Last year, this Congress voted to pass an increase in the national debt. At the same time we took up the increase in the national debt, we took up a further round of tax cuts.

I remember standing here on this House floor and pointing out the awful irony that in the same week we voted to raise the national debt we voted to cut taxes further. And it was plain we were borrowing the money to cut taxes further. A tax cut that is not paid for is not a tax cut at all. It is merely a deferral of the obligation to our children, to the next generation.

So we have reached an unfortunate milestone in our Nation's history where we have the largest deficits we have ever had, $521 billion for this year alone, and no plan, no plan in sight to put our fiscal house in order.

In fact, the administration's budget makes a bad problem worse, by failing to include the costs of the war in Iraq, by failing to include the costs that we will incur 5 years from now when this deficit will mushroom, by calling for a trillion dollars in new tax cuts without paying for them.

If your family or mine budgeted this way, we would all go bankrupt. Our families know what it is like to balance the checkbook at the end of the month, the end of the year; and it is time the Federal Government did the same. It is not too late to avoid leaving our children a crushing debt. It is not too late to create new jobs and put Americans back to work. It is not too late to end our dependence on foreign financing of our Nation's debt. But it is time to put our fiscal house back in order, by paying our bills as we go. The administration wants another tax cut? Fine. Let us pay for it. The administration wants to spend more? That is fine. But let us pay for it.

If we have not the courage to ask the American people to sacrifice at a time of war, let us not add the indignity of asking our children to bear the burden alone.

WE SHOULD ALL ABIDE BY SOUND FINANCIAL RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MOORE) is recognized for 5 minutes.

Mr. MOORE. Mr. Speaker, I am from Kansas and I go home virtually every weekend. And when I go home, I talk to my constituents: and they tell me, not in these words, these are mine but I guess it is what I have kind of distilled from their comments to me over the past 5 years I have been in Congress, why can Congress and America not live like American families do?

There are three simple rules that Kansas families and American families follow: number one, do not spend more money than you make: number two, pay off your debts; number three, invest in basics for the future. Of course, the basics for a nation are national defense, some sort of highway system to move goods around the country and make our economy work strong.

The basics for a family are food, shelter, education, health care, transportation, all the things that you think of, that we pay our bills on a monthly basis. And yet we routinely in government have spent more money than we took in, resulting in a $7.1 trillion national debt, $7.1 trillion. That is 7,000 billion dollars, more than most people, myself included, can even imagine.

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My colleagues have heard other speakers talk about our deficit this year as opposed to combination of all the years of deficit, but our deficit this year is the highest in our Nation's history, $521 billion, and that does not even include the supplemental the administration says they are going to request for Iraq, which the OMB director, the Office of Management and Budget director, said would be as much as $50 billion, if not more. That means we are $521 billion in deficit for just 1 year.

We are spending right now $1 billion a day on our debt tax; and the debt tax, of course, as my colleagues heard another speaker say, is the interest we pay on our national debt, $1 billion a day. We used to say, another day another dollar. Now it is another day, another billion dollars.

The interest we pay on our national debt is the third largest category of expenditure in our national budget. After defense and Social Security and Medicare is interest on the national debt, and that is money that could be used for health care for children, for education, for anything worthwhile besides interest on the national debt.

I am on the Committee on the Budget and Committee on Financial Services, and I have heard Chairman Greenspan testify the last several years, and I have had a chance to question him at least once or twice each year. The one question I routinely ask Chairman Greenspan is, if this Congress could do something, what would he ask Congress to do that would help shore up our economy in this country? And his answer is consistent. Fiscal responsibility, live within our means, and that means a balanced budget and when we can to start to pay down debt.

Chairman Greenspan, I am confident if he were standing right here tonight, in fact I will predict in the next 30 to 60 days Chairman Greenspan is going to issue a stern statement or a major policy address talking about his concern about the possibility of rising interest rates if we do not get our fiscal house in order.

Some of my colleagues are old enough to remember the late seventies. We had interest rates in this country of 13, 15, 17 percent; and that would be absolutely devastating for the real estate industry, for business generally and for consumer borrowing, 15, 17 percent interest rates. We cannot do that as a Nation, and we cannot anymore afford and we should not pass on our charge debts to our children and grandchildren. It is the wrong thing to do.

I spoke to a high school class three weeks ago, and I said to this class, why should they care about a $7 trillion national debt. A senior in high school, girl, said because we are going to have to pay it off, and her teacher said she gets an A for today. I told these students that is absolutely wrong, they should be angry, and they should contact their senators and their Member of Congress and tell them they are taking our country down the wrong path, to turn us around.

We are the greatest country in the whole world. We are the only superpower in the whole world, but a country like the United States, even the United States cannot be strong and free and broke. We have to turn our country around for our children, for our grandchildren and for America.

IN MEMORY OF MARYLN LEE McADAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise today to honor the life of Maryln Lee McAdam, a friend and advocate and a national leader. Quietly, behind the scenes, seeking no recognition or glory for herself, Maryln fought day in and day out for educational opportunities for all of America's young people, especially for the children of migrant and seasonal farm workers. Her guidance and counsel were invaluable to many of us.

The Hispanic community and the education community have had no greater friend than Maryln McAdam. Maryln led a truly remarkable life. She approached life with the unshakable belief that any obstacle could be overcome.

As a young girl, she was struck with polio. Although she spent most of her life in a wheelchair, no one who knew Maryln would describe her as confined to that chair. She was amazing.

Maryln graduated in the top of her class in high school, in college and also in graduate school. Although her academic field of expertise was chemistry, she was drawn to a different specialty, political science.

As with her academic pursuits, Maryln excelled. She joined Paul Simon's campaign team for his successful run for the House of Representatives and then served on his legislative staff. She then moved to Congressman Bill Ford's team on the House postsecondary education subcommittee.

Everywhere she went she made her mark. No one understood and loved politics and people as well as Maryln.

After she left the Hill, Maryln established her own business. She continued her work in postsecondary education and was one of the most respected experts on Federal higher education policy.

But Maryln was so much more than that. She dedicated her resources, her energy and expertise to ensuring that the most disadvantaged children in America, the children of migrant and seasonal farm workers, had a voice in Washington, D.C.

She single-handedly made sure that every Washington policymaker in Congress and in the White House understood and appreciated the value of Federal programs for migrant children, programs such as the High School Equivalency Program and the College Assistance Migrant Program, the Migrant Education Program and the Migrant Vocational Rehabilitation Program.

As an advocate for migrant children, Maryln became an important voice for education in the Hispanic community. For many years she served as co-chair of the Hispanic Education Coalition. More importantly, she served as a mentor to all of us who are involved in improving education for Hispanic Americans.

Maryln was truly generous. She, like a good steward, gave freely of her time, her money and her knowledge to all of us who shared her commitment to young people.

During my first term of Congress, Maryln's counsel and wisdom helped me as a freshman legislator deliver for the Hispanic community during the reauthorization of the Higher Education Act. Hispanic-serving institutions across the country owe her a debt of gratitude.

Maryln was direct and honest. She could be trusted implicitly. When one asked for her analysis, assessment or advice, they got a straight answer, always polite, always diplomatic, not always what they wanted to hear but to the point and spin free. We could certainly use more of that in our Nation's capital.

A few weeks ago, we lost Maryln Lee McAdam. She has left us with a legacy of service, dedication and a love for her country and the democratic process.

In conclusion, I want to say that she was a leader and a patriot in the truest sense of these words. It was my privilege to know her and work with her; and I will miss her counsel, her enthusiasm and her friendship. I hope that we will carry on with the same integrity, tenacity and optimism that she demonstrated each and every day of her life so that all our young people are able to realize the American dream. May she rest in peace.

BALANCING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I introduced legislation last week that addresses one of the most urgent challenges facing American families. I call it the Balancing Act because it helps to strike the delicate balance between work and family.

The Balancing Act, H.R. 3780, acknowledges that many Americans have two full-time jobs, one as employee, the other as parent; and it provides the tools to be both a reliable employee and a responsible parent.

Over the last several decades, a socioeconomic revolution has fundamentally altered the American family, Mr. Speaker. When I grew up, we were a Nation of predominantly nuclear families with one breadwinner and one full-time parent. Today, more than two-thirds of all families have two parents or one unmarried parent working outside the home, but our government has not been responsive to these changes. The Balancing Act brings public policy out of the Ozzie and Harriet era and into line with the realities and pressures of modern life.

Specifically, the Balancing Act will provide paid family leave after the birth or adoption of a baby or young child; make major investments in child care, training and benefits for providers, construction and renovation of facilities, and expanded child care for infants and disabled children.

It will establish voluntary, universal preschool. It will expand the school breakfast program and provide dinners for children in afterschool programs whose parents are working late and make part-time employees eligible for job benefits while encouraging businesses to let more employees telecommute.

The Bush administration could not be more hostile to families trying to perform the balancing act. Their tax cuts benefit wealthy Americans, whose lives are already balanced. They think we can afford to rebuild the Iraqi society, but we have to cut vocational education and family literacy right here at home. They even think we can afford a manned mission to Mars, but for life back here on earth, we have to lop $408 million from the Centers for Disease Control and Prevention.

The administration does, however, want to help the poor acquire interpersonal skills so that they can promote and strengthen marriage, at a mere cost of $1.5 billion. But, Mr. Speaker, the people I talk to do not want the government to be their family therapist. They want a government that helps create good jobs, flexible workplaces, universal health insurance, affordable child care and safe after-school programs.

No amount of counseling, Mr. Speaker, would have saved my marriage to a man who left me alone and destitute with three young children to raise. I was 29 years old. What I needed at that desperate moment in my life was not right wing moralizing but a compassionate safety net, the very social safety net conservatives seem determined to tear down. Although I had a job, I needed public assistance to provide my family with food, health insurance and child care. Only truly compassionate government policies helped me turn my life around.

If one is a Republican, however, pro-family means that heterosexual marriage is so indispensable that we must spend $1.5 billion to promote it, but gay and lesbian marriage is so depraved that we ought to consider writing discrimination into our Constitution to prevent it.

The Balancing Act offers a real pro-family agenda for all families. It addresses the issues families struggle with at the kitchen table, not the things they do in their bedrooms.

Mr. Speaker, I urge my colleagues to join me in supporting my legislation.

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OUTSOURCING AMERICAN JOBS IS BAD FOR AMERICA

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, when President Bush campaigned for his election in 2000, he was very persuasive, and he is a very persuasive President, and he persuaded the American people that he was a compassionate conservative and most of us thought he would be. Then he used his persuasion techniques to convince the American people that Saddam Hussein, a bum dictator in the Middle East who was busy writing novels, not worried about weapons of mass destruction, was an imminent threat to the United States of America.

But today, Mr. Speaker, the President is trying to use his persuasion techniques on an issue that will be very difficult. President Bush is now saying that outsourcing United States jobs is good for the United States of America. This takes the cake. Many of these articles have been cited here tonight: L.A. Times, "Bush Supports Shift in Jobs Overseas"; Seattle Times, "Sending Jobs Overseas Helps the United States"; Pittsburgh Post-Gazette, 1 hour from my district in Youngstown, Ohio, "Bush Economic Report Praises Outsourcing Jobs"; Orlando Sentinel, "Bush Says Sending Jobs Abroad Can Be Beneficial."

Mr. Speaker, give me a break. This President said in his State of the Union address, "Much of our job growth will be found in high-skilled fields like health care." President Bush's economic adviser said. "We will outsource jobs to lower-wage countries as a way to help control the upward spiral of health care costs in the United States of America."

How can we believe for one second that losing United States jobs, losing high-wage, high-paying manufacturing jobs, medical jobs, science jobs in the United States of America is somehow good for this country?

Mr. Speaker, I ask the President to please be straight with the American people. In Ohio, we have an unemployment rate of almost 6 percent; 264,000 jobs have been lost in the State of Ohio. On Labor Day, the President came to Ohio. He passed up Youngstown and he passed up Toledo and he passed up Steubenville and Akron, and he passed up Lima, and he went to Richfield, one of the wealthiest suburbs in Ohio for Labor Day. He passed up all of the cities that have seen manufacturing erode and all of the manufacturing jobs shipped overseas, and now he is trying to convince us that losing all of these jobs is good.

Mr. President, look in the eyes, as I have to do every weekend when I go home, and as many Members of Congress have to do when they go home, look in the eyes of these workers and tell them that their losing their job is somehow good for the United States, them losing their job is somehow patriotic.

When we talked about all of these free trade agreements, and I remember hearing it during NAFTA and the debates during the 1990s, and now the President wants to pass the Central American Free Trade Agreement all the way down to South America, the promise always was that we were going to invest money into education, we were going to invest into the American people. As we have to compete globally, we have to invest. And now we have a President who has done nothing on Pell grants, nothing on No Child Left Behind, underfunded by billions of dollars, putting more regulations on our young people and our teachers, school boards and superintendents, not making the proper investment. Mr. President, be straight with the American people.

We cannot believe, and we will not believe, and I look forward to the President and this administration trying to convince the American people that losing jobs in the United States of America is good. This is going to be a great election year where we have one candidate saying that outsourcing of United States jobs is a good thing, and another candidate that is saying outsourcing of American jobs is a bad thing.

Mr. Speaker, I am going to make a big claim here tonight. I am going to say that I believe the American people will side with the candidate that says keeping jobs here in the United States is what is best for America.

HISPANICS ARE LOSING UNDER RECENT POLICIES ANNOUNCED BY THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise tonight very concerned with the state of America under the Bush Administration. On the issues of immigration, education and the budget, this President has failed to live up to his promises. Too many Americans have been left out of the prosperity that this President pledged to them, and his only reaction to past failed initiatives is to introduce a new series of irresponsible policies. This President has lost all credibility on his agenda; it is clear that his vision is one that is not in line with those of average Americans.

IMMIGRATION REFORM

Despite an egregious history of failed temporary foreign worker programs in the United States that have hurt immigrant and domestic workers alike, the President proposes a new, vastly enlarged temporary worker program that will do nothing to strengthen protections for wages, benefits and other rights of immigrant and domestic workers. The President's plan would formalize an even larger class of workers accorded only second tier status in American workplaces and will exacerbate the decline in job quality and job security for all workers.

The Bush approach may just create a quasi-permanent class of second-class citizens in the form of temporary workers whose status is tied to their employer. If they quit their jobs, they lose their status. We need an assurance that they can maintain their status under new employment.

Reforms to provide legal status to the millions of hardworking, undocumented workers living in this country must be comprehensive and fair. They cannot and should not be designed primarily to provide a steady stream of vulnerable workers for American companies. Instead, immigration reform must provide a certain path to legalization for workers from around the world who are already living and working in the United States; repeal and replace employer sanctions with stiffer penalties for employers who take advantage of workers' immigration status to exploit them and undermine labor protections for all workers; reform, not expand, temporary worker programs; and reform the permanent immigration system so that those who play by the rules are not penalized by unconscionably long waiting periods.

The Bush plan does not provide a path for permanent residency for the undocumented workers presently in the United States or the new ones who will enter the U.S. to participate in the program. They will work in temporary status and then be expected to leave the country.

The Bush proposal leaves it up to Congress to solve the problem of backlogs in benefits applications. The Department of Homeland Security has a backlog of more than 6 million benefits applications. The Bush proposal easily could double that number. How will the new temporary worker program be implemented if the applications can't be processed?

Many people are enduring hardships and inequities on account of IIRIRA, the republican immigration reform bill of 1996. Immigration reform must address these problems too. The Bush bill does nothing to deal with these problems.

The Bush plan does not address the needs of young, undocumented students who have lived most of their lives in the United States. Under current law, they cannot get State resident status for college, and any employment they take to support themselves would be considered unlawful.

Immigrant advocates have long held that the current admissions system does not work for immigrants, their families, their employers, or American workers. A comprehensive solution has three main components: permanent legal status for undocumented immigrants already here, a "break the mold" work visa program for future migrants, and updating the family preference system so that close family members do not face decades-long separation from relatives in the U.S. The Bush plan does none of these things.

I encourage Bush to consider advocating several balanced legislative approaches to immigration reform that are awaiting action by the Republican leadership. These bills include the Dream (Student Adjustment) Act (H.R. 1684); the "Agricultural Jobs Opportunity, Benefits, and Security Act of 2003" (H.R. 3142); and the Restoration of Fairness in Immigration Act of 2003 (H.R. 47). These bills are the result of extensive cooperation with advocacy groups from varying viewpoints and members from both sides of the aisle.

EDUCATION (NO CHILD LEFT BEHIND)

Education Department figures report that over 7.9 million Hispanic children are currently of school age. The Hispanic community is the youngest and fastest growing segment of America, and the number of Hispanic school age children is expected to increase by 60 percent over the next 20 years. The number of black school-aged children is expected to rise by 3 percent over the next 20 years. By 2100, about 64 percent of children are expected to be from minority groups.

Education is a top-tier priority for the Members of the CHC, with funding priorities outlined in The Hispanic Education Action Plan (HEAP). HEAP encompasses programs such as bilingual education; migrant education; Migrant and Seasonal Head Start; English as a Second Language (ESL) programs for middle and high school students; aid for Hispanic Serving Institutions (HSIs) and the national dropout prevention program. The majority of HEAP programs did not receive additional funding from the previous year and the Nation's dropout prevention program budget was sliced from $5 million to zero, eliminating the program.

Despite stressing the importance of the No Child Left Behind Act (NCLB) during the State of the Union Address, the President underfunds the program by $9.4 billion, leaving many local school districts and students without necessary funding for educational success.

Budget analysis shows that educational programs designed to improve Hispanic and low-income students' performance received no additional funding despite an increased need for these programs.

The Bush budget also freezes the maximum Pell Grant at $4,050, enough to cover just 34 percent of the average annual cost of college, despite the nationwide rise in college tuition. Many Hispanics, including those in my district in Texas, rely on these Federal funds to pay for college; these caps will create yet another roadblock in the Hispanic community's access to higher education.

President Bush shortchanges education for the third year in a row with historically low Federal investment. President Bush provides a meager 3 percent increase ($1.7 billion) in education funding over last year, despite rising enrollments and a shortage of resources to meet our education needs. President Bush also eliminates dozens of key programs, reducing the Federal investment in education by $1.4 billion.

President Bush denies critical services to millions of disadvantaged children. President Bush shortchanges his own No Child Left Behind Act (NCLB) by $9.4 billion—including $7.2 billion for Title I. The President breaks his promise to provide $20.5 billion for Title I under NCLB. His Budget will deny nearly 5 million disadvantaged children critical education services, such as extra help to become proficient in reading and math.

President Bush freezes or cuts college aid, forces taxes on students, and fails to stop tuition hikes. Not only does the President fail to address the rising college tuition, but he also makes college even more expensive by freezing or cutting student aid and taxing students.

President Bush jeopardizes aid to children of military families. The Bush budget freezes all Impact Aid funding at the fiscal year 2004 level, jeopardizing programs and services for children of military families.

President Bush breaks his NCLB promise on afterschool programs. The Bush budget freezes funding for afterschool programs. As a result, nearly 1.3 million children will be shut out of afterschool programs.

President Bush adds new money for private school vouchers while shortchanging students at public schools. The Bush budget proposes $50 million in private school vouchers. At a time when our public schools are trying to meet the challenges of NCLB, the Administration is diverting resources away from public school students and local efforts to improve public schools.

President Bush makes certain that full funding of special education will never happen. The Bush budget proposes a $1 billion increase for the Individuals with Disabilities Education Act (IDEA). This marks the 4th year in a row President Bush has proposed this exact level of increase, placing disabled students at an even greater disadvantage. At this rate of increase, we will never reach full funding of IDEA.

President Bush cuts $316 million from vocational education and community colleges—again. The Bush Budget would cut $316 million, or nearly 25 percent, from vocational education. On top of this, President Bush has cut more than $1.5 billion out of job training and vocational education programs since he took office. In addition, the budget proposes to turn this program into a block grant to States, eliminating accountability and targeting of resources to disadvantaged students and programs.

FISCAL YEAR 2005 NATIONAL BUDGET

I am once again disappointed with this Administration's efforts to truly represent the values of average Americans. President Bush's latest effort in the form of his 2005 national budget continues his irresponsible economic policies that have resulted in so many Americans suffering. This Administration has a credibility crisis. President Bush has said his tax cuts would act as a stimulus for our flagging economy and create jobs; this clearly has not happened. Instead of adopting more inclusive policies this President has decided to give even more tax cuts to benefit the wealthy. This Administration has misplaced priorities that are leaving average working Americans in a bind.

DEFICIT

The most disturbing aspect of President Bush's flawed budget proposal is the soaring deficits that will result from his policies. This administration has tried to say that deficits don't matter; we know that that is simply not true. History has proven that chronic deficits threaten our economic strength by crowding out private investment, driving up interest rates, and slowing economic growth. Indeed foreign investment in the United States has dried up because foreign investors have no confidence in the Bush economic agenda. This Administration's irresponsible budget policies have turned a surplus into a large deficit that is choking off growth in the American economy.

President Bush likes to say his budget is geared towards tax cuts for all Americans. When in fact the average American won't receive a substantial tax cut, but will instead be hit with a tax hike in the form of an ever-growing deficit. A large deficit means taxpayers have to shoulder the costs of paying the interest on this new national debt. The end result will be a debt tax on the great majority of Americans. This will be a tax on lower and middle class Americans; it will be tax on our heroic war veterans; it will be a tax on the elderly and, most unfortunately, it will be a tax on our children. The truly sad part of the President's budget is that, while it is bad for America today, it is even worse for future generations of American taxpayers.

TAX CUTS

I want to highlight some of the most egregious examples of this Administration's misplaced priorities. President Bush believes we can spend tens of billions of dollars a year to provide $66,000 tax cuts to the top 1 percent of tax payers, but he does not feel we can afford many vital programs, some of which are even tied to our national security.

Perhaps the most blatant example of this Administration's irresponsibility is the fact that the Federal Aviation Authority (FAA) budget was actually cut. At a time when our national security is under such great scrutiny, I cannot think of too many agencies that face greater pressure than the FAA to keep our Nation safe. How can this President spend so much time and effort stressing the importance of homeland security and then cut the budget of the agency on the front line of stopping terrorists from attacking our Nation? The irresponsibility does not stop there; the President's budget fails to provide the U.S. Postal Office with $779 million needed for biodetection technology that guards against anthrax-like attacks. After the Ricin incident in the Senate Office Buildings a week ago, how can anyone in this body in good conscious approve a budget that does not address our vulnerability for bioterrorism attacks through the mail? This is where President Bush lacks credibility; he has taken drastic, and some would say unconstitutional, measures in the name of national security, but now when it comes to fully funding our most sensitive security concerns he decides it is more important to appease the richest 1 percent of Americans with irresponsible tax cuts.

Unfortunately the misplaced priorities do not stop with out national security. I point again to the "No Child Left Behind" initiative that has been left underfunded by $9.5 billion—a full 27 percent less than Congress authorized. In addition, funding for America's veterans will be cut by $13.5 billion over the next five years. It's truly sad how this President not only doesn't fully fund sensitive security issues, but is also cutting funding to two of our most sensitive constituencies: Our children who are our future and our veterans who in the past have sacrificed so much so that we may live freely. Instead of supporting those constituencies, this President believes that the richest 1 percent of Americans deserve yet another tax cut. These misplaced priorities are evident throughout the President's budget and demonstrate a fundamental lack of understanding about the needs of the average American.

President Bush's budget is threatening to so many deserving American interests. We have seen how this budget continues his failed policies and in fact this budget will further the damage that this President has already done. Because of President Bush's insistence on making the tax cuts permanent, many central programs will be cut. This President will have no problem cutting Medicare to our seniors. It is also clear that this Administration's goal is to privatize Social Security. These policies will deeply affect my constituents in the 18th Congressional District of Texas. So many of my constituents in Houston rely on these programs, and this President has decided to take advantage of the trust they had placed in him to protect their interests. The more I go through this budget the more I realize it's bad for my constituents in Houston, it is bad for the people of Texas, and we cannot allow ourselves to stand idly by while this President continues an irresponsible agenda that's just simply wrong for America.

JOB LOSS

President Bush has been one of the worst Presidents ever to take office when it comes to job creation. Simply put, our economy can never truly be considered successful until Americans who want jobs can find jobs. This is simply not the situation that the average American faces today. Under the Clinton Administration job growth continually improved. In contrast, under the Bush Administration the rate of unemployment has soared. In his State of the Union Address the President stated that jobs are on the rise; unfortunately the rise in employment he spoke of amounted to 1,000 jobs created in the month of December. At that rate of job growth, it will take 192 years and 8 months for the economy to return to the number of jobs at the beginning of President Bush's term of office. We are 8.4 million jobs behind where we are supposed to be at this point. That is a staggering number and it should be unacceptable to every Member of this body. The Bush Administration assured the American people that tax cuts would result in job growth. The American people are still waiting to see this growth; too many of them are waiting unemployed and fearing for their prosperity. This Administration has argued that deficits do not matter and that job growth is not an economic priority. I can't think of too many Americans who would agree with that assessment. This President is not in touch with the needs and aspirations of the American people. This budget continues to reflect his irresponsible agenda based on a few special interests.

IRAQ AND AFGHANISTAN

It's unfortunate that this Administration does not understand the necessity of proper planning and vision. It has become painfully obvious to many of us in this body that this President did not have a plan to deal with post-war Iraq and Afghanistan. That point is exacerbated by the fact that in this entire budget there is no funding included for the 2005 costs of ongoing military operations in Iraq and Afghanistan. This is truly irresponsible; our brave fighting men and women are risking their lives in Iraq and Afghanistan and this President cannot even provide figures for the costs that these military operations will incur. Does this President want us to believe that the costs for this War on Terror have disappeared? Or is he telling us that he plans to pull our troops out of Iraq and Afghanistan? Once again, this President's irresponsible agenda is being exposed; he does not have the credibility for us to allow yet another flawed budget to pass this body.

NASA

I was there a few weeks ago at the White House when President Bush announced his new NASA initiative to return America to the moon and eventually manned missions to Mars. The funding for NASA has been increased in this budget, but it only begins to pay for future exploration efforts; a detailed plan on how the President plans to achieve his NASA initiatives is still needed. I believe the President when he says he has the aspiration to get America back to the moon, it's just unfortunate that he does not have the proper planning to do so. His actions in Iraq and Afghanistan leave him no credibility in this body to believe that he can achieve his ambitious agenda. This entire budget in fact is riddled with false promises and underfunded ambitions.

This President has consistently asked for patience from this body and from the American people to allow time for his policies to start showing progress; unfortunately time has run out. Too many Americans are suffering and it is clear that President Bush's vision for America is not one that coincides with that of the average American. I hope we will continue to stress the danger of this budget; together we will be the ones to push the true interests of our constituents, to push for a real vision of America.

REFORMING IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) is recognized for 5 minutes.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I am here this evening to highlight one of the most important issues facing this country and this Congress: how to make our immigration system work for us, not against us.

First of all, I think it is a positive sign that President Bush has put forward his proposal to get this debate started again. I wish he was as concerned for employees in this country as he is for employers. But whatever his motivation, his involvement does put pressure on his Republican colleagues in Congress to at least consider taking action to address our failed immigration system.

The Democrats have also put forward their immigration reform principles outlining the changes necessary to shape immigration policy in this country. The Democratic plan is much more comprehensive, compassionate, and concrete. Our principles put a face to the immigrant who is trying to build a better life for himself and his family while making a better America for all of us. These 8 million workers are an integral part of our society, and reality dictates that we recognize that and find a fair way to integrate them fully into our society. We can do this while still protecting the labor standards in this country by wage and hour enforcements. We need to take our failing immigration system and turn it into something that can work for all Americans. And failing it is. We have a huge, and I mean a huge, backlog of visa applications pending that are preventing husbands from being with their wives and parents from being with their children.

The current delay in reunifying families from the Philippines is 22 years. Is this a humane system? That is outrageous. Not only do we have to speed up the process; we have to make more family and employment visas available. This bottleneck needs to be opened up. The first and foremost action we should take to fix our immigration system is to bring families back together and allow them to be reunified. Sadly, however, the Bush proposal does nothing to help solve the problem of family reunification.

Secondly, we need to offer a future to those immigrants who have been working in this country for years, have paid their taxes, abided by our laws, and contributed to their communities all over this Nation. The fact is that they are here now, and they have earned their right to stay. While some may not have come through the proper channels, they should not be condemned outright for leaving despair and poverty behind for a better life. These workers have had a positive impact on this country through their contributions, and a guest-worker program alone does not even begin to acknowledge this reality.

Not only does earned legalization take this hidden work force out of the shadows, but it provides certainty for employers and hope for the employees that they can work towards a meaningful goal: legitimate acceptance in the United States. Another reality is that the immigrant children of these workers also deserve a place in our society. It is only to our benefit that they have access to a good education. They should be granted a vehicle for obtaining lawful permanent status and qualify for in-state educational benefits and financial aid.

Again, the Democrats take this into account in the overall debate on immigration reform, but the Republican Party chooses to ignore this quick and easy change that could go forward right away without further delay.

The Bush administration and the Republican leadership also ignore the fact that legislation already exists to expand the current guest-worker program. If President Bush is serious about moving forward on immigration reform and not just playing election-year politics, he should call on the Republican majority in the House to pass the Berman Ag Jobs bill. We can get this done now.

Finally, let us focus our national security efforts on protecting this Nation against real terrorist threats instead of using it as an excuse to round up 8 million law-abiding workers and kicking them out of this country. I do not know about other Members, but I would much rather have the Department of Homeland Security knowing the identities of the people living here because they are no longer hiding from authorities for fear of deportation.

Let us get real about the immigration dilemma in this country, real about the kind of hard-working, sincere people these immigrants are, how they have benefited this country, and what it would take to put the immigration system back in working order. Let us take our heads out of the sand and get to work on real immigration reform. I am serious about the work ahead, and I challenge my colleagues in the House to give more than lip service to the idea of meaningful immigration reform.

MEDICARE PRESCRIPTION DRUG LEGISLATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from New

Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I come to the House floor tonight to once again highlight several questionable activities by Republicans during and after the Medicare prescription drug legislation passed the House of Representatives last year.

Seniors have already begun to voice their opposition to the new prescription drug bill, as well they should. Seniors know that the Republican bill forces seniors to get their prescription drug benefits outside of Medicare. They have already calculated the supposed prescription drug benefit they would be getting under the law and realize that it is minuscule.

Just to cite some examples, consider that seniors with a thousand dollars in annual prescription drug costs would pay $857 out of their own pockets: or that those seniors with prescription drug costs of $5,000 a year would be forced to pay $3,920. Now I ask: What kind of benefit is that? If seniors are not getting the money, where is the $500 billion that it is now estimated that this prescription drug so-called benefit would cost the Federal Government? Where is the money going if it is not coming to the senior citizens?

There is no doubt in my mind that both Republicans here in the House and in the Bush administration are concerned that seniors are not buying this plan. Many of our seniors have contacted us and told us that this is a terrible plan and it is not going to help seniors, and it is a boondoggle for the special interests, HMOs, and the pharmaceutical companies. I think what is happening is the Republican leadership here in the House and President Bush and his administration realize that the public thinks, rightly so, that this Republican prescription drug plan for seniors is a farce. So last week we got wind of the fact that the Bush administration's Department of Health and Human Services was going to spend $22 million to rebut criticism, and this was stated by the administration, to "rebut criticism of the new Medicare law through an advertising campaign on television and through the mail."

Some may have already seen these ads. I think it is outrageous. I have to say that here we are talking about how bad this bill is as part of our free speech that we all exercise, and seniors are saying it is a bad bill, and the Bush administration has the gall to now spend $22 million in taxpayer money to try in their own terms, and I quote, to "rebut criticism of the new Medicare law."

☐ 2045

I think the American public should be concerned that the President is spending $22 million of the taxpayers' money, money that could be used to actually help seniors with their prescription drug bills, than trying to rebut legitimate criticism of the Republican and the Bush administration Medicare prescription drug plan.

President Bush should be concerned that seniors are not buying his prescription drug bill, but maybe, instead of spending taxpayers' money to try to rebut legitimate criticism, he should be talking about how he could change the bill. Or, alternatively, if the President wants to use his own campaign dollars, he has amassed about $150 million in campaign contributions over the last couple of years, a lot of which has come from the pharmaceutical and the insurance industry, if he feels that he needs to rebut the criticism, then let him spend money out of his own campaign war chest from those same people that he helped in creating this terrible legislation. Do not use the taxpayers' money to do it.

The Republicans are saying, and this is what I have heard, they claim they are just trying to inform seniors about the new prescription drug plan with this taxpayer-paid ad campaign. One of the ways that you know that that is not the case is that the Department of Health and Human Services decided to use the same media firm that is working on advertising for President Bush's reelection campaign. We know there are a lot of advertising agencies out there, but why would the Department of Health and Human Services just happen to choose National Media, Inc., which is the same media firm that is working for the President's reelection campaign?

It is not a coincidence. Who knows what benefit or collusion there is in the fact that the taxpayers' money is being used for an ad campaign to rebut the Democrats' and others' criticism and at the same time it is the same agency that the President's reelection campaign has hired. But it is clear from this collusion, if you will, this is not a coincidence. The sole purpose of these taxpayer ads is not to inform seniors about the new prescription drug law but instead to try and convince them that the law is not as bad as they think. Both the television ad and the two-page flyer that they are sending out are oversimplified and distorted and I think they are clearly political propaganda that should not be paid for with taxpayers' funds.

Let me just give my colleagues an example, because I have some of the ads now and I can just show them how political they are and why they should not be paid for by the taxpayers. Let me give my colleagues one example of how the Department of Health and Human Services' distortion of the Medicare prescription drug law is played out in these ads.

In one of the ads an announcer states, and I quote, it's the same Medicare you've always counted on, plus more benefits like prescription drug coverage. That is the end of the quote. Any viewer of this ad is naturally going to assume that the prescription drug benefits would be available through Medicare.

The ad goes on to claim, and I quote, it's the same Medicare you've always counted on, plus more benefits like prescription drug coverage. The fact is the supposed prescription drug benefit is not included in Medicare. Instead, seniors have to go outside of Medicare, either to an HMO or a PPO, to get their prescription drug coverage. So the ad is totally inaccurate. It is suggesting to the viewer that you can get your prescription drug coverage through traditional Medicare when in fact you cannot. You have to join an HMO or something like it, like a doctors' group called a PPO in order to get the benefit. So it is not like traditional Medicare and you are just adding the benefit.

I think it is simply wrong and it is unacceptable for the Bush administration to use the taxpayers' money for such a misleading and useless ad and flyer, $22 million that could be used to help seniors with a prescription drug benefit rather than thrown away on this ridiculous ad campaign.

Last week, Mr. Speaker, I joined several of my colleagues in sending a letter to the Comptroller of the General Accounting Office asking the agency to investigate this misuse of government funds with the ads. Because, frankly, I think it is illegal. Last Friday, the General Accounting Office agreed to investigate the legality of the ads and the flyers.

I do not think there is any question it is illegal. The law is clear that Federal law bars the use of public funds for political or propaganda purposes. There is no way anybody can interpret this and say it is not political or propaganda purposes.

It is my hope that the GAO will see these ads for what they are and conclude that the taxpayers' dollars should not be used by the Bush administration in an attempt to sell its lousy prescription drug bill.

I want to talk about the next step. This is what the administration is doing, using the taxpayers' money to try to distort what this Medicare prescription drug bill, so-called, is all about. But it is not just the Republicans at the Department of Health and Human Services that I am concerned about.

Because today's Roll Call newspaper, the Capitol Hill newspaper, includes an article about how the House Republican Conference, that is the Republican Members of Congress, is now coming up with a script described as similar in fashion to the one created by the Department of Health and Human Services that I just talked about that its Republican members could use for public service announcements. These public service announcements again would be taped at taxpayers' expense through Congress' recording studio.

So now we have got the Bush administration through its agency spending taxpayers' money, the Members of Congress, if they do these public service announcements, taping them at taxpayers' expense through Congress' recording studio.

It is going to be interesting to see how House Republicans try to spin this. They have been trying to spin how this legislation was good. Now they are trying to spin how this taxpayer ad campaign is a good thing.

So far, none of this has worked. Because, basically, the American people understand that it is all spin and there is no substance to any of it, and I would suggest that now the ads, I think, in my opinion are illegal.

I am just hoping that at some point the House Republicans would wake up and realize the reason seniors do not like their prescription drug law is not because the House Republicans have not explained it properly but just because seniors see through all the rhetoric and already know that this Republican prescription drug bill provides a paltry benefit as I explained before. Why in the world would a senior want to have to spend all this money out of pocket to get a very paltry benefit?

The bottom line is that when this bill goes into effect in a couple of years, and it does not go into effect until 2006, which is another reason why you would ask why all this money is being spent on ads to promote it when it does not even go into effect for a couple of more years, but the bottom line is that when it does go into effect most seniors will not even take it. They should not, because it is not giving them any kind of benefit.

Mr. Speaker, this prescription drug legislation, in my opinion, is a perfect example of how the Republican majority has turned the people's House of Representatives over to the special interests and to the wealthy elite; and I think seniors should not be and have not been fooled into believing that this legislation was written for their benefit. The Republicans did not write this bill to help the seniors. They wrote it to benefit the insurance companies and the pharmaceutical companies.

In fact, many of my colleagues, and I have said for months that this so-called prescription drug bill was being written not here on Capitol Hill but instead downtown in the offices of PhRMA, which is the trade organization for the pharmaceutical industry, and also written by the insurance companies. Here in the Republican-controlled House of Representatives, the only true voices that matter as far as Republicans are concerned are those of the special interests and the wealthy elite.

I have talked about the ad campaign, but I see that some of my colleagues are here. I would like to yield to the gentleman from Vermont (Mr. SANDERS), who has been outspoken on the need for a prescription drug benefit and the need for us to be able to import low-cost prescription drugs from Canada. He has been outstanding on this issue.

Mr. SANDERS. I want to thank my friend from New Jersey for his consistent leadership on an issue that is so important to tens and tens of millions of Americans.

I think the first point to be made and that many American seniors are wondering about is, hey, what is in this benefit for me? Is it good? We hear from the President, we hear from some of our Republican friends that this bill is going to go a long way to solve the problems of seniors paying very, very high prices for their prescription drugs and a whole lot of money out of their own pockets. So let us get the facts straight. Let us put it right out there on the table.

If you spend $500 a year out of pocket, what are you going to pay out of the President's new plan? You are going to pay $733. What? For $500 worth of prescription drugs? Yes, that is the case. Because there is a premium of $35, a deductible of $250 and coinsurance, copayment of 25 percent from the first $251 to $2,250. If you spend $1,000 out of pocket, you are going to pay 85 percent out of your own pocket. If you spend $3,000 a year, you pay 64 percent. If you spend $4,000 a year, you pay 73 percent. Does that sound like a very good deal?

What is even worse, as the gentleman from New Jersey has indicated, because there is no cost containment in this bill, the Consumers Union of America has estimated that one year after the implementation of this legislation, seniors will be paying more out of their own pockets for prescription drugs than they pay today. Why? Because when there is no cost containment, prescription drug costs will go up 15 percent, 15 percent, 15 percent. Three years from now, prescription drug costs will be 40 or 50 percent higher, nullifying the minimum benefits in this bill.

This is a bad, bad bill providing minimal benefits to our seniors.

I was reminded in the process of how this bill became a law, and the gentleman from New Jersey will remember how when we were kids we went to school and they say this is how a bill becomes a law. I am afraid they are going to have to rewrite those textbooks because let me tell the listeners and my friends how a bill becomes a law in the United States Congress in 2004.

First of all, of course, you have to contribute a whole lot of money to get your voice heard. On June 19, 2002, 2 days after Republicans unveiled their new Medicare bill, surprise, surprise, the pharmaceutical industry staged a fund-raiser for President Bush and the Republican Party in which it raised a record-breaking $30 million in one night. It goes on from there.

Mr. BROWN of Ohio. If the gentleman will yield, if the gentleman from Vermont recalls, and the gentleman from New Jersey was there as I was that night they raised that money, we were actually in committee working on the prescription drug bill and we had to recess early that night so that they could go off to their fund-raiser and collect the millions of dollars that they raised.

President Bush highlighted the event. The event was cochaired, as I recall, by the CEO of a British drug company, which also, obviously, has operations in the United States. But the gentleman from Louisiana (Mr. TAUZIN), the chairman of the committee who is soon to go work for the drug industry, shamelessly recessed the hearing about 5 or 6 o'clock. So they go out and change into their evening clothes, go off, do the fund-raiser, come back, and then we started the next morning.

Mr. SANDERS. It is important for the American people to see how a bill becomes a law.

Number one, if you have an interest and you want a bill to become a law, stage a massive fund-raising event and contribute to the President of the United States. That is step number one. I know it is not in the local textbooks, but that is really how it goes on.

Step number two, ignore the will of the Nation's elected representatives. What do I mean by that? What I mean by that is that on July 25, 2003, the House of Representatives, and frankly in a bipartisan way, had the courage to stand up to the pharmaceutical industry and the Republican leadership and they passed strong reimportation legislation which says that pharmacists, prescription drug distributors and Americans should be able to purchase safe, affordable, FDA-approved medicine in any one of 26 industrialized countries, thereby lowering the cost of prescription drugs in the United States by 25 to 50 percent.

But if you are serious about making a bill into a law, you have got to ignore that. You ignore what the House did, you ignore the votes that are in the Senate, and you say good-bye to that. But the gentleman from New Jersey just told us what you do. You suddenly put into the bill in conference committee language that says, amazingly, that the United States Government and Medicare cannot negotiate with the pharmaceutical industry to lower the cost of prescription drugs.

That is step number two in how a bill becomes a law in the year 2004 in the Republican Congress.

Step number three, and this is a beauty. I do not think the textbooks in high schools or elementary schools have this one. Ram your bill through even if you do not have the votes.

What does that mean? How do you do that?

On November 22, 2003, at 5:53 a.m., the House Republicans passed their Medicare bill. By all accounts, it was an historic night in the Capitol. Under House rules, as we all know, votes are supposed to last for 17 minutes; and then the Speaker gavels the rollcall to an end. Amazingly enough, that particular vote lasted a record-breaking 3 hours. Three hours. That is part of the process of how a bill becomes a law: Ignore the rules of the House.

Mr. PALLONE. The other thing, just to add to that, is that when the 17 minutes are up, because I was here, the votes were against the bill. In other words, there were 218 votes, which is a majority, against the bill. So the bill lost at that time. It is just amazing.

Mr. SANDERS. That is the third key point. Ignore the rules of the House of Representatives; and if you are losing, do not accept that. Just keep going and 3 hours later twist enough arms so that at 5:53 in the morning, I believe it was, you will get the votes to pass it.

Mr. BROWN of Ohio. If the gentleman will yield, I do not want to argue with the gentleman from Vermont, but he has got to be fair. The fact is that the Republicans worked all summer to learn how to do this. It was not that they just figured out how to ram a bill through in the middle of the night in November to do the drug bill. If the gentleman will recall, in the middle of the night on a Thursday night in April, they rammed through by one vote a cut in veterans' benefits.

□ 2100

Then in the middle of the night on a Thursday night in May, they eviscerated Head Start by one vote. Then in the middle of the night on a Thursday night in June, they cut education by, I believe, three votes. Then in the middle of the night on a Thursday in June or July, they did it again. Then even in the middle of the night in September, they passed $87 billion for Iraq. So they are getting pretty good at this. They may not follow the civics textbooks quite as well as we are hoping they would, but they have learned how to do things in the middle of the night when the press is gone, when the public has gone to sleep, when nobody much is in the press gallery, and then it really does not get very much attention in the papers. I hesitate to interrupt the gentleman, but I will go back to my friend from Vermont.

Mr. SANDERS. Mr. Speaker, just a few more steps on how a bill becomes law. Step number four is to mislead members of one's own party, of one's own party who have reservations about this bill. There were many honest Republican conservatives who had from their own perspective doubts about the bill. They did not want to spend the kind of money that is going to have to be spent. So what the President says and what the Republican leadership says is this bill over a 10-year period is going to cost $395 billion; they can vote for it, $395 billion. Amazingly enough, 2 months later, 2 months after the President signed the bill into law, he submitted a budget to Congress that put the estimate of that legislation at $530 billion. Only $135 billion off over a 10-year period. It is likely many of us believe, in fact, that that bill will cost a lot more because it does not have any cost containment.

Step number five is to stick to one's story regardless of the facts. In the State of the Union address, the President stated that "for a monthly premium of about $35, most seniors can expect to see their drug bills cut roughly in half." Unfortunately, that claim is simply untrue. The reality is that most seniors will see their drug bills cut by only about one third and maybe even less.

Step number six is to turn one's work on the bill to one's own personal gain. And I think the gentleman from New Jersey (Mr. PALLONE) made this point. Here we have the chairman of the House Committee on Energy and Commerce that wrote this legislation, took the lead in shaping this bill. According to The Washington Post, that gentleman, the gentleman from Louisiana (Mr. TAUZIN), is expected to take a job from PhRMA, which is the lobby from the pharmaceutical industry, and leave the House of Representatives before his term expires. Another key player, Thomas Scully, the immediate former head of the Center for Medicare and Medicaid Services and the White House point person on the Medicaid bill, recently left his post to work for a law firm that represents pharmaceutical and other health care interests; and we were told that this bill was really written for the senior citizens of the United States, not for the pharmaceutical industry.

The last and final point in terms of how a bill becomes a law is to use taxpayers' money to "educate" the citizens if they are not buying their story. Recently, President Bush has launched a $23 million advertising blitz all at taxpayer expense to tout the Medicare bill. A media firm working for his reelection campaign will get a cut of the pie for buying the air time for the government touting the new Medicare law.

The bottom line here is, I think it is time to rewrite the textbooks in this country about how a bill becomes a law. What we have seen in the last many months, a year, is a shameful process. It is a process of big money buying clout and buying legislation, and it is something that we have got to change immediately.

I yield back to my friend.

Mr. PALLONE. Mr. Speaker, I appreciate the gentleman's comments. And I know he is being a little sarcastic in talking about how a bill becomes law, but the fact of the matter is we can use his example on so many occasions in what has been happening here in the last few years under this Republican majority. And what happened with this Medicare prescription drug bill is a great example, as the gentleman has said; but there are many others, and it is just like the whole place has just turned over on the Republican side to the special interests, the corporate interests, the wealthy elite. And I never thought I would see the day when that would happen, but that is where we are.

Mr. Speaker, I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding. And I am so glad that my distinguished colleagues are here; and to my good friend from Vermont, I think we should label this Special Order "incredulous," still seeking answers, and I think the history books will be rewritten as to how this Congress gets legislation passed, and maybe we should even write a new book on ethics and integrity and whether or not this House can retain its name because when I came here, and I know that when I go into my district I always cite that this is the people's House, to be run and organized and directed and moved by the people of the United States of America.

To the gentleman from New Jersey (Mr. PALLONE), my good friend, let me, first of all, thank him for organizing this Special Order. And let me just make a brief mention of the Hispanic Caucus that was on the floor earlier, and they were discussing of course the concerns they had with the Bush administration's impact on the Hispanic community; and I might cite just for a brief moment his plan on immigration. Here is another plan that seemed to not come from the origins of what is best for the people, and of course the gentleman is aware that that is a plan that is called guest worker or temporary worker so that millions of those who are, in fact, hard-working and tax-paying individuals who may have come here undocumented will have a program that in 3 years will throw them into oblivion, and they will have no pathway and no access to legalization. That is another program that is going to be costly, have no direction; and I would hope that we will all work together as a caucus to be able to promote a plan that works.

I think at the same time when we look at our ethnic communities, both African Americans and Hispanics who are aging in this Nation, we know that the prescription drug benefit that this President has offered to us is a sinking hole, and I might cite for my colleagues that we are already in a $551 billion deficit. And, Mr. Speaker, we now have a prescription drug benefit that is really taking the lights and we are turning it on because, as my colleagues have said, this bill was voted on in the dark of night. I think every television set in America was off because we were here at about 3 or 4 in the morning, and I think what my good friend from Vermont did not say is that the vote began at 2 a.m. and actually we stayed on the floor for a good 3½ hours while Members were being cajoled and accosted and I do not know what else was occurring to change their votes.

I think it is important to reiterate that at the time we cast our votes, we had defeated a guaranteed prescription drug benefit that was not itself. In fact, it was not that. We defeated a plan that would deny the United States' 44 million Medicare recipients the ability to harness their power and to be able to negotiate the cheapest price. We defeated that. Instead, we passed a $534 billion bill that is growing and that will not be in place until 2006.

So I want to join my colleagues just to point out to the American public, and particularly to our seniors, that we are not going to forget them and we are not going to leave them now. We are going to continue to raise these issues on the floor of the House over and over again until this bill falls on its own weight and falls on the spear where it needs to go, and then we can finally get a guaranteed prescription drug benefit with life, with sanity, and that recognizes the needs of seniors all over this country.

Might I also add insult to injury, my grandmother used to use that phrase frequently, to note that in addition to the $534 billion cost and the gift to our good friends in the pharmaceutical industry, and might I say that when the pharmaceutical companies do good things, I am interested in working with them. When they work on a cure or vaccination for HIV/AIDS, when they begin to coordinate with African nations in being able to help the blight and devastation and the horror of HIV/AIDS, I want to collaborate and work with them. But when we have a bill that has a direct benefit and gift to them which says they cannot negotiate a cheaper price on behalf of the people of the United States of America, then I believe it is time to stand up and be counted with seniors rather than to be counted with corporate interests.

But in addition to that, might I cite, and again I said this Special Order is all about just being absolutely incredulous about what is going on, and that is to find out that $9.5 million from Health and Human Services will be taken out and utilized by the White House for a television ad campaign to rebut criticism of the new Medicare law. In addition, $3.1 million will be used for newspaper, radio, and Internet ads in, and I compliment them, both English and Spanish in order to again talk about this ill-fated legislation. Insult to injury. $534 billion and growing and no one will be served because there is not a real guaranteed Medicare prescription drug benefit. HMOs will be getting the bulk of the money, the same HMOs that will close up shop when they find it is not profitable to be in areas like Houston, Texas, that lost six of them about 6 years ago or rural areas of America. And then we add insult to injury, as I say, one thing after another; and we are going to spend close to 12, $14 million in order to explain a bad bill.

I just say to my colleagues I could not miss the opportunity to join them in just citing for the American public to hold their horses, do not give up hope. We may have missed it for a moment, but we will not fail for long because once this hocus-pocus, smoke and mirrors is finally unveiled to the American public, and some people have said we cannot do anything about it, we cannot get it repealed, I believe it is going to fall on its own weight. And we will have to go back to the drawing board and be able to find a way expeditiously, not 6 years, 10 years, to be able to solve this problem on behalf of the American people and as well the growing number of those who will be needing those benefits and who deserve these benefits who served us well.

We talk about the Greatest Generation. I close simply by saying that we have been blessed by the fact that so many are being able to age in this country, and I am gratified for it. Medicare of 1965 allowed that. And I will not stand by silently while we destroy a vision and a plan that would add to the quality of life of seniors in this Nation. And with that, I thank the gentleman for yielding.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman because she has been down here so many times talking about this issue which she has mentioned and which I find incredible. We are talking about over $500 billion now for this program. Where is the money going? It is not going to the seniors. It is going to the special interests. It is going to the HMOs. It is going to the pharmaceutical companies. And now on top of that, the administration has the gall to spend, and she mentioned $9 million, and I think that is just for the TV ads. The total is 22 million if we add all the printed material and everything else they are sending out to promote a bad bill. It is just incredible. All taxpayer funded. But I appreciate her being here.

I yield now to the gentleman from Ohio (Mr. BROWN), who I have to say is not only the ranking member on our Health Subcommittee, but he has repeatedly pointed out not only the faults of this legislation but also how the special interests wrote the bill, and now the administration is spending money to try to justify the bill, all for these special interests that really have no concern about the senior citizens. I yield to the gentleman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the gentleman from Ohio (Mr. BROWN) would yield, I think we should know this. The gentleman from Ohio (Mr. BROWN) serves on the Committee on Energy and Commerce, and he is the ranking member of his subcommittee, and JOHN DINGELL is a ranking member of the full committee, and I saw the gentlewoman from Illinois (Ms. SCHAKOWSKY) on the floor.

Let me just thank the gentleman. I think most people do not know the battles, the internal committee battles, that occur around trying to fight for good legislation.

□ 2115

Before I leave the floor, I want our colleagues to know that the Democrats on the Committee on Energy and Commerce stayed late into the night. I think you all were marking up a bill at 12 midnight. It was some days, obviously, before we were destined for the floor, but I know there were long hours.

As I understand the history of that committee markup, many, many amendments were offered to try to correct some of the poison pill aspects of that legislation; many, many amendments, including reimportation, including this issue dealing with the inability to negotiate.

I do not think it should go unsaid the kind of work that was done on behalf of the American people. It is never seen. And we appreciate that you were trying to bring to this floor a credible alternative. If my memory serves me well, and the gentleman from Ohio (Mr. BROWN) might correct me, I do not think we were allowed to debate on behalf of the American people a credible substitute or alternative, or at least given the decency and respect, not for us, but for all of those suffering, given the decency to present to our colleagues, who would have voted with us, an alternative to what is now a catastrophe. So I just wanted to thank you and express my appreciation.

Mr. BROWN of Ohio. I thank my friend from Texas and for her speaking out and leading on this and other issues.

She is exactly right. If you remember this bill, a lot of us, the gentleman from New Jersey (Mr. PALLONE), the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from California (Mr. WAXMAN), a lot of us on the committee said that we should include a prescription drug benefit inside Medicare. Seniors understand Medicare. They understand premiums, copays, deductibles. They are not asking for insurance company choice.

They are not asking for a choice of slick insurance company brochures. They like Medicare the way it works, choice of physician, choice of hospital, and we hoped choice of prescription drug.

That was never allowed to be debated on the House floor. It is either vote for the bill or vote against the bill.

Several people have talked tonight about how all that happened, but I want to share a handful of numbers that I think really sort of sum this up.

First of all, when President Bush spoke from the floor of this House of Representatives, not far from where the gentleman from New Jersey (Mr. PALLONE) is now standing, during the State of the Union, he said that this new law, this new Medicare bill he signed in December, fulfilled a basic commitment to our seniors. It kept a promise, fulfilled a basic commitment to our seniors.

This bill did fulfill some commitments, but, unfortunately, the commitments the President had were not to our seniors, and let me illustrate that for a moment.

There are 100 Members of the United States Senate, there are 435 Members of the House of Representatives. Many people in the country know that. There are 535 Federal elected officials on this side of the Capitol and the other side in the Senate. There are 675 prescription drug registered lobbyists, 675 lobbyists, more than one per Member.

In many ways, that tells the story, especially when you couple the fact that there are 675 lobbyists with the fact that the drug industry last year gave $21.7 million to Republican campaigns, and when you also factor in that the word on the street is that President Bush will get $100 million from the drug industry this year for his reelection.

So I do not know why the gentleman from Vermont (Mr. SANDERS) or any of us should have been surprised that this bill was written by the drug industry for the drug industry. At the same time, the insurance industry had its hand on this bill. They contributed almost $26 million to Republican candidates last year. They also get a big part of this bill.

So when the President signed this bill in December, this prescription-drug-Medicare-privatization bill, the President then said the cost was $400 billion. It ended up being much more than that, which I think they knew then but did not tell us for another 7 weeks.

But of the $400 billion, the Congressional Budget Office, a nonpartisan organization, said that of the $400 billion, $139 billion would go to additional profits for the drug industry. Now this is an industry that is already the most profitable industry in America. They had a 17 percent profit margin, according to Fortune. The rest of the Fortune 500 companies had a 3.1 percent margin. Theirs was 17 percent. It is pretty clear this is an industry that is doing pretty darn well anyway.

But they are getting $139 billion more in profits under this $400 billion bill. The insurance industry is getting a $14 billion direct subsidy from the government.

So it is no surprise that this bill turned out the way it has. It was a bill of, by and for the drug industry and of, by and for the insurance industry. You do not need a scorecard to figure that out in this business in these days in this government.

I have been in politics a long time, but I have never seen this place owned and operated by interest groups the way it is. If there is a choice, if George Bush has a choice between the public interest and corporate interests, it is corporate interests every time.

The prescription drug bill is written by the drug and insurance industry; Social Security privatization is written by Wall Street; energy legislation is written by Enron and DICK CHENEY'S other cronies. Privatization in Iraq, a $7 billion private contract went to Halliburton, a company that still pays the Vice President, still pays the Vice President of the United States $3,000 a week; and we have given them $7 billion in non-bid contracts.

I mean, this place has been for sale. Never in its history has it been for sale the way it is now. As I said, if there is a choice between corporate interests and the public interest, this crowd, TOM DELAY, BILL THOMAS, BILLY TAUZIN, the leaders of the House, the leaders of the Senate and President Bush, they choose corporate interests every single time. And that is troubling to all of us who have tried to honorably serve in this business for many years.

And just to sort of crown it off, and then I will yield back my time to the gentleman from New Jersey (Mr. PALLONE), who has been terrific on explaining this issue and understanding this, and then to the gentlewoman from Illinois (Ms. SCHAKOWSKY), now this bill, the payment to the insurance industry, the President signed the bill in December. March 1st, the first of billions of dollars of subsidies goes to the insurance industry. March 1, 2004, this year, March 1, the insurance industry begins to get checks worth billions of dollars from the Federal Government.

But you know what? Seniors do not get this prescription drug benefit until 2006. So the insurance companies get their money 3 months after the President signed it; seniors do not get the drug benefit for some 2½ years after the President signed it.

What kind of morally bankrupt social policy, morally bankrupt Congress, can do that kind of thing to the people of this country?

Mr. PALLONE. Mr. Speaker, reclaiming my time, the amazing thing is we started off this evening, and I am sure we are going to hear from our colleague from Illinois who brought this to our attention, about this multi-million dollar ad program that the Health and Human Services Department is putting on to try to justify this Medicare bill. You might say to yourself, well, if it does not come into effect for another 2 years, why do they even need to start a $22 million ad campaign 2 years earlier? The ad campaign I think is totally illegal.

Mr. BROWN of Ohio. I am sure it has nothing to do with the election.

Mr. PALLONE. It is just amazing to think the ad campaign is not only to try to tell people that this bad bill is good, but they have to do it 2 years before it goes into effect? As the gentleman said, the only reason is they are concerned about what happens in November in the election.

Mr. BROWN of Ohio. You know what else? They are concerned about what happens in the election. The President and Karl Rove, the political strategist in the White House understand this bill has not gotten a very good public reception; and the reason it has not is because the public is catching on that it is written by and for the drug industry and it is written by and for the insurance industry. The public also, the seniors especially in this country, are beginning to read the fine print of the bill, and they see there is hardly any money out of this $400 billion for their drug benefit. So much of it goes to drug and insurance interests that they just really get pennies on the dollar.

Mr. PALLONE. And the spokesman for the President said, or for the department, which is the Bush administration, said the reason we are spending the $22 million on the ad campaign was "to rebut criticism of the new Medicare law."

So they are specifically saying the reason they are doing the ad campaign is because they do not like the criticism of the law. How can you say that that is not an illegal expenditure of money, when you are not allowed to spend taxpayers' money for political or propaganda purposes? It is unbelievable.

I want to say the gentlewoman from Illinois not only has been out front on this Medicare issue, but she was the first one to bring to our attention on the floor last week that this money was being spent. But as the time goes on, we realize it is even worse than we originally thought.

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from New Jersey for his leadership on this and for this evening to bring to the attention of our House of Representatives just how really bad this media campaign is and how cynical it really is.

I heard the gentleman from Ohio (Mr. BROWN) talking about the windfall that will come to the pharmaceutical industry because of the passage of this bill.

something like $140 billion in additional windfall profits. But I do not know even in their wildest imaginations if they realized the taxpayers were also going to fund the media campaign to sell the plan that will bring them the $140 billion. So we are talking about a neat little $22 million ad campaign that is beginning.

I am sure maybe you talked about some of these things earlier, but you were just talking, too, about the political nature that we feel is involved in this ad campaign, that the timing has much more to do with an election in November than it does with really educating and informing seniors about the reality of this legislation and what it is going to mean to them. Fortunately, the seniors are smarter than I think some people on the other side of the aisle may think.

However, to add to the political connection, some of us wrote a letter to Dara Corrigan, the Acting Principal Deputy Inspector General of the Department of Health and Human Services, and in that letter we were requesting an investigation of this ad campaign. Let me bring it to your attention.

The letter in part says, "It has also come to our attention that a media firm currently working for the President's reelection campaign has been hired to purchase the $9.5 million worth of television ad time for this new commercial. National Media, Inc., stands to make a windfall from this campaign. This is the same company that has been repeatedly hired for ad campaigns primarily funded by the Republican Party and by the drug industry. National Media, Inc., has done ad campaigns for Citizens for Better Medicare, a drug industry front group that has spent tens of millions of dollars on ads attacking lawmakers interested in lowering the cost of prescription drugs."

Now, we just passed a new campaign finance reform law that actually makes certain kinds of interlocking consultants and ad producers, et cetera, actually illegal.

I do not know if this is legal or not legal. We want the investigation to proceed forward, but it certainly smells bad when you have the Federal Government, with taxpayer dollars, taxpayer dollars, millions, hundreds of millions of Americans putting money into an ad campaign. I have seen it. I do not know if you have. It has been in the media market in the Chicago area. I saw it on television here in the D.C. area.

That ad campaign is promoted by the very same people who are working for the President's reelection campaign. To me, that is a smoking gun.

Mr. PALLONE. What I said earlier, and I strongly believe it when I say it is illegal, is because you cannot spend taxpayers' money on this kind of campaign for political or propaganda purposes. Now the fact that you point out this is the same media firm that is involved with the President's reelection, I think basically proves, or certainly shows dramatically, that it is political. In other words, this company is doing ads for the President's campaign, and now they are doing these ads for the department. They are getting paid now by taxpayers' money. So I think that kind of lends support to the idea that this is political.

I will even go one step further, which maybe you will not, but I would like to know at some point, hopefully with your GAO investigation or some other means, we will find out whether they get maybe a little discount on the political side for getting the contract to do the taxpayer-funded campaign. Who knows where this all goes? But it smells. There is no question about that.

Ms. SCHAKOWSKY. The worst part of this deception is that it is going after senior citizens who count on prescription drugs day in and day out to extend and enhance and perhaps save their lives, and it is telling them things like, the ad itself, where a senior says, "So how is Medicare changing?" And the answer, "It is the same Medicare you have always counted on, plus more benefits, like prescription drug coverage."

If I am a senior and I am watching this, I am thinking, here it is, what I have been waiting for, a prescription drug benefit.

The first thing they are going to find out is, no, forget it, there is going to be nothing for 2 years except for, and we will talk about that later, this card. So there is not going to be any Medicare prescription drug plan of any sort for a couple of years.

Then when they really find out the details, some of them are going to find out, "If I join this plan, I am going to spend more on my Medicare." Millions of seniors would spend more if they signed up.

So when they say it is the same Medicare you always counted on, plus more benefits like prescription drug coverage, it is not true. It is simply not true.

□ 2130

The most generous thing we can say about it is that it is certainly not the full story and, for many seniors, simply not true.

Then it says, "Can I keep Medicare just how it is?" And that is a question that seniors are asking. They love their Medicare, for good reason. They can count on it, they can take it to the hospital, they can make sure that they can go see their doctor. They know their Medicare, and they love it. "Can I keep Medicare just how it is?" they ask on the ad. They say, "You can always keep your same Medicare coverage." The thing they do not say is how much you may have to pay for it.

Mr. PALLONE. Or, alternatively, that they may not get a prescription drug benefit at all if they keep the traditional fee-for-service plan.

Ms. SCHAKOWSKY. Exactly. So, yes, you can keep your Medicare, but you may not get the same benefits; your premium may go sky high because the HMOs are skimming off the healthiest and the wealthiest. And, yes, you can have your Medicare, but it is going to cost so much more. Again, at the most generous, it is an incomplete answer and, really and truly, a deceptive answer. Seniors have to watch for that.

And then, "Will I save on my medicines?" And the announcer says, "You can save with your Medicare discount drug cards this June and save more with new prescription drug coverage in 2006." Do my colleagues know what? Many seniors already have a prescription drug card. Actually, they may have a few prescription drug cards. But under this new plan, they are only going to be allowed one Medicare discount card, which may not even provide all the medicines that they need.

The ad is misleading because seniors are led to believe that all of their medicines are going to be covered. It means that seniors will have to pay in order to get the discount card. It is not free. The ad does not mention that drugs that may be covered when you get the discount card could be dropped, leaving you with no savings, or you may end up in the middle of the year needing another medication you did not know about that is not on the card.

This is a bad deal, and this ad is telling seniors, in a glowing ad, it is a nice ad, is it not? I mean, it is pretty. It is pretty. I mean, it is so wrong. The ad is so wrong. But the fact that the seniors are actually paying for this ad that gives a false picture of their Medicare, which they love and they want to know the truth about, is nothing short of, I do not know if technically so but, in my mind, criminal.

Mr. PALLONE. Mr. Speaker, I want to yield to the gentleman from Ohio (Mr. BROWN), but of course what the gentlewoman is talking about are the TV ads, but we understand that this is going to be followed up in millions of dollars of print material, brochures that are going to be going out that are basically doing the same thing. So this is just the beginning: the TV ad is just the beginning of what they are going to do to try to distort what this is all about.

Ms. SCHAKOWSKY. Mr. Speaker, if the gentleman will yield, this is a full media branding operation. I am sure all of the Madison Avenue guys are in there figuring out, how many impressions does it take? Who reads their mail? How many people watch television? Oh, yes, it is a very slick ad in time for the election.

Mr. BROWN of Ohio. Mr. Speaker, one of the producers of the ads did the

2000 George Bush ads, and it was found out after the election that they did this subliminal message on one of those 2000 ads when they were talking about Al Gore in the George Bush campaign where they put the word R-A-T-S, "rats," on the screen very quickly, so the human mind does not know that it sees it, but it actually was on the screen and it sticks in their mind without their knowing it. That is sort of the subliminal advertising that has been studied. The guy that did that is being paid by taxpayers and by seniors with Medicare money to do these ads.

That is incredible, considering, as the gentleman from New Jersey said at the beginning that the Bush campaign already has $100 million in the bank. The drug companies are going to put $100 million more in his campaign. They are going to make $140 billion or more extra profits from this bill. So it is pretty clear that they could have afforded it themselves, but they let taxpayers pick it up. It is pretty amazing.

Mr. Speaker, when I hear my friends talk about this, just about Medicare, I know people at home think that everybody is for Medicare, they would not want to mess up Medicare. But one of the differences of the two parties is that my friends on the other side of the aisle, and I think they are intellectually honest about it, but they really have never believed in Medicare. If we just briefly look at the history, 39 years ago when Medicare passed, only 10 Republicans voted for it. Gerald Ford voted against it, Bob Dole voted against it, Donald Rumsfeld voted against it, Strom Thurman voted against it in the Senate. They did not much like it then.

Then, in 1995 when the Republicans finally had the majority, the first thing Newt Gingrich did was try to cut Medicare by $270 billion and then predicted that it would wither on the vine. So this is a group that has never really bought into the whole point of traditional fee-for-service Medicare that serves 40 million people in this country. They want private insurance to do it. They have always wanted private insurance to do this. That is why they allowed the private insurance companies to write the bill.

But if this bill stays in effect, in 20 years Medicare will not be recognizable. It will be just like it was before 1965 when half the people in this country who are over 65 had no health insurance. Today, darn near everybody does, because we have this universal, beloved program called Medicare. The only people who really do not like Medicare are a few doctors that think they should be able to charge more and a bunch of Republican Members of Congress. Basically, the country likes this program. We should not be privatizing it. We should not be turning it over to insurance companies, because the government has run Medicare so well.

Mr. Speaker, the administrative costs for Medicare: 2 percent. The administrative costs for private insurance: 15 percent. The fact is, Medicare is efficient, it is humane, it excludes nobody, it is available for everybody once you turn 65. It is a program that works. And Republicans, in the name of prescription drug coverage, have set this program to its early death if it continues.

That is why we have to repeal this law. We have to stop it from ultimately taking effect. We have to turn the drug companies and the insurance companies, throw them out of the temple and come back and write this bill the way it ought to be written.

Mr. PALLONE. Mr. Speaker, reclaiming my time, what really bothers me, as the gentleman said, since the seniors are so supportive of Medicare and think it is such a good program, when they see these brochures and these other ads going out that are going to have the official Medicare, or government, seal on them, they are going to naturally think, the government is not going to lie to us. The Medicare administration, department is not going to tell us something that is not true.

The gentleman from Ohio (Mr. BROWN) mentioned the subliminal aspect. There is a certain sort of seal of authority that comes from the fact that these brochures and these ads and everything are actually from the government; and that really bothers me too, to think that people are going to think that this is an official government enterprise, educating them about the program when, in effect, it is just distorted, what they are being told.

I yield to the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Mr. Speaker, I just wanted to reinforce the point that the Republicans never really liked Medicare, but that continues to this day in spades. When we heard one of the leaders on the other side of the aisle, one of the chief negotiators on this bill, or authors of this bill say, To those who say this will end Medicare as we know it, I say, I certainly hope so.

So seniors have to understand who is driving the legislation and where their disrespect for Medicare really lies.

Mr. BROWN of Ohio. Mr. Speaker, I give credit to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, who wrote this bill, at least he was honest about it. He said, I sure hope it ends Medicare as we know it. Another prominent Republican on the Committee on Rules called Medicare a Soviet-style program. I wish the media would report those kinds of statements, because that is one of the few times that they are going to be honest. But in the Presidential race this year and in races for Congress, we are going to see people look into the camera and speak into the microphone and say, We love Medicare; we are preserving Medicare and protecting Medicare. We know they are not. They are not. They know they are not. That is why they are sending out, at taxpayers' expense, all of these phoney brochures, as the gentleman said, with the seal of government approval to engage in political campaigns with public dollars. That is what they are going to do all year. Seniors need to be warned when they get those mailings that they simply are not true, that they are not telling the truth about Medicare, that they want to undercut Medicare. They are deceptive. They are wrong. They are probably illegal. They should stop.

Mr. PALLONE. Mr. Speaker, one of the reasons I think it is so important for us to keep talking about this is because if the Bush administration gets away with this, where is it going to end? In other words, now they are spending $9 million on TV, $22 million total. If they think they can get away with it, they will double it. They will triple it. It just sets a terrible precedent. So that is why I think it is so important. I know the gentlewoman from Illinois started talking about it last week. We have to keep at it with the GAO, with the Inspector General to try to stop this, because if not, where is it going to end? It will just continue on over the next 6 months.

Mr. BROWN of Ohio. Mr. Speaker, I just want to thank the gentleman from New Jersey who I know has some drug companies in his State, and he has shown more courage in speaking out for the right things. The drug companies do good things, there is no doubt about it; but they also abuse the public interests in so many ways. The gentleman from New Jersey has always been there fighting for his constituents, even when many wealthy interests in New Jersey do not quite like what he does. All of us appreciate that.

Mr. PALLONE. Mr. Speaker, I thank the gentleman. I appreciate what the gentleman said. The bottom line is we know that the drug companies do a lot of good things; but when they are not doing good things, we have to tell them that it is not good. Otherwise there is no end to it. I think this ad campaign is a perfect example of abuse on the part of the administration.

Ms. SCHAKOWSKY. Mr. Speaker, if the gentleman will yield, at the end of the day, I really put my faith in the senior citizens of this country. I have the pleasure of being the executive director of the Illinois State Council of Senior Citizens working on issues like this; and if I know the seniors, they will sit down, put pencil to paper, and figure out exactly what this bill does or does not do for them. They will know that this campaign is a sham and a scam; and if the other side of the aisle thinks that this is going to carry the day during the elections, I think the senior citizens of this country are going to prove them wrong.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FATTAH (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of travel difficulties.

Ms. SLAUGHTER (at the request of Ms. PELOSI) for today on account of attending a funeral in the district.

Mr. WAMP (at the request of Mr. DELAY) for today on account of family obligations.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. HILL, for 5 minutes, today.

Mr. TANNER, for 5 minutes, today.

Mr. COOPER, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

Mr. MOORE, for 5 minutes, today.

Mr. CARDOZA, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. THOMPSON of California, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. GUTIERREZ, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. LINDA T. SÁNCHEZ of California, for 5 minutes, today.

Mr. RODRIGUEZ, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today and February 11 and 12.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OBEY, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,340.

ADJOURNMENT

Mr. BROWN of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 11, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6666. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on U.S. military personnel and U.S. individual civilians retained as contractors involved in supporting Plan Colombia, pursuant to Public Law 106–246, section 3204 (f) (114 Stat. 577); to the Committee on Armed Services.

6667. A letter from the Deputy Secretary, Department of Defense, transmitting the semiannual report of the Inspector General and the classified annex for the period April 1, 2003 — September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Armed Services.

6668. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Rules, Policies, and Procedures for Corporate Activities; International Banking Activities [Docket No. 03-26] (RIN: 1557-AC04) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6669. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Deposit Insurance Regulations; Living Trust Accounts (RIN: 3064-AC54) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6670. A letter from the Director, Corporate Policy and Research Dept., Pension Benefits Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6671. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Financial Information Requirements for Applications To Renew or Extend the Term of an Operating License for a Power Reactor (RIN: 3150-AG84) received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6672. A letter from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting the Department's final rule — Direct Investment Surveys: BE-15, Annual Survey of Foreign Direct Investment in the United States [Docket No. 030818205-3281-02] (RIN: 0691-AA48) received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6673. A letter from the Assistant Secretary For Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting the Department's final rule — Revisions and Clarifications to the Export Administration Regulations [Docket No. 031212313-3313-01] (RIN: 0694-AC24) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6674. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-313, "Henry Kennedy Memorial Tennis Courts Designation Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6675. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-312, "Police and Firemen's Service Longevity Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6676. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-311, "Distracted Driving Safety Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6677. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-310, "Southeast Neighborhood House Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6678. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-309, "Washington Convention Center Authority Advisory Committee Continuity Temporary Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6679. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-308, "Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Assistance Temporary Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6680. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-307, "Help America Vote Temporary Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6681. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-334, "Closing of a Public Alley in Square 316, S.O. 03-2973, Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6682. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-336, "Documents Administrative Cost Assessment Temporary Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6683. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-306, "Estate and Inheritance Tax Clarification Temporary Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6684. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-335, "Prevention of Premature Release of Mentally Incompetent Defendants Temporary Amendment Act of

2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6685. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-333, "Water and Sewer Authority Collections Clarification Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6686. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-294, "Board of Veterinary Examiners Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6687. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-295, "Traffic Adjudication Appeal Fee Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6688. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-296, "Health Care Privatization Rulemaking Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6689. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-297, "Closing a Portion of Jewett Street, N.W., S.O. 98-272, Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6690. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-298, "Closing of Portions of the Alley System in Square 2868, S.O. 01-4094, Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6691. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-305, "Bonus Depreciation De-Coupling Temporary Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6692. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-300, "Electric Standard Offer Service Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6693. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-301, "Closing of Public Alleys in Square 2672, S.O. 03-757, Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6694. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-332, "Neighborhood Investment Act of 2004,"pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6695. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-302, "Office of Administrative Hearings Independence Preservation Temporary Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6696. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-303, "Interim Disability Assistance Temporary Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6697. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-304, "Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6698. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-331, "Medical Support Establishment and Enforcement Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6699. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-315, "Closing of a Public Alley in Square 2848 and of a Portion of Kenyon Street, N.W., S.O. 03-411, Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6700. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-314, "Extension of the Time Period for Disposition of a Property Located at 2341 4th Street, N.E., Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6701. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-316, "Initiative Measure No. 62 Applicability and Fiscal Impact Temporary Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6702. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-299, "Washington Convention Center Authority Term Limit Amendment Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6703. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting the redesignation as "foreign terrorist organizations" pursuant to Section 219 of the Immigration and Nationality Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996, and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) of 2001; to the Committee on the Judiciary.

6704. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Deutschland Model MBB-BK-117 A-1, A-3, A-4, B-1, B-2, and C-1 Helicopters [Docket No. 2003-SW-21-AD; Amendment 39-13424; AD 2004-01-10] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6705. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS355E, F, F1, F2, and N Helicopters [Docket No. 2003-SW-24-AD; Amendment 39-13423; AD 2004-01-09] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6706. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30401; Amdt. No. 3087] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6707. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Beloit, KS [Docket No. FAA-2003-16749; Airspace Docket No. 03-ACE-93] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6708. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Iowa Falls, IA. [Docket No. FAA-2003-16747; Airspace Docket No. 03-ACE-91] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6709. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Marysville, KS. [Docket No. FAA-2003-16762; Airspace Docket No. 03-ACE-99] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6710. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Anthony, KS. [Docket No. FAA-2003-16748; Airspace Docket No. 03-ACE-92] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6711. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fort Scott, KS. [Docket No. FAA-2003-16761; Airspace Docket No. 03-ACE-98] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6712. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Benton, KS. [Docket No. FAA-2003-16756; Airspace Docket No. 03-ACE-94] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6713. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701) Series Airplanes [Docket No. 2003-NM-159-AD; Amendment 39-13372; AD 2003-24-03] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6714. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Mystere-Falcon 200 Series Airplanes [Docket No. 2003-NM-247-AD; Amendment 39-13375; AD 2003-24-06] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6715. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, 737-700, 737-800, 757-200, and 757-300 Series Airplanes [Docket No. 2001-NM-374-AD; Amendment 39-13411; AD 2003-26-12] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6716. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2003-NM-05-AD; Amendment 39-13412; AD 2003-26-13] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6717. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hamburger Flugzeugbau G.m.b.H Model HFB 320 HANSA Airplanes [Docket No. 2002-NM-185-AD; Amendment 39-13425; AD 2004-01-11] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6718. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC130B4 Helicopters [Docket No. 2003-SW-41-AD; Amendment 39-13428; AD 2004-01-14] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6719. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airpanes [Docket No. 2002-NM-336-AD; Amendment 39-13426; AD 2004-01-12] (RIN: 2120-AA64) received Febrauary 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6720. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Model 1900, 1900C, and 1900D Airplanes [Docket No. 2003-CE-16-AD; Amendment 39-13427; AD 2004-01-13] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6721. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and-11F Airplanes [Docket No. 2001-NM-164-Ad; Amendment 39-13431; AD 2004-01-17] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6722. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2001-NM-161-AD; Amendment 39-13430; AD 2004-01-16] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6723. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2001-NM-167-AD; Amendment 39-13433; AD 2004-01-19] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6724. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2001-NM-165-AD; Amendment 39-13432; AD 2004-01-18] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6725. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines [Docket No. 2003-NE-12-AD; Amendment 39-13434; AD 2004-01-20] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6726. A letter from the Director, Regulations Management, Department of Veteran's Affairs, transmitting the Department's final rule — Charges Used for Recovery from Tortiously Liable Third Parties for Medical Care or Services Provided by the Department of Veterans Affairs (RIN: 2900-AL48) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

6727. A letter from the Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting the Department's final rule — Exportation of Liquors; Recodification of Regulations; Administrative Changes Due to the Homeland Security Act of 2002 [T.D. TTB-8] (RIN: 1513-AA76) received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1768. A bill to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes; with an amendment (Rept. 108–416). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 520. Resolution providing for consideration of the Senate amendment to the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes (Rept. 108–417). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska:

H.R. 3783. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANTOR (for himself and Mr. Doolittle):

H.R. 3784. A bill to amend the Internal Revenue Code of 1986 to provide for refunds to taxpayers of the budget surplus for each year of surplus; to the Committee on Ways and Means.

By Mr. MARIO DIAZ-BALART of Florida:

H.R. 3785. A bill to authorize the exchange of certain land in Everglades National Park; to the Committee on Resources.

By Mr. KING of New York (for himself and Mrs. Maloney) (both by request):

H.R. 3786. A bill to authorize the Secretary of the Treasury to produce currency, postage stamps, and other security documents at the request of foreign governments on a reimbursable basis; to the Committee on Financial Services.

By Mr. PETERSON of Minnesota (for himself, Mr. Walsh, Mr. Tom Davis of Virginia, Ms. Kaptur, Mr. Kanjorski, Mr. Ross, Mr. McHugh, Mr. Rehberg, Mr. Frank of Massachusetts, Mr. Davis of Tennessee, and Mr. Sabo):

H.R. 3787. A bill to amend the Animal Health Protection Act to require the establishment of an electronic nationwide livestock identification system, to prevent the unauthorized release of information collected under the system, to promote an objective review of Department of Agriculture responses to livestock disease outbreaks, and for other purposes; to the Committee on Agriculture.

By Ms. LORETTA SANCHEZ of California:

H.R. 3788. A bill to amend title 46, United States Code, to modify requirements applicable to the National Maritime Transportation Security Plan with respect to ensuring that the flow of cargo through United States ports is reestablished after a transportation security incident, to require the Secretary of the department in which the Coast Guard is operating to develop and implement a secure long-range automated vessel tracking system, to aid maritime security, efficiency, and safety, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PETERSON of Minnesota:

H.R. 3789. A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 3790. A bill to impose a moratorium on payments for inpatient hospital services in additional long-term care hospital beds under the Medicare Program; to the Committee on Ways and Means.

By Mr. STEARNS (for himself, Mr. Hall, Mr. Flake, Mr. Shimkus, Mr. Deal of Georgia, Mr. Bachus, Mr. Paul, and Mr. Franks of Arizona):

H.R. 3791. A bill to provide that no automatic pay adjustment for Members of Congress shall be made in the year following a fiscal year in which there is a Federal budget deficit; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD:

H.R. 3792. A bill to amend title 10, United States Code, to authorize a "child only" annuity under the Survivor Benefit Plan of the Armed Forces when there is a surviving spouse in the case of a member of the Armed Forces dying on active duty during the period beginning on September 11, 2001, and ending on November 23, 2003; to the Committee on Armed Services.

By Mr. BROWN of Ohio (for himself, Mr. CHABOT, Mr. ROHRABACHER, and Mr. WEXLER):

H.R. 3793. A bill concerning participation of Taiwan in the World Health Organization; to the Committee on International Relations.

By Mr. RUSH:

H. Con. Res. 360. Concurrent resolution expressing the sense of Congress with respect to the murder of Emmett Till; to the Committee on the Judiciary.

By Mr. GREEN of Texas:

H. Res. 521. A resolution congratulating the North Shore Senior High School football team of Houston, Texas, on their Class 5A Division I Texas State championship; to the Committee on Education and the Workforce.

By Mr. SNYDER (for himself, Mrs. KELLY, Mrs. CAPITO, Ms. HOOLEY of Oregon, Mr. KIND, Ms. PRYCE of Ohio, Ms. DUNN, Mrs. BONO, Ms. LORETTA SANCHEZ of California, Mr. GORDON, Mr. ROSS, Mr. ENGEL, Mr. LANTOS, Mr. BURGESS, Mr. STUPAK, and Mr. BERRY):

H. Res. 522. A resolution expressing the sense of the House of Representatives that there is a critical need to increase awareness and education about heart disease and the risk factors of heart disease among women; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. CONYERS introduced a bill (H.R. 3794) for the relief of the heirs of Henry D. Espy of St. Louis, Missouri; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 180: Mr. OTTER and Mr. HOEKSTRA.

H.R. 195: Mr. OXLEY.

H.R. 218: Ms. DELAURO and Mr. REYNOLDS.

H.R. 284: Ms. PRYCE of Ohio, Ms. NORTON, Mr. ALEXANDER, and Mr. GRIJALVA.

H.R. 303: Mr. EVERETT.

H.R. 327: Mr. MORAN of Kansas.

H.R. 338: Mr. CANNON.

H.R. 343: Mrs. CHRISTENSEN.

H.R. 394: Mr. INSLEE.

H.R. 591: Mr. GRIJALVA.

H.R. 645: Mr. GRIJALVA.

H.R. 665: Mr. ANDREWS.

H.R. 717: Ms. JACKSON-LEE of Texas.

H.R. 745: Mr. PAYNE.

H.R. 776: Mr. GRIJALVA.

H.R. 814: Mr. ACKERMAN, Mr. DAVIS of Florida, Mr. CRAMER, and Ms. SLAUGHTER

H.R. 857: Mr. BLUMENAUER, Mr. SIMMONS, Mr. DICKS, Mr. LYNCH, and Mr. BROWN of Ohio.

H.R. 876: Mr. CRANE and Mr. CRAMER.

H.R. 944: Mr. GRIJALVA.

H.R. 946: Mr. BARTLETT of Maryland.

H.R. 1043: Mr. EMANUEL, Mr. FOLEY, Mr. CUMMINGS, and Mr. VAN HOLLEN.

H.R. 1050: Mr. ANDREWS.

H.R. 1071: Mr. DOGGETT.

H.R. 1083: Mr. BACHUS.

H.R. 1131: Mr. FILNER.

H.R. 1205: Mr. DOGGETT and Mr. PAYNE.

H.R. 1231: Mr. HERGER.

H.R. 1251: Mr. SNYDER and Mr. BROWN of Ohio.

H.R. 1267: Mr. PRICE of North Carolina.

H.R. 1285: Ms. MCCARTHY of Missouri, Mr. ETHERIDGE, Mr. BERRY, Mr. HINOJOSA, Mr. HOLT, Mr. KILDEE, Mr. SABO, Mr. TURNER of Texas, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, and Ms. VELÁZQUEZ.

H.R. 1310: Mr. NETHERCUTT and Mr. THOMPSON of Mississippi.

H.R. 1322: Mr. PAYNE and Mr. NADLER.

H.R. 1336: Mr. SHUSTER, Mr. DUNCAN, Mr. JENKINS, Mr. GALLEGLY, Mr. CAMP, and Mr. SHERMAN.

H.R. 1345: Mr. SERRANO, Ms. ESHOO, Mr. GUTIERREZ, Mr. BALLANCE, Mr. FATTAH, Mr. LAMPSON, Mr. STRICKLAND, Ms. KAPTUR, Mrs. TAUSCHER, Ms. DELAURO and Mrs. CHRISTENSEN.

H.R. 1508: Ms. WATERS.

H.R. 1519: Mr. OTTER and Mrs. TAUSCHER.

H.R. 1532: Mr. SHIMKUS and Mr. CASTLE.

H.R. 1563: Mr. DEUTSCH.

H.R. 1633: Mr. NADLER.

H.R. 1742: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1758: Ms. HART.

H.R. 1873: Mr. ROGERS of Michigan.

H.R. 1930: Mr. NEAL of Massachusetts and Mr. CAPUANO.

H.R. 2062: Ms. BALDWIN.

H.R. 2133: Mr. RUPPERSBERGER.

H.R. 2154: Mr. JONES of North Carolina.

H.R. 2173: Ms. DELAURO, Mrs. NAPOLITANO, Mr. MCINTYRE, Mr. MORAN of Virginia, and Mr. FILNER.

H.R. 2176: Mr. BRADLEY of New Hampshire.

H.R. 2239: Ms. DELAURO, Mr. ENGEL, Mr. WEINER, and Mr. MEEKS of New York.

H.R. 2308: Mr. POMEROY.

H.R. 2394: Ms. KILPATRICK.

H.R. 2626: Mrs. JONES of Ohio and Mr. FILNER.

H.R. 2665: Mr. GREEN of Texas.

H.R. 2683: Mr. PALLONE, Mr. GRIJALVA, and Mr. CLAY.

H.R. 2711: Mr. GUTIERREZ.

H.R. 2727: Mr. FARR.

H.R. 2728: Mr. FRANKS of Arizona.

H.R. 2729: Mr. FRANKS of Arizona.

H.R. 2730: Mr. FRANKS of Arizona.

H.R. 2731: Mr. FRANKS of Arizona.

H.R. 2737: Mr. POMEROY.

H.R. 2743: Mr. MURPHY, Mr. SHIMKUS, Mr. SOUDER, Mr. SESSIONS, Mr. HOEKSTRA, and Mr. CULBERSON.

H.R. 2768: Mr. RENZI, Mr. SHIMKUS, Mrs. JOHNSON of Connecticut, Mr. SIMMONS, and Mr. WU.

H.R. 2808: Mr. PASCRELL.

H.R. 2821: Mr. HINCHEY.

H.R. 2851: Mr. TIAHRT.

H.R. 2889: Mr. GERLACH.

H.R. 2890: Mr. BOYD.

H.R. 2891: Mr. NADLER.

H.R. 2899: Ms. HARMAN.

H.R. 2950: Mr. JEFFERSON.

H.R. 3049: Mr. MICHAUD, Ms. KILPATRICK, and Mr. GRIJALVA.

H.R. 3103: Mr. FILNER and Mr. SHIMKUS.

H.R. 3120: Mr. GRIJALVA.

H.R. 3125: Mr. PLATTS and Mr. BAKER.

H.R. 3139: Ms. MCCOLLUM.

H.R. 3158: Mr. WEINER.

H.R. 3190: Mr. SAM JOHNSON of Texas.

H.R. 3193: Mr. PETERSON of Pennsylvania, Mr. ROHRABACHER, Mr. MARIO DIAZ-BALART of Florida, and Mr. RYAN of Wisconsin.

H.R. 3204: Mr. CONYERS and Mr. GRIJALVA.

H.R. 3213: Mr. BRADLEY of New Hampshire, Mr. FRANKS of Arizona, Mr. KINGSTON, Mr. ISAKSON, and Mr. GILLMOR.

H.R. 3220: Mr. SESSIONS, Mrs. TAUSCHER, Mrs. MALONEY, and Mr. BACHUS.

H.R. 3238: Mr. RANGEL.

H.R. 3266: Mr. SESSIONS.

H.R. 3299: Mr. HINCHEY.

H.R. 3324: Mr. STARK.

H.R. 3337: Mr. STARK.

H.R. 3352: Mr. MORAN of Virginia and Mr. FARR.

H.R. 3355: Mr. FILNER and Mr. NADLER.

H.R. 3359: Mr. HOEFFEL, Mr. SERRANO, Mr. ABERCROMBIE, and Mr. WAXMAN.

H.R. 3388: Mrs. MUSGRAVE.

H.R. 3410: Mr. PUTNAM.

H.R. 3424: Mrs. CAPPS.

H.R. 3425: Mr. UDALL of Colorado, Mr. MEEHAN, Mrs. CAPPS, Mr. HOEFFEL, and Ms. JACKSON-LEE of Texas.

H.R. 3450: Mr. GRIJALVA, Mr. FRANK of Massachusetts, and Mr. CONYERS.

H.R. 3458: Mr. SMITH of New Jersey, Mr. LIPINSKI, Mr. FILNER, Mr. PAYNE, and Mr. MCDERMOTT.

H.R. 3474: Mr. CRENSHAW, Mr. NADLER, Mr. CLAY, Mrs. CAPPS, Mr. TANCREDO, Mr. GREEN of Texas, and Mr. WALDEN of Oregon.

H.R. 3480: Mr. GONZALEZ, Mr. GUTIERREZ, and Mr. FALEOMAVAEGA.

H.R. 3484: Mrs. JOHNSON of Connecticut.

H.R. 3503: Mr. MEEKS of New York and Mr. OWENS.

H.R. 3519: Mr. WEXLER, Mr. FROST, and Mr GREEN of Texas.

H.R. 3524: Ms. SLAUGHTER.

H.R. 3528: Mr. SHAYS.

H.R. 3550: Mr. HOLT and Mr. STRICKLAND.

H.R. 3563: Mr. ISAKSON.

H.R. 3569: Mr. SERRANO.

H.R. 3582: Mr. GEORGE MILLER of California.

H.R. 3591: Mr. PRICE of North Carolina and Ms. BALDWIN.

H.R. 3599: Ms. BALDWIN and Mr. GRIJALVA.

H.R. 3604: Mr. ISAKSON.

H.R. 3619: Ms. JACKSON-LEE of Texas, Mr. BOSWELL, Mr. ALEXANDER, Mr. MURTHA, Mr. MENENDEZ, Mr. DINGELL, Mr. KANJORSKI, Mr. DEFAZIO, Mr. FORD, Mr. QUINN, and Mr. FROST.

H.R. 3622: Mr. TOM DAVIS of Virginia.

H.R. 3640: Mr. HASTINGS of Florida.

H.R. 3641: Mr. PASCRELL and Mr. MEEHAN.

H.R. 3673: Ms. MAJETTE, Mr. GUTIERREZ, and Mr. BAIRD.

H.R. 3674: Mr. CULBERSON.

H.R. 3683: Mr. RANGEL.

H.R. 3685: Mr. DAVIS of Florida.

H.R. 3695: Mr. PAYNE and Mr. HOLT.

H.R. 3699: Mr. KILDEE.

H.R. 3701: Ms. LOFGREN

H.R. 3704: Mr. GARRETT of New Jersey.

H.R. 3707: Mrs. LOWEY, Mr. KINGSTON, Mr. LUCAS of Kentucky, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. CARDIN, Mr. UDALL of New Mexico, Mr. MURTHA, Mr. KENNEDY of Rhode Island, Mr. REHBERG, Mr. REYES, Mr. SPRATT, Mr. DEFAZIO, Mr. FROST, Mr. WEXLER, Ms. KAPTUR, Mr. MARKEY, and Ms. MAJETTE.

H.R. 3714: Mr. BLUMENAUER and Mr. SHAYS.

H.R. 3715: Mr. BELL.

H.R. 3717: Mr. BUYER, Mr. TOOMEY, Mr. PETRI, Mr. TURNER of Ohio, Mr. TAYLOR of Mississippi, Mr. DOOLITTLE, Mr. CULBERSON, Mr. NEUGEBAUER, Mr. SOUDER, Mr. CARTER, Mr. HERGER, Mr. DAVIS of Florida, Mr. BACHUS, Mr. GONZALEZ, Mr. AKIN, Mr. JOHNSON of

Illinois, Mr. ETHERIDGE, Ms. HART, Mr. SANDLIN, Mr. SHUSTER, Mr. COLLINS, Mr. HUNTER, Mr. DEUTSCH, Mr. WALDEN of Oregon, Mr. SAM JOHNSON of Texas, Mr. BEAUPREZ, Mr. QUINN, Mr. FRELINGHUYSEN, and Mr. RYUN of Kansas.

H.R. 3734: Mr. CALVERT, Mr. JENKINS, Mr. ORTIZ, Mr. GOODE, Mr. WOLF, Mr. McNulty, Mr. RANGEL, Mr. WAXMAN, Mr. FROST, Mr. CROWLEY, Mr. WALSH, Mr. BALLENGER, Mr. BURGESS, and Mr. BEREUTER.

H.R. 3739: Mr. MCKEON, Mr. FROST, Mr. GONZALEZ, Mr. MORAN of Kansas, Mr. BILIRAKIS, and Ms. BORDALLO.

H.R. 3755: Ms. PRYCE of Ohio, Ms. HART, Mr. OTTER, Mr. HINOJOSA, Mr. SHAYS, Mr. FORD, and Mr. GRIJALVA.

H.R. 3763: Ms. KAPTUR, Mr. WELDON of Florida, Mr. PRICE of North Carolina, Mrs. MALONEY, Mr. GARY G. MILLER of California, Mr. CLAY, Mr. FARR, Mr. DAVIS of Alabama, Mr. WAXMAN, Mr. CAPUANO, Mr. REYNOLDS, Mr. HASTINGS of Washington, and Ms. SCHAKOWSKY.

H.R. 3767: Ms. JACKSON-LEE of Texas, Mr. FARR, Mr. MCGOVERN, Mr. OLVER, Mr. MCDERMOTT, Mr. NADLER, Mr. RYAN of Ohio, Mr. GREEN of Texas, and Ms. WATERS.

H.J. Res. 56: Mr. COLE, Mr. FERGUSON, Mr. WOLF, and Mr. DUNCAN.

H. Con. Res. 47: Mr. DELAHUNT.

H. Con. Res. 264: Ms. NORTON, Mr. MCCOTTER, Mrs. MALONEY, Mr. HOEFFEL, Ms. MCCARTHY of Missouri, Mr. RANGEL, Mr. ROTHMAN, Ms. MILLENDER-MCDONALD, and Mr. LANTOS.

H. Con. Res. 275: Ms. MCCOLLUM.

H. Con. Res. 285: Mr. GILLMOR.

H. Con. Res. 307: Mr. MEEHAN.

H. Con. Res. 310: Mr. GOODE.

H. Con. Res. 323: Ms. JACKSON-LEE of Texas.

H. Con. Res. 332: Mr. DAVIS of Tennessee, Ms. JACKSON-LEE of Texas, Mr. GREENWOOD, Mr. BELL, Mr. VITTER, Mr. BAKER, Mr. SULLIVAN, Mr. SHIMKUS, Mr. SWEENEY, Mr. LEACH, Ms. ROS-LEHTINEN, Mr. MCINNIS, and Mr. WAXMAN.

H. Con. Res. 346: Mr. DAVIS of Alabama and Mr. RUSH.

H. Con. Res. 359: Mr. PORTER and Mr. MCCOTTER.

H. Res. 44: Mr. BURGESS.

H. Res. 103: Mr. GORDON.

H. Res. 301: Ms. BORDALLO.

H. Res. 402: Mr. LEWIS of Kentucky and Mr. SAM JOHNSON of Texas.

H. Res. 466: Mr. LEACH, Ms. ROYBAL-ALLARD, Mr. MCCOTTER, Mr. INSLEE, Ms. MAJETTE, and Mr. OBERSTAR.

H. Res. 471: Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Mrs. CHRISTENSEN, Mr. CLYBURN, Mr. FORD, Mr. LEWIS of Georgia, Ms. NORTON, Mr. JEFFERSON, Mr. FATTAH, Mr. PAYNE, Ms. JACKSON-LEE of Texas, Mr. CUMMINGS, and Mr. BISHOP of Georgia.

H. Res. 485: Mr. ACEVEDO-VILÁ, Mr. GRIJALVA, Ms. KILPATRICK, and Mrs. CHRISTENSEN.

H. Res. 499: Mr. DELAHUNT, Ms. MCCOLLUM, Mr. RANGEL, Mr. LAMPSON, Mr. DINGELL, and Mr. BROWN of Ohio.

H. Res. 500: Mr. MCINTYRE, Mr. HAYWORTH, Mr. NEUGEBAUER, and Mr. WELDON of Florida.

H. Res. 510: Mr. HASTINGS of Florida, Mr. CASE, Mr. BROWN of Ohio, Mr. PETERSON of Minnesota, Mr. STUPAK, Mr. ABERCROMBIE, Mr. POMEROY, and Mr. VITTER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1561

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 1: Page 12, insert the following after line 16 and redesignate the succeeding subsections accordingly:

(d) FEES FOR SMALL ENTITIES.—Section 41(h) of title 35, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) The fees and surcharges in effect on February 10, 2004, under paragraphs (1) and (2) for entities described in paragraph (1) shall remain in effect after that date, subject to subparagraph (B).

"(B) A fee or surcharge to which subparagraph (A) applies may be adjusted on October 1, 2009, and on October 1 of each 5th year thereafter, to reflect any fluctuations during the preceding 5-year period in the Consumer Price Index, as determined by the Secretary of Commerce. Changes of less than 1 percent may be ignored.

"(C) No fee or surcharge under this section may be imposed on any entity described in paragraph (1) after February 10, 2004, for any purpose other than the purposes for which fees and surcharges under this section are in effect with respect to such entity on that date.".

EXTENSIONS OF REMARKS

HONORING JOHN M. McCANN

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. EMANUEL. Mr. Speaker, I rise to congratulate John M. McCann of Chicago on receiving the Dr. Robert Hamilton Special Service Award in recognition of his years of excellence and dedication to the DePaul University Athletic Department.

John McCann is being honored for his years of service to DePaul University as sports information director. From 1958 to 1973, John was the man responsible for the promotion of DePaul athletics, years that produced some of the most exciting times in Blue Demons history.

A lifelong Chicagoan, John was raised on the city's west side, attending St. Philip's School. During World War II, John was in the U.S. Navy, stationed on the USS Case. Upon his return from the war, John enrolled at DePaul University, beginning a relationship that would last a lifetime.

After graduating from DePaul in 1950, John began his career in education, first working as a teacher at DePaul Academy. He later joined the ranks of teachers and administrators in the Chicago public schools, eventually becoming the principal of Lakeview's Louis J. Agassiz Elementary School, a position he retired from in 1984.

But John's true passion was always with DePaul athletics. As sports information director, John oversaw the publicity and media coverage of dominant years in Blue Demons basketball, including the great teams of the 1960s that starred Howie Carl and Billy Haig. John was an integral part of the DePaul basketball family that was led by the legendary Coach Ray Meyer and his longtime assistant, the late Frank McGrath.

To John and his wife, Cay, family has always been a priority. Their son Kevin has followed in his footsteps as an educator, rising to his current position as principal of Jamieson School in Lincoln Park. John is most proud, though, that Kevin and his two siblings, Mary and John, all attended his beloved alma mater, DePaul.

Mr. Speaker, I join with the people of Chicago and the members of the DePaul family in recognizing the great honor being bestowed upon John McCann and wish him continued happiness in the future.

PAYING TRIBUTE TO GEORGE AND VIE OBERN

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to two special citizens, George and Vie Obern.

George and Vie Obern have dedicated themselves to improving conditions for bicyclists, hikers and equestrians throughout Santa Barbara County. George and Vie Obern's work led to the successful development of local trail and pathway projects, including the Maria Ygnacia Creek Bikepath, the Coastal Route Bikepath, the Juan Bautista de Anza National Historic Trail and many others.

During the 1970s, George and Vie Obern assumed a leadership role in the development of many bikepaths and trails, working to bring consensus among local homeowners, special districts, Caltrans, the Southern Pacific Railroad and county government regarding the need to build six miles of paved bikepath in the midst of an urbanized area.

The Coastal Route and Maria Ygnacia Creek bikepaths are the primary recreational facilities for the Goleta Valley and are two of the best urban pathways in the State. On January 20th, 2004, the Santa Barbara County Supervisors designated the Coastal Bike Route in Goleta Valley as the "Obern Trail" in recognition of the hard work and dedication that George and Vie Obern exhibited in their work to develop the trails. It is my pleasure and honor to recognize the Oberns at this time for their work in our community. The generosity and dedication of people like George and Vie Obern are what make our community special, and I am happy to salute them.

PAYING RESPECTS TO HAL SHROYER

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. BEAUPREZ. Mr. Speaker, I rise today to pay respect to a great American, a great Coloradoan and a great Republican.

My good friend, Hal Shroyer of Adams County, Colorado, is without question a giant in Colorado politics. As one who has toiled through the political party leadership myself from precinct committeeman to State chairman, I can honestly say that my State, our country and our Republican Party have no greater patriot and warrior than Mr. Shroyer.

For decades he has fought valiantly for the causes and ideals of the GOP. Having served at all levels of party leadership, including his chairmanship of the Adams County GOP, Hal Shroyer has represented the ideals and philosophy of the Republican Party with civility, grace and patriotism. A shrewd strategist, a motivating leader and an appropriate role model for all who relish the thrill of partisan battle yet respect the integrity of the local opposition, Hal Shroyer set the example in Colorado of what it means to be a party leader.

Mr. Speaker, we unfortunately live in an age where honest differences about principles and policy too often give way to petty and personal attacks. Hal Shroyer may be among the last of a dying breed. He is a great man of integrity and principle, a man who loves America more than anything, a great husband to his late wife Maxine, a great friend to all who have the pleasure of making his acquaintance and, put simply, a decent and honorable American.

Mr. Speaker, Hal Shroyer of Adams, County, Colorado, is a true American treasure; and it is my tremendous honor to pay my most heartfelt respects to him and his legacy of leadership and patriotism.

FEBRUARY SCHOOL OF THE MONTH

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mrs. McCARTHY of New York. Mr. Speaker, it is with great pride that I announce the Early Childhood program in the Hempstead Union Free School District as School of the Month in the Fourth Congressional District for February 2004.

The principal of the Early Childhood program is Florence Galloway, and the superintendent of schools is Dr. Nathaniel Clay. The Early Childhood program serves almost 1,000 students in the village of Hempstead's first Full Day Kindergarten program. The faculty work to ensure children begin life on the right path, with a strong commitment to education and family values.

The administrators and teachers of the Full Day Kindergarten program are committed to teaching every child to read by the third grade through an enriched curriculum of math, science, and social studies. The students are taught socialization skills that revolve around respect, sharing and interaction, a superior combination.

This invaluable program was spearheaded by the current principal, Mrs. Florence Galloway, in 2003. Mrs. Galloway has dedicated her life to improving the classroom and school environment, while remaining active within the community. During her 48 years in education, Mrs. Galloway dedicated 35 to the Hempstead School District. After more than 2 decades of service at the Marshall Street Primary School, Mrs. Galloway accepted the position of coordinator for the district's pre-K program. Shortly

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

after, Mrs. Galloway took on the role of principal for the district's newly formed Early Childhood program, a task she has proudly served for 11 years. Mrs. Galloway will be retiring this year after nearly a half-century of impeccable service. She will be greatly missed not only in Hempstead but in the entire Fourth Congressional District.

Mr. Speaker, the faculty and students of the Early Childhood program, along with the community, have created a wonderful learning environment. I am proud to name the Hempstead Early Childhood program as the school of the month for February 2004.

A LIFE OF SERVICE AND COURAGE—A TRIBUTE

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Ms. GRANGER. Mr. Speaker, I rise today to pay tribute to a young man from my district who exemplified great courage while serving his country. Army Spc. Jason Chappell was fatally wounded 2 weeks ago in Iraq when a suicide bomber hit his vehicle.

Chappell displayed his extraordinary commitment to fight for freedom and justice. Freedom and justice are the building blocks of democracy, and these values are the heartbeat of all our soldiers who fight for our country every day.

Chappell's wife, Stephanie, reflects on her husband's kind nature by describing him as an "angel" who "wanted nothing more than to help other people."

Specialist Chappell served in the Army's 1st Cavalry Division's Company B in Fort Hood, Texas. He is remembered by his family as one who was devoted to family and country and dedicated to the causes of justice, freedom, and peace.

He lived an extraordinary life, rich with love, laughter, and pride. As a Member of Congress, I rise today to acknowledge Specialist Chappell and his family for his sacrifice and service to the cause of freedom and the war against terror.

Our thoughts and prayers go out to Jason Chappell's wife and family. May you be strengthened and comforted in this challenging time.

IN SUPPORT OF H.R. 1385, BREAST CANCER STAMP EXTENSION

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. EMANUEL. Mr. Speaker, I rise today as a proud cosponsor and in strong support of H.R. 1385, which extends the authorization of a special postage stamp to benefit breast cancer research.

Since its introduction in July 1998, the Breast Cancer Stamp has provided the American people with a way to directly support breast cancer research. The stamp carries a seven cent surcharge, which goes directly to the life-saving research efforts of the National Cancer Institute and the Department of Defense Breast Cancer Research Program. The American people have demonstrated that they care about this research by purchasing over 430 million stamps. That's a direct, voluntary contribution of over $30 million to this cause, one stamp at a time.

The American public has opened their hearts to women everywhere by acknowledging that breast cancer is a disease which can affect all of our families. Indeed, more than 2 million women in the United States have been diagnosed and treated for breast cancer. One in eight women will develop breast cancer during her lifetime, and 40,000 American women will die from the disease this year. Breast cancer is an issue that we should all care about, particularly since women from every State, of every ethnic and economic background are diagnosed and treated for the disease every year.

In my home State of Illinois, researchers estimate that over 10,000 women will develop breast cancer during the coming year. Their lives depend on early detection and early, effective treatment. When Americans send letters and cards using the Breast Cancer Stamp, they aren't just showing that they've contributed to the cause of research. They are reminding their friends and loved ones about the importance of self examination and mammograms. They are promoting vigilance, awareness, and involvement in the fight against breast cancer. They are showing that increased awareness makes a considerable difference for every woman diagnosed with breast cancer.

The American people have shown they recognize the necessity of investment in breast cancer research through their continued purchase of these stamps, and I urge my colleagues to support the reauthorization of this program. I also remind my colleagues that there is still work to be done.

Along with this bill, I am proud to have cosponsored six other breast cancer related bills which currently await further action in this Congress. Among them are proposals to provide funding and authorization for the National Institute of Environmental Health Sciences to expand research on environmental and age-related factors in breast cancer prevalence, authorization of additional funding to the National Institute of Health for early detection and prevention programs, and legislation to require private health insurance plans to provide coverage for minimum hospital stays for major breast cancer-related surgery. I ask my colleagues to honor the spirit of the millions of citizens who made the Breast Cancer Stamp a success, by pledging your support to these potentially life-saving measures still awaiting action.

Mr. Speaker, I commend the gentleman from California for introducing this important legislation, and I ask my colleagues to support the passage of H.R. 1385.

TRIBUTE TO FORMER CONGRESSMAN JAMES M. HANLEY

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. WALSH. Mr. Speaker, I rise today in tribute to former Congressman James M. Hanley. Mr. Hanley, who died earlier this month, served eight terms in the U.S. House of Representatives from 1965 to 1981. At his retirement at the conclusion of the 96th Congress, he was chairman of the House Committee on Post Office and Civil Service.

I have been fortunate to know Congressman Hanley throughout my life, as he was a resident of the same Tipperary Hill neighborhood in Syracuse, NY, in which I grew up. A graduate of St. Lucy's Academy in Syracuse and a veteran of World War II, Congressman Hanley won an upset election for Congress in 1964 based upon his reputation as an active community leader and successful businessman.

Mr. Hanley translated the keys to his business success as a local funeral director into his Congressional office operations, attending to personal details and providing timely response to constituent requests. He was a thoughtful and gracious man who actively legislated on behalf of the best interests of the people he served.

After his retirement, the Federal office building in downtown Syracuse was named James M. Hanley Federal Building by this institution in his honor. On behalf of the people of the central New York district he represented, I extend our deepest sympathies and thanks to his wife Rita, son Peter, daughter Christine, four grandchildren, and great-grandson.

Mr. Speaker, I also respectfully request that remarks made during the Hon. James M. Hanley funeral at St. Patrick's Church in Syracuse, NY, be embodied into the RECORD. Remarks were spoken by John Mahoney, former Chief of Staff to the late Representative James M. Hanley:

> Thirty years or so ago, after a tough redistricting, Jim ended up with a Congressional seat that ran from Oswego County to the Pennsylvania border. It was so politically lopsided, even the cows were enrolled Republicans.
>
> The campaign was brutal—16 to 20 hours a day.
>
> On one particular day, we started off about 6:00 a.m. at the gates of Crouse Hinds, shaking hands with both the graveyard shift coming off duty and the first shift going on.
>
> During the course of the morning, Jim did a radio talk show in Syracuse, then went to a neighborhood coffee klatch in Cazenovia, spoke at a service club luncheon in Norwich, and met with a farm group outside Deposit. We then drove back up to Oxford for a Dinner, and about 10:00 headed back toward Syracuse—because we had to be at another plant gate at 6:15 in the morning.
>
> Somewhere outside of Sherburne, I found myself nodding behind the wheel. Since there were just the two of us, and Jim was almost asleep already, I said "I've got to stop for coffee or we'll end up in a ditch, and some farmer will find us after the last snow in March."
>
> As we sat at a semi-circular counter—I with my eyes at half-mast, and Jim with his

jaw only an inch or so off the counter—I caught a glint of recognition in the eye of a truck driver across from us. He sat there stirring his coffee and stared at Jim's bedraggled appearance. Finally he said, "There must be some benefit to that business that I JUST CAN'T SEE."

The mysterious benefit that he couldn't see was the very benefit that I knew drove Jim Hanley. It was the opportunity to serve others: the ability to stand up for the little guy.

Jim, who was a bread-and-butter liberal of the old school, saw a unique beauty in the people who were up against the odds: the impoverished veteran; the kid from the ghetto who had two strikes against him before he was seven; the widow trying to survive on Social Security; the abused family; the breadwinner broken by unemployment; the farmer driven to the wall by corporate agribusiness.

He knew that the comfortable and the connected would always be able to fend for themselves. But what about those who were merely guests in the world of the "haves?" They needed an empathetic voice.

Jim was a simple man with a knack for unraveling the complicated; he was a patient man who was never very patient when it came to the plight of the have-nots; he was a patriotic man who wore his patriotism in his heart, not on his sleeve; he was a deeply moral man who disdained the outward trappings of feigned piety; he was the eternal optimist in an increasingly foreboding world.

He also believed that government was the instrument of the people, not its enemy, and that some of the worst errors a society could produce were sins of omission rather than sins of commission.

One might be inclined to think that today marks the end of an era—but that only happens when we bury both the body and the spirit—and we certainly aren't doing that today. There are today literally hundreds of young and middle-aged people who have been inspired by Jim's love of the little guy.

This legacy will never die.

And speaking of love and legacies, a subject that was nearest and dearest to Jim was his family. He spoke often, fondly and almost reverentially, of his mother and father, Mike and Alice Gillick Hanley; and, of course, he idolized Rita, Peter, Chris, and Jimmy, Jim, Patrick, Liza and Meg. It's often said that God never takes someone home, but what he sends a new light in his place. And so today, as Jim ascends that glorious staircase, we welcome his and Rita's newest heir, on month old Dylan Michael.

A part of Jim's other family is also present this morning—the team who worked side by side with him on behalf of the folks in Central New York, Tom DeYulia, Kate Ryan, Mike Kinsella, Bob Warne, Jim Ryan and several others. I know the thoughts I express are shared by each of them as well.

I would be remiss at this point, and I know Jim would be upset with me, if I didn't shift gears and include at least one humorous anecdote in my remarks.

As many of you realize, Jim was known affectionately on Capitol Hill as "Gentleman Jim." His civilized approach to everyone he net ran to the heart of his beliefs—the dignity of the individual.

Sometimes that philosophy took on comical overtones.

Jim knew that one of the highest forms of respect was remembering another's first name. He had a legendary reputation for that.

What many people didn't realize was that Jim had a slight impairment in one ear and so sometimes his hearing was skewed.

He remembered what he heard, but he didn't always hear names correctly.

One day at the Capitol, I was approached by an old friend, Dick Conlon, who was the staff director on one of the committees. He said, "John I have a favor to ask. Jim is always very gracious to me. He goes out of his way to stop and chat. But he invariably calls me Bill—and it's embarrassing—especially if someone else is present." I said I'd take care of it, and proceeded to explain the situation to Jim. Jim said, "I always thought his name was Bill." I repeated that it was Dick.

A week or so later Conlon stopped me again, and with a shrug of disappointment said, "Thanks a lot. Hanley came up to a group of us yesterday, smiled and stuck out his hand to me, paused for a second or two and, then said 'Hi, uh, Tom. Keep up the good work.'"

At this point, I think its time for me to depart gracefully. I have been blessed with the friendship and trust of one of God's truly fine men.

Jim, thanks for the chance to share in a beautiful life.

In your own words, "'Till then . . ."

A LIFE OF SERVICE AND COURAGE

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Ms. GRANGER. Mr. Speaker, I rise today to pay tribute to a young man from my district who exemplified great courage while serving his country. Private First Class Ervin Dervishi was fatally wounded two weeks ago in Iraq when his unit was attacked by grenade fire.

Private Dervishi displayed his extraordinary commitment to fight for freedom and justice. Freedom and justice are the building blocks of democracy, and these values are the heartbeat of all immigrants, like Private Dervishi, who fight for our country every day.

Born in Albania, Private Dervishi came to America with his brother and his parents in search of a better life for their family. He quickly enrolled in his local high school and became a heralded athlete on the soccer field. Not merely settling for citizenship alone, Private Dervishi wanted to contribute to society. That's why he began participating in a two-year volunteer program called Young Explorers with the Waxahachie Police Department. At his memorial service, Private Dervishi's adviser for Young Explorers, Police Chief Nathan Bickerstaff, praised this young man for his enthusiastic nature and fascination with law enforcement. Police Chief Bickerstaff smiled as he recalled Private Dervishi telling him that someday he would become a police officer.

Private Dervishi moved to Fort Worth and joined the Army's 4th Infantry Division in Fort Hood, Texas, after graduating from Western Hills High School. After deployment to Iraq, Private Dervishi showed exemplary combat skills and was present at the capture of Saddam Hussein. He was laid to rest with military honors, and Brig. Gen. Robert Crear presented the family with two distinctive posthumous decorations—the Purple Heart and Bronze Star—for their son's service. High-ranking officials of the Albanian government, including President Alfred Moisiu, have also recognized Private Dervishi's mark in the world by conferring the Golden Eagle Medallion on Private Dervishi. This award is rarely given, but it marks Private Dervishi as a martyr for freedom and peace for two countries.

Private Dervishi is remembered by his family and peers as a true friend who was devoted to family and country and dedicated to the causes of justice, freedom, and peace.

Private Dervishi understood more about freedom in his short life than many will in an entire lifetime. He lived an extraordinary life, rich with love, laughter, and pride. As a Member of Congress, I rise today to acknowledge Private Dervishi and his family for their sacrifice and service to the cause of freedom and the war against terror.

In his eulogy, Police Chief Bickerstaff vowed to carry a photo of Private Dervishi as a reminder of his ultimate sacrifice, saying "he will always be a hero in my eyes."

Our thoughts and prayers go out to the Dervishi family. May you be strengthened and comforted in this devastating time.

IN RECOGNITION OF JACK T. GENTRY

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. BLUNT. Mr. Speaker, I rise today to honor a man who has distinguished himself in southwest Missouri by his commitment to improving our manufacturing sector and expanding our markets abroad. Jack T. Gentry of Springfield, MO, is a builder, creator, innovator, and motivator. He has worked aggressively to give manufacturers a voice in their community and government. Ten years ago, he was the driving force in creating the Springfield Area Manufacturers Association (SAMA), the region's first manufacturer's association, and then served as its president. In September 2002, SAMA broadened its focus to include 40 manufacturers throughout southwest Missouri, and the name was changed to the Southwest Area Manufacturers Association. Today the organization represents more than 60 manufacturing companies.

The association's mission and Jack Gentry's aim is to represent the economic, political, educational, and social interests of southwest Missouri area manufacturers and their employees, while promoting the betterment of the local economy and the environment, as well as the well being of the manufacturing industry in southwest Missouri.

Jack Gentry has always been ahead of manufacturing trends and issues. More than a decade ago, Jack and the Manufacturing Association began taking action on issues that are center stage in manufacturing today. With his leadership, the Association developed awareness programs about how to find, create, and train a literate labor force. The association contributed $37,000 to public schools for technology and provided career awareness opportunities for high school students by hosting plant tours, internships, and school-to-work initiatives. In 1993, Positronic Industries, Jack's company and a founding SAMA member, began working with the U.S. Department of Labor and Ozarks Technical Community College to develop company-paid apprenticeships in order to meet the need for a skilled workforce. To date, 128 employees have completed their training in nine areas and received Department of Labor certification.

The association also initiated discussion about the impact of taxes, workers' compensation, and health care costs on the manufacturing sector with government leaders. It was the first time in southwest Missouri that manufacturers spoke with a unified voice about their concerns.

Positronic Industries, founded by Jack in 1966, embodies his manufacturing philosophy—work smart, expand markets, keep ahead of trends, and deliver a reliable, dependable product. The bedrock of that philosophy is a workforce of skilled employees. Positronic employs 800 individuals worldwide manufacturing high performance, high reliability electronic connectors in ten facilities located throughout southwest Missouri, Puerto Rico, France, and Singapore.

In the face of adversity, Jack has demonstrated repeatedly both his commitment to his employees and his refusal to quit. When the Positonic plant in Rogersville, MO, was destroyed by fire in 1983, Jack promised to rebuild and put the 200 employees back to work quickly. He kept his promise. In 6 weeks, the plant was back in full production with full employment. In the two decades that followed, Jack's superior management skills enabled Positronic to flourish in an unpredictable economic environment.

At the same time, Jack gave his time and energy to benefit those following in his manufacturing legacy. During his service on several boards and agencies, he has offered the government invaluable advice on policy and practices. Over the course of his career, Jack has served as a Technical Advisor on Electromechanical Components for Electronic Equipment to the International Electrotechnical Commission, which sets worldwide standards for electronic equipment, and as the Secretariat of the International Electrotechnical Commission committee. In addition, he has been appointed to the Industry Sector Advisory Committee, which establishes policy for imports and exports for electronic components and was chairman of the Rectangular Connector Committee for the Electronic Industries.

Jack Gentry is a member of the President's Council of the National Association of Manufacturers and a strong advocate for American goods in the international market. He will be honored for his work and leadership by the Southwest Area Manufacturers Association on February 18, 2004, and awarded lifetime honorary membership in SAMA as President Emeritus.

These honors are a fitting tribute to Jack Gentry's untiring effort to advance manufacturing, expand markets and improve the economies of southwest Missouri and the United States.

HONORING KOINONIA FOSTER HOMES, INC.

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Koinonia Foster Homes, Inc., for their hard work and dedication on behalf of thousands of children and families who are in need of their services. A great example of their efforts will be taking place as they sponsor a community-wide, interdenominational Honorary Pastors and Wives Luncheon on February 17th in Fresno, CA.

In 1982, Koinonia Foster Homes, Inc., was founded by Miriam Golden who had previously fostered over 37 abused and neglected children in addition to raising her own four natural children. "Koinonia" is a Greek word that means to communicate relationship and fellowship, which entails that their staff and foster parents relate to children from a position of trustworthiness, dependability and a deep moral commitment. Koinonia Foster Homes is a State-licensed, nonprofit organization that works in cooperation with county social service agencies that remove children from their homes due to abuse and neglect and then refer them to Koinonia for placement in a foster home. Once referred to the program, Koinonia places these children in agency-certified homes where they receive love and guidance from caring, committed and trained foster families, as well as therapeutic services provided by master's-level social work staff.

Koinonia Foster Homes' mission is to provide the highest quality treatment foster care program available for children, youth and their families. Regional offices throughout California and Nevada support over 1,000 foster children, utilizing approximately 500 certified foster families. Koinonia's largest program is its Therapeutic Foster Care Program which provides treatment-based foster care to children between the ages of birth through 18 years of age who have been removed from their homes. Other programs include Residential Group Homes, The Crisis Resolution Center, The Day Treatment Program, and Bridgehaven which is a co-ed transitional housing program for youth ages 18–20. Koinonia Foster Homes is regarded as a leader in the care of at-risk children and the recruitment of new foster homes.

Mr. Speaker, I commend Koinonia Foster Homes, Inc., for the hope and compassion that they have provided for our children and communities. I urge my colleagues to join me in wishing them many years of continued success.

GLOBAL CLIMATE CHANGE

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. OLVER. Mr. Speaker, I would like to submit for the RECORD and draw my colleagues' attention to the attached statement that was recently issued by a bipartisan group of 156 mayors from across the country regarding global climate change. These mayors represent more than 46 million people in local communities ranging in size from 700 people in LaConner, Washington, to more than 4 million in Houston, Texas. The mayors state: "Mayors from across the U.S. are concerned about the impacts of global warming on our communities. Many of us are actively pursuing reductions at the municipal level, but know it will take leadership at the national level to slow the rate of global warming. We urge the Federal Government to focus attention and policy efforts on this critical issue."

I encourage my colleagues to read the attached statement in its entirety. The mayors' statement serves as a reminder that Congress must get serious about addressing greenhouse gas reductions to minimize the impact of global warming already felt across our country. I look forward to working with my colleagues to address this important issue.

U.S. MAYORS' STATEMENT ON GLOBAL WARMING 2003

Mayors from across the U.S. are concerned about the impacts of global warming on our communities. Many of us are actively pursuing reductions at the municipal level, but know it will take leadership at the national level to slow the rate of global warming. We urge the Federal Government to focus attention and policy efforts on this critical issue.

Global warming poses significant threats to communities across the country. We are already feeling impacts in the form of heat waves, shrinking water supplies and snow pack, increased rates of asthma, floods and storms, and coastal erosion.

The scientific community is very clear in its warning—we must act now to significantly reduce greenhouse gas emissions below current levels or we will quickly reach a point at which global warning can not be reversed. This issue requires an effective response from the U.S. Federal Government.

Many local governments across the country have made it a policy priority to reduce greenhouse gas emissions. As mayors, we know that actions that promote energy conservation and efficiency, sustainable transportation (such as expanded mass transit, alternative fuel vehicles, and bike and pedestrian safety amenities) and reduce solid waste also reduce greenhouse gas and criteria pollutants emissions and bring a host of benefits to our communities. These actions reduce financial waste for local governments, businesses and citizens; they make our communities more livable; they increase spending and economic investment in our communities; and they increase the quality of life for current and future generations.

In addition to these benefits, two other reasons have recently emerged that put reducing greenhouse gas emissions at the top of the policy priority list. The first is energy security. Switching to cleaner energy sources, practicing conservation and maximizing energy efficiency will ease U.S. dependence on foreign fossil fuel-based energy, and at the same time improve local air quality and public health.

The second driver is the simple fact that the people in our communities are calling on us as elected leaders to address global warming. A public mandate is emerging in cities and towns across the country calling for governments at all levels to protect the global climate.

As Mayors responsible for the well being of our communities, we urge the federal government to maintain, enhance and implement new domestic policies and programs that work with local communities to reduce global warming pollution.

Initial Signatories: Mayor James Garner, Hempstead NY; Mayor Ed Garza, San Antonio TX; Mayor R.T. Rybak, Minneapolis MN; Mayor Vera Katz, Portland OR; Mayor Dick Murphy, San Diego CA.

STATEMENT SIGNATORIES

Name	City and state	Population
Dan Coody	Fayetteville, AR	58,047
Jim Daley	Little Rock AR	181,133
Patrick Hays	North Little Rock, AR	60,433
Beverly Johnson	Alameda, CA	76,259
Bob Ornelas	Arcata, CA	16,651
Tom Bates	Berkeley, CA	102,743
Stacey Murphy	Burbank, CA	100,316
Stephen Padilla	Chula Vista, CA	200,000
Mike Nixon	Cloverdale, CA	7,150
Janet Kurvers	Cotati, CA	6,700
Roberta Cooper	Hayward, CA	144,721
Leah Gold	Healdsburg, CA	11,522
Roosevelt F. Dorn	Inglewood, CA	112,580
Beverly O'Neil	Long Beach, CA	461,522
Keb Kearsley	Malibu, CA	12,575
Dennis Kennedy	Morgan Hill, CA	33,556
David Smith	Newark, CA	43,043
Jerry Brown	Oakland, CA	399,484
Dena Mossar	Palo Alto, CA	61,200
Davic Glass	Petaluma, CA	54,548
Tom Pico	Pleasanton, CA	67,724
Jonathan Sharkey	Port Hueneme, CA	21,845
Grace Vargas	Fialto, CA	91,873
Irma Anderson	Richmond, CA	99,216
Armando Flores	Rohnert Park, CA	42,236
Heather Fargo	Sacramento, CA	407,018
Peter Kikus	San Anselmo, CA	12,378
Judith Valles	San Bernardino, CA	185,401
Dick Murphy[1]	San Diego, CA	1,275,112
Willie Brown	San Francisco, CA	776,733
Ron Gonzales	San Jose, CA	894,943
Shelia Young	San Leandro, CA	79,452
Marty Blum	Santa Barbara, CA	92,325
Emily Reilly	Santa Cruz, CA	54,593
Richard Bloom	Santa Monica, CA	84,084
Sharon Wright	Santa Rosa, CA	147,595
Craig Litwin	Sebastopol, CA	7,750
Julia Miller	Sunnyvale, CA	131,760
Dan Walker	Torrance, CA	137,946
Ray DiGuilio	Ventura, CA	9,157,540
Jeff Prang	West Hollywood, CA	35,716
Helen Klanderud	Aspen, CO	5,914
William R. Toor	Boulder, CO	94,673
John Fabrizi	Bridgeport, CT	139,529
Carl Amento	Hamden, CT	57,581
John DeStefano	New Haven, CT	123,626
Dannel P. Malloy	Stamford, CT	117,083
Michael Jarjura	Waterbury, CT	107,271
Michael Paulhus	Windham, CT	22,857
Rocky Randels	Cape Canaveral, FL	8,829
Jeff Perlman	Delray Beach, FL	60,020
Thomas Bussing	Gainesville, FL	95,447
Joy Cooper	Hallandale, FL	34,282
Mara Giulianti	Hollywood, FL	139,357
James Weekley	Key West, FL	25,478
Gary Frankel	North Lauderdale, FL	32,264
John Marks	Tallahassee, FL	150,624
Shirley Clarke Franklin	Atlanta, GA	4,112,646
Patsy Jo Hillard	East Point, GA	39,595
Jeremy Harris	Honolulu, HI,	395,327
Arlene Mulder	Arlington Heights, IL	76,031
Lorraine Morton	Evanston, IL	74,239
Ralph W. Conner	Maywood, IL	26,987
Scott King	Gary, IN	631,362
Chuck Oberlie	Michigan City, IN	32,900
Jerry E. Abramson	Louisville, KY	693,604
Keith Villere	Covington, LA	8,483
C. Ray Nagin	New Orleans, LA	484,674
Thomas Menino	Boston, MA	589,141
John Yunits	Brockton, MA	94,304
Michael Sullivan	Cambridge, MA	101,355
Michael McGlynn	Medford, MA	55,765
David Cohen	Newton, MA	83,829
Kelly Gay	Somerville, MA	77,478
John Madden	Williamstown, MA	8,424
Bryan K. Knedler	Mount Rainier, MD	8,498
Kathy Porter	Takoma Park, MD	17,299
Michael Hurley	Belfast, ME	6,381
Jim Cloutier	Portland, ME	64,249
Ivan Fende	Chocolay Charter, MI	7,148
May Hamman-Roland	Apple Valley, MN	45,527
Elizabeth Klautz	Burnsville, MN	60,220
James Jadwin	Dayton, MN	4,699
Gary Doty	Duluth, MN	86,228
Jeff Kagermeier	Mankato, MN	32,427
R.T. Rybak[1]	Minneapolis, MN	353,395
Karen Anderson	Minnetonka, MN	51,301
Carol Wilcox	Morris, MN	5,068
Ardell Brede	Rochester, MN	85,806
Carolyn Gentilini	Virginia, MN	9,157
Harvey Johnson	Jackson, MS	184,256
Mike Kadas	Missoula, MT	57,053

STATEMENT SIGNATORIES—Continued

Name	City and state	Population
Charles R. Worley	Asheville, NC	68,889
Michael Nelson	Carrboro, NC	16,782
Kevin Foy	Chapel Hill, NC	48,715
William V. Bell	Durham, NC	187,035
Michael Fahey	Omaha, NE	399,357
Michaell Blastos	Keene, NH	22,563
Walter Hoerman	Rochester, NH	28,461
Joseph Doria, Jr	Bayonne, NJ	61,842
Joseph Scarpelli	Brick, NJ	76,119
Robert Bowser	East Orange, NJ	69,824
David L. Ganz	Fair Lawn, NJ	31,637
Alberto Santos	Kearny, NJ	40,513
Victor de Luca	Maplewood, NJ	23,868
Louise Wilson	Montgomery Twp, NJ	17,481
Sharpe James	Newark, NJ	273,546
Douglas Palmer	Trenton, NJ	85,403
Martin Chavez	Albuquerque, NM	448,607
Oscar Goodman	Las Vegas, NV	1,563,282
Anthony Masiello	Buffalo, NY	292,648
James Garner[1]	Hempstead, NY	56,554
Alan J. Cohen	Ithaca, NY	29,287
Robert Blais	Lake George Village, NY	985
Ernest Davis	Mount Vernon, NY	68,381
Irene Elia	Niagara Falls, NY	55,593
William Johnson	Rochester, NY	1,098,201
Ken Klotz	Saratoga Springs, NY	26,186
Matthew Driscoll	Syracuse, NY	147,306
Donald Plusquellic	Akron, OH	694,960
Thomas Longo	Garfield Heights, OH	30,734
Jack Ford	Toledo, OH	313,619
Alan DeBoer	Ashland, OR	19,522
Helen Berg	Corvallis, OR	49,322
Vera Katz[1]	Portland, OR	529,121
Stephen Reed	Harrisburg, PA	48,950
David Cicilline	Providence, RI	173,618
Joseph P. Riley, Jr.	Charleston, SC	96,650
Gus Garcia	Austin, TX	656,562
Laura Miller	Dallas, TX	3,519,176
Euline Brock	Denton, TX	80,537
Mike Moncrief	Fort Worth, TX	502,369
Lee Brown	Houston *, TX	4,177,646
Filemon Esquivel, Jr.	Kingsville, TX	25,575
Ed Garza[1]	San Antonio, TX	1,144,646
Robert Habingreither	San Marcos, TX	661,890
Rocky Anderson	Salt Lake City, UT	181,743
William Ward	Chesapeake, VA	199,184
Daniel Harshman	Edinburg, VA	813
Meyera Obendorf	Virginia Beach, VA	433,461
Peter Clavelle	Burlington, VT	38,889
Mark Asmundson	Bellingham, WA	67,171
Don Wright	LaConner, WA	761
Skye Richendfer	Mount Vernon, WA	26,232
Patricia Cohen	Oak Harbor, WA	19,795
Stan Biles	Olympia, WA	42,514
Rosemarie Ives	Redmond, WA	45,256
Greg Nickels	Seattle *, WA	563,374
John Powers	Spokane, WA	195,629
Bill Baarsma	Tacoma, WA	193,556
John D. Medinger	La Crosse, WI	51,818
Dave Cieslewicz	Madison, WI	208,054
John Norquist	Milwaukee, WI	596,974
Theresa Estness	Wauwatosa, WI	47,271
Gerald Bach	Wisconsin Rapids, WI	18,435
		46,722,006

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[1] Initial signatories.

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RECOGNIZING THE MANY ACCOMPLISHMENTS OF THE HAMMOND COUNCIL PARENT TEACHER ASSOCIATION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you today to recognize the many accomplishments of the Hammond Council Parent Teacher Association (PTA) as it celebrates the PTA's 2004 Founders' Day. This very important occasion will be celebrated on Friday, February 13, 2004 at the Dynasty Banquet Hall in Hammond, Indiana.

The National PTA was founded in 1897 by Ms. Alice McLellan Birney and Ms. Phoebe Apperson Hearst. In 1970, the National Congress of Colored Parents, which was founded by Ms. Selena Sloan Butler, joined the National PTA. Due to the vision and determination of these women, the organization has taken the lead in promoting the welfare of children throughout the country.

The Hammond Council PTA was chartered on April 30, 1945 as a member of the Indiana PTA and the National PTA. Being a member of the state as well as national PTA, the Hammond Council has provided continuous support and resources to local families which focus on the health and education of children. The Hammond Council has continued the legacy of the PTA's founders through many projects such as Hammond's Survive Alive Program which has developed and saved the lives of many students and their families.

Each year, the Hammond Council also recognizes the top ten students from the four Hammond high schools through a special scholarship program. The recipients are honored in partnership with the School City of Hammond and the Hammond Rotary Club. Along with their leadership in their local community, members from the Hammond Council have also gone on to serve as officers for the Indiana PTA. Some of the local leaders include, past President Ms. Beverly Zawadski, the current President Ms. Marilyn Jones, the President Elect Ms. Dee Jones, and the Secretary Ms. Pat Taylor.

Each year in February, the PTA celebrates Founders' Day to recognize the accomplishments and dedication of teachers, volunteers, administrators, and community leaders who have made a positive impact on their community. During the celebration on Friday, February 13, the Hammond Council PTA will announce its 2004 winners of the 15th Volunteer of the Year Award, the Outstanding Local Unit Award, and the Membership and National PTA Lifetime Achievement Awards.

Mr. Speaker, as this time, I ask that you and my other distinguished colleagues join me in honoring and congratulating the Hammond Council PTA and all its members as they celebrate the 2004 Founders' Day. Their many great accomplishments and service to the children of the Hammond community, as well as throughout the state, is worthy of the highest commendation.

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TRIBUTE TO ELROY "CRAZYLEGS" HIRSCH

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Ms. BALDWIN. Mr. Speaker, I rise today to pay tribute to the great life of Elroy "Crazylegs" Hirsch. On January 28, 2004, Wisconsin lost a true state icon, but Crazylegs leaves his rich legacy in the hearts of all Wisconsinites.

Elroy Hirsch was born in Wausau, WI and grew into an incredible high school athlete while playing football and basketball at Wausau High School. He was such an accomplished high school player that in 1998 he was inducted into the National High School Hall of Fame.

After high school, he became a standout halfback for the University of Wisconsin Badgers during the 1942 season. The Badgers finished the 1942 season 8–1–1 and were ranked third nationally by the AP. Hirsch was key to the 1942 victory over top-ranked Ohio State by throwing one touchdown pass and recording more than 200 total offensive yards. It was during this season that he earned the name "Crazylegs" after a reporter wrote that "his crazy legs were gyrating in six different directions all at the same time."

Due to his assignment with the United States Marine Corps, Hirsch continued his collegiate athletic career with the University of Michigan, and went on to play professionally for the Chicago Rockets from 1946–1948 and then with the Los Angeles Rams from 1949–1957. After a record setting career with the NFL, he was named to the NFL's All-Time All-Star team.

Following his time as General Manger with the Los Angeles Rams, Hirsch returned to Wisconsin and the university where he started his collegiate athletic career. When he arrived as Athletic Director, the Badgers' athletic program was struggling. He was committed and successful in turning around the athletic program in his 18-year role at the University of Wisconsin. During the years following his retirement, Hirsch was the Wisconsin Badgers biggest fan.

Despite living in various communities across the United States during his accomplished career, it was evident that his home was truly with the people of Wisconsin and Wisconsin athletics, as with every autograph he signed "always a Badger."

INTRODUCTION OF THE LONG TERM CARE HOSPITAL MORATORIUM ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. STARK. Mr. Speaker, I rise today to introduce the Long Term Care Hospital Moratorium Act. This bill places a moratorium on the growth of costly Medicare Long Term Care Hospital (LTCH) beds until enough information is available to determine whether continued growth is required to meet the needs of our seniors and people with disabilities.

The number of these facilities has increased substantially from 109 to 300 in the past decade and Medicare expenditures directed to these facilities have grown from $398 million in 1993 to an anticipated $2.3 billion in 2005. The recent 275% increase in facilities and over 500% increase in Medicare expenditures are dramatic. It is time for Congress to question whether this rapid growth reflects a true increase in clinical need or just a means to game robust profits from Medicare.

LTCHs are one of four types of post-acute settings that are reimbursed under Medicare. Patients in these facilities have medically complex conditions that include ventilator dependency, multiple medical system failures, complicated infectious conditions, wound care and post-surgical recuperation. These patients generally have stays in these facilities of 25 days or more. Currently, only 1 percent of Medicare beneficiaries discharged from acute hospitals are transferred to LTCHs. These facilities are the most expensive on average of all the post-acute alternatives with a base rate cost per patient episode being $35,700.

The growth in the long term care hospital sector is being fueled by large for-profit companies that are reporting significant revenue increases and robust profit margins. Their margins are significantly higher than those for acute hospitals and skilled nursing facilities. Wall Street recognition of the industry's positive financial outlook is likely related to the 300 percent increase that has been posted this year in the stocks of these publicly-traded companies.

Recent data from the non-partisan Medicare Payment Advisory Commission (MedPAC) suggests that there may also be substantial overlap between the types of patients being treated in LTCHs and skilled nursing facilities; despite LTCHs costing 4–5 times more. The potential for LTCHs to substitute for less costly skilled nursing facilities is exacerbated by the fact that there is currently no clinical patient admission criteria under Medicare for LTCHs.

A review of the LTCH Medicare provider network raises a number important public policy questions. These questions include:

Is there evidence of clinical need to support the rapid growth in LTCH facilities?

Is the current Medicare payment system inappropriate or is the reimbursement amount excessive for LTCH services?

Are LTCHs and skilled nursing facilities clinical substitutes? If so, are there clinical criteria that can be developed to determine which patients require LTCHs vs. skilled nursing facilities?

This legislation simply places a moratorium on the future growth of this provider network category until these questions are answered. The Secretary of Health and Human Services may terminate this moratorium upon obtaining adequate information to address these questions and implementing any required changes to the Medicare payment system for these services. The Secretary is also required to submit a report to Congress at least one month prior to terminating the moratorium specifying the rationale and evidence supporting the termination.

It is appropriate for Congress, who is responsible for providing fiscal oversight of Medicare, to enact this legislation. Both MedPAC and the Health and Human Services' Office of the Inspector General are already investigating aspects of these issues. The LTCH and skilled nursing home industries, patient advocacy groups and other relevant sources can offer additional data. Using the data obtained during this moratorium, the Center for Medicare and Medicaid Services and the Congress can make an informed decision on what interventions are necessary within the LTCH industry to both ensure beneficiaries are receiving the treatment they require and that Medicare funds are being prudently spent.

U.S. NEEDS SPACE BASED MISSILE DEFENSE

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mrs. MUSGRAVE. Mr. Speaker, today I submit the following article from Vital Speeches into the CONGRESSIONAL RECORD. "U.S. Needs Space-Based Missile Defense" is a speech given by my highly respected predecessor, Representative Bob Schaffer.

[From Vital Speeches, Oct. 15, 2003]

U.S. NEEDS SPACED-BASED MISSILE DEFENSE

ADDRESS BY BOB SCHAFFER, FORMER U.S. CONGRESSMAN FROM COLORADO, DELIVERED TO THE COUNCIL FOR NATIONAL POLICY, COLORADO SPRINGS, COLORADO, SEPTEMBER 26, 2003

Thank you, Ambassador Cooper. Good afternoon ladies and gentlemen. I have been a long-time admirer of Ambassador Hank Cooper since before I went to Congress in 1996. As a Member of Congress, I relied on the Ambassador's judgment and vision for guidance when considering questions of America's defense against those who would threaten our liberty.

The district I represented, up until January of this year, in Congress was essentially the entire eastern half of Colorado—very rural. Consequently, the committees to which I was assigned in Congress had to do with agriculture, natural resources and education. I served on no committees that had direct involvement with national defense, foreign affairs or military preparedness.

But as one who represented a constituency of broad interests, I endeavored to learn as much as I could about national defense. And the more I learned about the very real threat America faces with respect to long-range missile attack, the more I became convinced that there are not enough leaders in Congress paying attention to this vital national security concern.

As Ambassador Cooper mentioned, my interest led me around the world meeting with parliamentarians and defense leaders of other nations. I made eight trips to Russia, as many to Ukraine, and others to Asia, Central Asia, and Europe.

Since September 11th, America has been focused on combating terrorism in Afghanistan, Iraq and elsewhere. We have been reorienting our national defense to address the weakness exploited by the terrorists who killed Americans on American soil, and toward protecting Americans abroad from similar potential attacks. This, of course, is necessary and exactly what we should be doing.

America is not focused enough on conventional threats.

Let me explain my concern for national security through an analogy of home security. As homeowners, we put the toughest lock, where, on the front door, right? Well, the burglars have figured out how to get in through the windows. In response,we are now fortifying our windows, doubling them up, and locking down the smaller points of access. This maks perfect sense.

However, my friends, we are leaving the front door wide open to conventional attack from potential threats far more sophisticated and direct than the terrorists of rogue nations. We can't forget that countries like China still maintain arsenals of long-range ballistic missiles targeted at American cities like the one we're in right now. From their current launch sites, these missiles are just a half-an-hour away from their American targets. Once launched, we have no defense against them.

Good leadership is essential.

As a suggestion, I was asked to speak on what it will take for us to build the effective defenses we need, to defend us from the increasing threat and proliferation of ballistic missiles of all types, whether short-range, intermediate-range, and long-range, capable of attacking our homes and cities.

Two words will do. Good leadership.

In one way, the current Bush administration has displayed good leadership in its missile defense program. It has exerted the will to deploy a missile defense as seen in its decisions to withdraw from the 1972 ABM Treaty, deploy a National Missile Defense system, and increase funding.

As a result of President Bush's leadership, the 1972 ABM Treaty resides in the dustbin of history. As a result of President Bush's leadership, the United States stands on the verge of deploying a National Missile Defense system, which is expected to reach initial operation in the next few years.

It may be helpful to review some highlights of the National Missile Defense program, if only to point how Americans not only have the desire to defend themselves from ballistic missile attack, they also have the commitment and ability to build a defense.

Highlights include how:

In early September Northrop Grumman submitted a bid to compete for the Missile Defense Agency's Targets and Countermeasures prime integration program, valued at more than $1 billion for an initial four-year program. The Bush administration takes the issue of mid-course-phase decoys and countermeasures seriously.

In August this year, progress was reported on the construction of a $900 million sea-based X-band radar, which will be home ported at Adak, Alaska, in the Aleutian Islands superceding earlier plans to build a ground-based Xband radar on Shemya Island, also in the Aleutians.

This sea-based X-band radar will be self-propelled, using a semi-submersible oilrig being modified at shipyards in Brownsville and Corpus Christi. The radar will weigh 50,000 tons and be 390 feet long and 250 feet high. Scheduled to begin operation in 2005, this sea-based X band radar will hand off ballistic missile tracking information to interceptors located at For Greely, Alaska, and Vandenberg Air Force Base.

Also in August, Orbital Sciences Corporation test launched from Vandenberg a prototype of the three-stage booster to be used in the ground-based interceptor for our National Missile Defense system.

President Bush's plan calls for deploying by 2004, four ground-based interceptors at Vandenberg, and six groundbased interceptors at Fort Greely, increasing the number of ground-based interceptors deployed at Fort Greely to a total of 20 by the end of 2005.

Contracts have been let for pouring concrete for the missile silos at Fort Greely, and for refurbishing existing missile silos at Vandenberg Air Force Base. In June 2002, for example, it was reported how a contract for $325 million was issued to build six underground missile silos at Fort Greely.

These are significant steps to our deployment of a National Missile Defense. The deployment of X-band radar, development of a booster for the ground-based interceptor, testing of the kinetic kill vehicle, and fielding of interceptors are coming together.

Intelligent design.

But good leadership involves more than the will to deploy a defense. While the will to deploy a missile defense is a key ingredient, an ingredient missing from the preceding Clinton administration, which believed in the ABM Treaty as the cornerstone of arms control, good leadership also needs to point the way of how to build an effective defense.

Building an effective defense requires more than spending money. It requires an intelligent design.

Speaking of money, Congress and the Bush administration have recognized the importance of funding missile defense.

For example, in June of this year the House Appropriations Committee approved a budget of about $8.9 billion for missile defense, an increase of about $1.3 billion. Real money is being spent.

Congress has shown increasing willingness to fund a missile defense, and for good reason. Not only has the threat of ballistic missile attack increased from China's buildup of ballistic missiles of all types, but the proliferation of ballistic missiles continues to increase.

The proliferation of ballistic missiles poses a grave threat internationally. India and Pakistan look at each other in terms of increasing numbers of ballistic missiles, some of which are presumably armed with nuclear weapons.

Japan is losing any sense of complacency over the increasing ballistic missile threat it faces as it was reported in June how North Korea has fielded between 160 and 170 intermediate-range Nodong missiles that can reach nearly all of Japan.

In June it was also reported how Japan, in response to this hostile buildup of ballistic missiles by North Korea, requested an additional $1.2 billion for the next fiscal year to deploy a two layer missile defense system, consisting of PAC-3 missiles produced under license, and upgrading its four Aegis destroyers to deploy the SM-3 interceptor.

From our experience in Iraq we know that the PAC–3 missile works very well, both as an interceptor of short-range ballistic missiles and of aircraft, using hit-to-kill technology based on radar guidance. PAC-3 performed with a high probability of intercept, unlike the earlier improved PAC–2, which although successful from a strategic viewpoint in the 1991 Gulf War, was essentially jury-rigged for its mission of intercepting Scuds.

The Navy's SM–3 ballistic missile interceptor has proved itself positively, achieving three interceptions out of four attempts. The four interception test in June 2003, while unsuccessful, demonstrated the ability of naval ships to share target cuing information as the firing of the SM–3 from the U.S.S. Lake Erie was reportedly cued from another ship up-range.

The test failure of the SM–3 evidently occurred when one of the cells of its solid fuel Divert and Attitude Control System failed to ignite—a problem of quality control rather than the underlying technology.

The United States has over twenty years of experience in testing hit-to-kill technology for missile defense, achieving its first successful interception of an ICBM target in the June 1984 Homing Overlay Experiment.

The time has come to deploy hit-to-kill technology in an effective defense.

But building an effective missile defense requires an intelligent design. It requires the same elements of good strategy that have always formed an essential part of military victory, whether victory through a policy of peace through strength, or a policy of determination to achieve victory and lasting peace.

An effective defense requires good position.

No small part of military strategy is devoted to the maneuver and positioning of troops. Good position, good location, holding the high ground, whether the top of a hill or a mountain top, being able to look down and fire at an approaching enemy, is a key element of military strategy.

For this reason U.S. military strategy emphasizes air superiority, the high ground of combined air, land, and sea operations. There is also the high ground of space, which U.S. military forces recognize as vital to the operation of our intelligence, communications, reconnaissance, and navigation systems, which rely heavily on satellites.

Building an effective missile defense also requires good position. But this position isn't found on the ground, it is found in space where the ballistic missile operates.

Building an effective missile defense requires a strategy that deploys a missile defense in the high ground of space. Good leadership would deploy a missile defense in space. Good leadership would point the way to space.

Both the Strategic Defense Initiative of the 1980's and early 1990's and Project Defender of the later 1950's and early 1960's pointed the way to space, recognizing the inherent advantages of deploying a missile defense in space.

The earlier Project Argus nuclear test shots in 1958 and Starfish 1962 also pointed to space. Dr. Nicholas Christofilos from Lawrence Livermore realized space provides a position with global coverage against ballistic missile threats.

The strategic advantages of deploying a missile defense in space are considerable.

Global coverage, the capability for boost-phase interception, the use of robotics minimizing operational costs, and the potential of high-energy lasers and particle beams led these earlier missile defense programs to emphasize the development of defenses based in space.

Even the Clinton administration was aware of the advantages that accrue from deployment of a missile defense in space, as seen in its decision to complete the termination of the Brilliant Pebbles program for deploying a space-based interceptor defense, and attempt to terminate the Space Based Laser.

Believing in the ABM Treaty as the cornerstone of arms control, the Clinton administration was not interested in building effective defenses.

While Brilliant Pebbles had been approved fro acquisition in 1991, it was subsequently opposed by key Democrats in Congress, who sought a technological regression, unwilling to change the strategy of Mutual Assured Destruction embodied in the ABM Treaty.

Technological leadership and space superiority.

Building an effective missile defense requires the United States to deploy its kinetic kill interceptors in space like Brilliant Pebbles, not in the underground concrete missile silos.

An intelligent design would utilize the advantages that deployment in space offers in providing global coverage, boost-phase interception, the use of robotics, minimal operational costs, and the ability to use high-energy lasers for boost phase interception and active discrimination of decoys.

There is a third ingredient for building an effective missile defense. This ingredient is technological leadership, including the ability to manage programs involving technology to produce timely results.

Good leadership needs to manage the effort to build a missile defense effectively, to produce timely results rather than create an endless cycle of studies, delays, testing, and indecision.

In the past the United States has exhibited bursts of technological leadership, including President Reagan's Strategic Defense Initiative, which supported a vast program of research and development for missile defense technology.

We need to remember those times and examples of technology leadership to build an effective missile defense.

Good leadership involves more than creating program momentum by funding a single program with more dollars. It includes the ability to manage technology, and lead a fundamentally strong program to completion and success.

It includes the ability to concurrently manage technology development programs with acquisition, to allow for improvements in current acquisition and the development of second- and third-generation defenses.

It includes the ability to concurrently manage a variety of technology programs, pursuing at the same time different avenues of basing and technology, recognizing the wealth of ideas and technology developed under the Strategic Defense Initiative, giving the United States the ability to construct a missile defense in multiple layers.

It includes the ability to match an intelligent design for building an effective missile defense with the pursuit of technology, seeking a technological momentum designed to defeat the ballistic missile.

It includes an understanding of how the strategy of "Mutual Assured Destruction" which was behind the ABM Treaty was designed to restrain the use and development of new technology.

Notably, space not only offers a position of advantage for deploying a missile defense, it stimulates the development of new technology.

Technological leadership includes the ability to resolve problems.

Highlights of where technological leadership has been lacking in the current program for building a missile defense, include:

The termination in 2001 of the Navy Area Wide defense program, which would have provided Aegis cruisers and destroyers with a defense against short-range ballistic missiles and aircraft like PAC–3.

While the proposed SM–2 Block VIA interceptor for Navy Area Wide would have relied on a blast fragmentation warhead rather than hit-to-kill, differentiating it from PAC–3, its program termination may be viewed with disappointment.

The termination in 2001 and 2002 of the Space Based Laser program, which would have provided a very effective boost phase defense against ballistic missiles of all types, short, intermediate, and long-range.

Notably, the Space Based Laser program successfully demonstrated its end-to-end beam generation and training back in 1997. From the point on, the program's next step was to test a scalable high-energy laser in space.

Presumably, the termination of the Space Based Laser program came as a result of opposition in the Senate to the deployment of missile defenses in space.

Apparently lacking in the current administration was an understanding of the advantages of technological readiness of the Space Based Laser, unwilling to overcome apparent political opposition at a time when most Americans support missile defenses.

Technolgocial leadership also includes the ability to communicate the advantages of technology, as well as the ability to develop it.

While the current adminsitration has demonstrated its commitment to fund a missile defense and support the deployment of a ground-based defense, and has withdrawn from the ABM Treaty, it has yet to support a design to build an effective defense, much less insist on technological leadership.

America's current plans include a virtual technological regression in any planning for a space-based interceptor defense, unwilling or unable to use past technology developed for Brilliant Pebbles.

Unwilling or unable to use Brilliant Pebbles technology for space-based interceptors, the current administration and the Congress have been unwilling or unable to employ technological advances that have occurred in:

The increasing use of robotics, including autonomous operation and data fusing and joint decision making between independently operating robots, which NASA has developed for missions on Mars.

The development and increasing use of photonic or fiber optics for sensors, communications, and computer processing, which provide a means to defend against electromagnetic pulse.

The development of three-dimensional computer chips, allowing for the integration of different processes, whether computer processing communications, processing of sensor data, and active response within the same chip.

These advances in photonics and computer chips, combined with continuing advances in nanotechnology, including Micro Electro Mechanical Systems or MEMS, could potentially allow for the development of kinetic kill vehicles smaller than Brilliant Pebbles, which were essentially based on late 1980's technology.

Instead of building kinetic kill vehicles that weigh in the tens of kilograms, the United States could potentially be building kinetic kill vehicles that weigh under a kilogram, perhaps in the tens of grams, approaching the theoretical limits for kinetic kill vehicles suggested by Lowell Wood at Lawrence Livermore when he proposed the idea of Genius Sand as an advance generation Brilliant Pebble.

America's defense planners seem to have a striking aversion to the development of advanced technology systems, especially those taking advantage of deployment in space, as seen not only in its termination of the Space Based Laser, but its very low level of funding for the development of a system of space-based relay mirrors that could utilize a high-energy laser to strike at targets around the world.

This system of relay mirrors, suggested in the Strategic Defense Initiative as a way to take advantage of high energy laser technology that was ground-based or air-based, is being funded at a level of around $1 million when it should be funded at the billion-dollar level.

The state of U.S. technological leadership is also seen by Pentagon planning to deploy a system of optical communication satellites, in other words, satellites using laser communications, which would provide much needed bandwidth and high security. These had been proposed in the early 1980's and the Air Force had performed some early demonstrations.

More than twenty years after this exciting concept was proposed, the Pentagon is finally planning to spend hundreds of millions of dollars to develop a satellite laser communications system. This comes after the European Union successfully demonstrated the use of laser communications with its Artemis satellite.

I was asked to speak about what it will take for us to build the effective defenses we need. Good leadership is the answer.

Three key ingredients to good leadership include not only the will to build a defense, but an intelligent design and technological leadership.

Over the past three years, our country has clearly demonstrated its will to build a missile defense; I strongly suggest to you that we still need an intelligent design and technological leadership to build an effective defense.

HONORING ANDREW TOTI

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. CARDOZA. Mr. Speaker, I rise today to honor a great American inventor from Modesto, California, Mr. Andrew Toti. Mr. Toti has invented a number of household items, and has over 200 United States and foreign patents to his credit. He is a perfect example of the "can-do" attitude that Americans possess. His ingenuity has created the vertical blinds which many of us have in our office windows, to a device that helped save lives in World War II.

In a 1995 interview with Parade magazine, Mr. Toti stated that the most important element to successful inventing is defining a need for a new product or identifying a problem, then finding an elegant solution. Mr. Toti has been finding solutions to problems, and inventing new products almost his entire life. He credits his parents for nurturing and supporting his craft, and giving him advice on how to become a success.

At the young age of twelve, Mr. Toti created a new kind of combination lock, however it was not marketed very well. He learned quickly from this mistake. Mr. Toti has always been able to admit to mistakes, and this is one of his greatest qualities. When Mr. Toti was sixteen, he had built a boat with a very powerful motor. His mother was worried he would drown, so he began making a life vest using duck and goose feathers. He noticed that these vests were a bit bulky, so began filling them with compressed air. The War Department was told of his invention, and paid Mr. Toti $1500 for the rights. This life saving device soon became the Mae West life vest. This is the same life vest that President George H.W. Bush was wearing when he was shot down over the Pacific Ocean. Without this life preserver, President Bush might not have survived his ordeal in the ocean.

As you know Mr. Speaker, the San Joaquin Central Valley is a lush agricultural area, and our farmers grow anything from peaches to wine grapes, and raise cattle and poultry. Mr. Toti's ingenuity has helped two major industries in the area. First, in 1951, Mr. Toti patented his feather-plucking machine. This machine uses thousands of rubber "fingers" to remove the feathers of poultry. Twenty-one years later, he assisted in designing a grape-harvesting machine for Ernest and Julio Gallo, two of the most prominent viticulturalists in the nation. Recently, Mr. Toti developed an endotracheal tube, which aids physicians with rapid intubation of the trachea in situations where the tube needs to bend due to anatomical variations in the body.

I ask all of my colleagues today to help me recognize and thank Mr. Toti for his contributions to our nation. It is my honor to represent such a fine constituent in the House of Representatives.

HONORING THE ACHIEVEMENTS OF VIOLET BROSART

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. QUINN. Mr. Speaker. I am honored to rise today to officially recognize and pay tribute to Violet Brosart, an outstanding community leader.

Violet Brosart is a resident of Lackawanna, New York and is currently serving as the President of the American Legion Auxiliary, Department of New York. The American Legion Auxiliary is the largest women's patriotic service organization in the world. Its primary goals are to serve veterans and their families, to promote patriotism and Americanism, and to serve our children and communities.

President Brosart is a 36 year member of Hamburg Unit #527 in Erie County. She has served as its president and remains an active member. She has also been active in her community, becoming involved in Boy Scouts, Campfire Girls, Youth Baseball, the Empire State Ballet Company, and the Hamburg Little Theater. She also worked for 10 years as a child day care provider. Mrs. Brosart is the mother of four and grandmother of ten. She also has one great grandchild.

Each year the Department President chooses a project of particular interest to her and raises money for that cause. This year President Brosart has chosen the Alzheimer's Association as her special project. More than 14 million Americans will be diagnosed with Alzheimer's Disease within the next 50 years unless a cure or prevention is found. Alzheimer's disease affects not just the patient, but the family as well. Often children and grandchildren find themselves becoming the caregivers to those who once gave care to them. Money raised for this special project will be distributed to all seven areas of the Alzheimer's Coalition in New York State, based on need. The money will be used to support programs in the following areas: early diagnosis, effective treatment, essential support networks, and caregiver training. In addition to these areas of concern the Alzheimer's Coalition is working in conjunction with the VA facilities to aid veterans that have Alzheimer's. By embracing this project, President Brosart and the American Legion Auxiliary can "Help for Today" and "Hope for Tomorrow:" To date, over $15,500 has been raised, with a goal of $40,000 by August 1, 2004.

Traveling throughout the 62 Counties in New York State, President Brosart emphasizes the American Legion Auxiliary's strong commitment to our country and to our veterans. Her patriotic spirit is evident in all of her speeches and presentations. The members of the American Legion Auxiliary, Department of New York are very proud of President Brosart and her deep commitment to the veterans of our nation.

TRIBUTE TO DENNIS POWERS

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. FARR. Mr. Speaker, I rise today to honor Dennis Powers, former Director of Stanford University's Hopkins Marine Station and Harold A. Miller Professor of Biological Sciences. He passed away on December 8, 2003, at the age of 65, following a long illness.

Dennis was born on May 4, 1938 in Dearborn, Michigan. He served in the United States Marine Corps' First Reconnaissance Company from 1957 to 1959 and then in the Marine Corps Reserve from 1960–1963. In 1963 he graduated from Ottawa University in Ottawa, Kansas; he was married this same year. Dr. Powers received a PhD from the University of Kansas in 1970 and subsequently completed postdoctoral research at both the State University of New York-Stony Brook and the Marine Biology Laboratory at Woods Hole, Massachusetts. From 1972 to 1988 he held multiple positions at Johns Hopkins University, including chair of the Department of Biology, Director of the McCollum-Pratt Institute for Biochemistry, and Acting Director of the Chesapeake Bay Institute.

In 1988 he became Director of Stanford's Hopkins Marine Station, which is located in Pacific Grove, on the Monterey Peninsula. Dr. Powers held the Director's position until 2000. I think one of his colleagues stated it best when she said, "Dennis Powers' impact on Hopkins Marine Station has been enormous." His legacy at Hopkins includes collaborating with others to establish four new endowed chair positions, ensuring construction of a new research and teaching facility, and working with the Monterey Bay Aquarium to launch the Tuna Research and Conservation Center.

Dr. Powers was a brilliant research scientist and dedicated administrator. His scientific career involved development of "integrative biology," a branch of biological inquiry whereby scientists study the interconnections between the microscopic and macroscopic levels of biological organization. This discipline recognizes the fundamental fact that all levels of biological systems, from a tiny cell to a whole ocean basin, play important roles in the overall health and well-being of our living systems. Dennis's inquiry into marine organisms, particularly fishes, focused on understanding how genetic information helps animals survive under different, and often-times stressful, environmental conditions. In addition to his contributions to integrative biology, he was known for his efforts to integrate biomedical research techniques into the areas of marine biology and environmental science.

Dr. Powers mentored numerous students, was active in many scientific societies, and served on the editorial boards of multiple peer-reviewed academic journals, including Physiological and Biochemical Zoology as well as Biological Oceanography.

Mr. Speaker, Dennis Powers was a brilliant scientist and an exceptional person, and for these reasons, I am proud to be able to honor him today. I wish to express my condolences to his three daughters, Kathi, Julie, and Wendy, and his four grandchildren.

TRIBUTE TO THE LIFE OF JIM FINDLAY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Ms. KAPTUR. Mr. Speaker, I would like entered into the CONGRESSIONAL RECORD an article about a wonderful man, Jim Findlay.

[From the Toledo Events Magazine. Jan. 2004]

MORE TO THE STORY

ENTREPRENEUR ADDS TWO CHAPTERS TO AUTOBIOGRAPHY

(By Sue Van Fleet)

If a life can be said to correspond to the pages in a book, then it was time for Jim Findlay to add a few more chapters.

The well-known entrepreneur. and philanthropist had written an autobiography in 2001. "In the Company of Friends" almost resembles a scrapbook, its text interspersed with photos, letters, poems, quotes and newspaper clippings.

Findlay was the chairman and co-founder of Impact Products, a business in Sylvania Township that provided supplies to the sanitary maintenance industry. But only six months after the book was printed, the company was sold to Park Avenue Equity Partners. At the time of the sale. Impact Products had 160 employees and more than $40 million in sales.

"Since the motivating purpose of the book was to create a permanent record of the company, I felt it would be important to talk about its sale" Findlay said.

Impact had become an employee-owned company in 1986 with the establishment of an ESOP (Employee Stock Ownership Program). In March 1998, Findlay and his children sold their remaining interest to the ESOP trust, making the employees 100 percent owners of the company.

"Since I was leaving, they then had an opportunity to sell and get a 15 percent premium over what we were valued at," Findlay said. "So I encouraged them to do so, so they could diversify their holdings rather than have it all in Impact, which they did." Impact's employees averaged about $156,000 each from the sale, an amount that varied according to their seniority.

"So they did good, and they really should, because it was the employees that made the company," Findlay said. "I've always felt very strongly that if you take care of the employees, they'll take care of the customers. We've always shared with them."

The company brought in estate planning professionals and investment firms for seminars and individual counseling sessions to help them make good decisions regarding their investments.

"Over the next two weeks there were a lot of new cars in the parking lot," Findlay said. "And a lot of them were able to buy homes and do some things that they weren't able to before, so, I was very proud to be able to do that for my employees."

If he had to do it over again, would he have gone the ESOP route? Findlay says yes, but with some reservations. For instance, as the company's stock price increased, it created a debt that would have to be paid to employees who decided to tender their stock upon retiring or leaving the company. Findlay also fretted that he was putting his employees at excessive risk since so much of their personal investment was tied up in one asset. Both these problems were eliminated with the sale of the company to Park Avenue.

On the plus side, the ESOP gave every employee ownership in the company, increasing their motivation and giving Findlay a way of thanking them for their part in Impact's success. It also made it possible for he and his wife, Celia, to establish several trusts and provide gifts to charitable organizations. "So we were able to do some things while we're living rather than do it all after we passed away," he said.

The second chapter Findlay added to the new edition is titled "The Rest of the Story." In it he details some of the many awards that came his way in late 2001 and 2002. Both Celia and Jim Findlay are graduates of the University of Toledo, she in education and he in business. They have set up scholarships at UT in both disciplines and have supported UT with both time and money over the years.

In August 2001, the university named a building on its Scott Park campus after them. The Findlay Athletic Complex houses the baseball, softball and soccer facilities. Jim Findlay was also awarded an honorary doctoral degree from UT and received the Alumni Association's Gold 'T' Award, which recognizes alumni who have served the university and the community.

He was especially touched when he was invited to the home of UT President Dan Johnson and his wife, Elaine, following the commencement ceremony in which he received his honorary degree. "How could an average student and an ordinary Joe be the guest of a college president and receive from his hand the highest honor the university can bestow?" Findlay wrote in his book. ". . . Surrounded by the happy voices of a company of friends, consisting of wife, children, grandchildren and esteemed friends, I knew that whatever the future might hold, I have known and experienced the deep joy of blessedness." In October 2002, Findlay was honored by manufacturer reps at the annual convention of the International Sanitary Supply Association, receiving the first ever Manufacturer Representative Distinguished Service Award. Findlay has been a standout in terms of how he treats his reps, notably having the only corporation in his industry with a 401(k) plan for them.

"My manufacturer reps are the ones who did the selling and put us on the map," Findlay said. "I've always felt extremely close to them. If the law would have allowed us to do so, I would have made them part of the ESOP"

Although Findlay has enjoyed a life full of many successes, there were two things he didn't accomplish that he had wanted to: the establishment of an Impact Charitable Foundation and the creation of an Impact School of Continuing Education. They were close to launching the school for their employees when the company was sold. The foundation may yet come to fruition as others work toward that end.

Seven years ago, Findlay started Findlay Business Partners Ltd., which leases storage and office warehouses. With units at 3315 Centennial Rd. and 3545 Silica Road, the business is run by his children. His son Jon is president, while daughter Sarah and son James Jr. are vice presidents.

When asked what he is most proud of, he mentions being able to pass the business complex on to his children, as well as the scholarships he has set up for business and education students at UT and for minorities at Toledo Christian School.

Although much of the book details Findlay's business, it also covers his childhood, time in the service, college years, relationship with his church and UT; and family. At the end of the book he provides an update on the health of his wife, Celia, whom he calls the love of his life. She is in the fifth round if chemotherapy for carcinoma of the endometrium.

"My greatest, most fervent hope for all families is that each child will choose a lifetime partner as well as I did," he writes in the 16th chapter. He and the former UT homecoming queen were wed on Jan. 28, 1949.

"Relationships are what it's all about," Findlay said. "I don't need yachts or luxury cars—I don't live too high. Success is about building relationships with people and being fair in trying to treat everybody alike."

SCHOOL BOARD APPRECIATION MONTH

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. HENSARLING. Mr. Speaker, in the month of January, across the country, the State of Texas and in the Fifth Congressional District, we celebrate School Board Recognition Month to acknowledge the hard work of school board members and thank them for their valuable service in the education of our children.

During School Board Recognition Month, we honor the administrators, staff, and volunteers of the Richardson Independent School District who work to promote academic excellence and provide a safe learning environment for our students.

School board members are responsible for fulfilling one of the most important roles in our society: helping develop young men and women into the future leaders of our Nation's economy, government, community, and houses of worship.

I would like to extend my most sincere thanks to all Richardson school board members for their continued dedication and hard work. Their contribution to the education of our children is truly helping to shape the future of our communities and our Nation.

A TRIBUTE TO GREGG CHERRY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Gregg Cherry who has shown a deep commitment to serving and improving his community through his work with child services and a career in law enforcement.

Gregg was born March 29, 1955, to James and Audrey Cherry. He is the oldest of five children. He was born and raised in the Bedford-Stuyvesant neighborhood of Brooklyn, New York. Gregg is a graduate of the old Boys High School where he played several positions on the football team. His football career continued at Shaw University where he received bachelors degrees in English and Communications in 1980. He is the loving father of Craig and Raven Cherry.

It was his love and commitment to his community which led him to a career in law enforcement. During his tenure as an investigator and caseworker for the Bureau of Child Welfare, Gregg saw the many inconsistencies and tragedies children encountered in the child welfare system and wanted to make a positive difference. So, in 1984, he joined the New York City Police Department.

He graduated in the first police academy class under the tutelage of Benjamin Ward, the first African American Police Commissioner of New York City. He began his service at the 79th police precinct. His no-nonsense attitude quickly gained the respect of his community and peers alike.

For his work, Gregg was honored in 1977 with a Gold Shield as a detective. He also served as an organized crime investigator and in the vice and narcotics units in the NYPCD. Gregg's other law enforcement efforts include work as an Anti Terrorist Profiler, a security monitor of Federal installations in the New York area, and an independent investigative consultant with the Immigration and Naturalization Service.

After 20 years of stellar service, Gregg retired on January 16th of this year and is now planning to pursue a career in Federal law enforcement.

Mr. Speaker, Gregg Cherry has had a long and distinguished career in the NYCPD and remains committed to serving his community and country with his future employment in Federal law enforcement. As such, he is more than worthy of receiving our recognition today; and I urge my colleagues to join me in honoring this truly remarkable person.

HONORING JOHN HUNTER GRAY

BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize Hunter Gray, a civil rights activist involved in the southern movement from the summer of 1961 to the summer of 1967.

Hunter Gray, formerly John Salter, took the name of his Native American family some years ago and has been one of the Nation's most ardent advocates on behalf of Native rights. He was recently diagnosed with a severe and possibly fatal case of lupus that has also brought on a bad case of diabetes.

John Salter was very active with the Jackson, Mississippi, NAACP and boycott in 1964.

He was in the trenches with Medgar Evers and others during the civil rights movement from 1961 until Evers was assassinated and Gray and his wife and young son left the State. He also wrote a book titled, Jackson, Mississippi: An American Chronicle of Struggle and Schism (1979).

Hunter Gray's commitment to civil rights has continued throughout the years. He and his wife Eldri, who has been a partner in the struggle for equality for 40 years, now live in Idaho. He has been hospitalized several times over the past few months , and his medication and hospitalization costs are very expensive. Many of his friends are organizing a testimonial and fund-raiser to let him know how grateful we are to him for his many sacrifices and contributions to civil rights, Native American and labor causes.

For further information on Hunter Gray, I refer you to his widely read Web site at www.hunterbear.org. Hunter Gray has left a formative mark on the shape of Mississippi history. I thank him for his service to civil rights and to Mississippi. I ask that you keep him in your prayers and meditations.

HONORING THE GARLAND ISD DURING SCHOOL BOARD APPRECIATION MONTH

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. HENSARLING. Mr. Speaker, in the month of January, across the country, the State of Texas and in the Fifth Congressional District, we celebrate School Board Recognition Month to acknowledge the hard work of school board members and thank them for their valuable service in the education of our children.

During School Board Recognition Month, we honor the administrators, staff, and volunteers of the Garland Independent School District who work to promote academic excellence and provide a safe learning environment for our students.

School board members are responsible for fulfilling one of the most important roles in our society: helping develop young men and women into the future leaders of our Nation's economy, government, community, and houses of worship.

I would like to extend my most sincere thanks to all Garland school board members for their continued dedication and hard work. Their contribution to the education of our children is truly helping to shape the future of our communities and our Nation.

A TRIBUTE TO MARVIN L. LIFSHUTZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Marvin L. Lifshutz in recognition of his extraordinary accomplishments in the field of health care law.

Marvin has specialized in the representation of health care professionals for 40 years. He has represented individual physicians, medical groups, medical staffs at hospitals and medical societies. He represents private practices and hospital-based practices for a variety of specialty clients, including the negotiation of exclusive contracts for employees, independent contractors and chiefs of departments.

In the area of managed care, he has created the organizational structures for independent practice associations and their bylaws, negotiated contracts with health maintenance organizations as well as union health care contracts. He has also formed large and small groups of health care providers in setting up medical clinics.

Marvin has assisted in mergers as well as the purchase and sale of medical practices for all subspecialties. He has also represented health care providers who provide Medicare or Medicaid services in the State of New York. Marvin currently represents physicians and physician groups in managed care negotiations and also represents companies acquiring management service organizations (MSOs) that are in the process of going public.

With such a wealth of information, he has shared his expertise on health care law with business, health and legal groups. He lectures at the State and County Medical Societies as well as the health care division of the C.P.A. Society on issues of medical practices, managed care, hospital staff privileges, limited partnerships and asset protection for physicians. Marvin also has several medical societies as clients and has lectured at many hospitals to the attending medical staff on different health care issues. Additionally, he has lectured to residents at different hospitals throughout New York State.

Marvin also represents large health care groups in negotiating different contracts for various HMOs. He has formed many multiple specialty groups with MSOs and has negotiated with investment bankers who are acquiring many health care groups which are going to be taken public. Marvin has served as a consultant to a number of hospitals on different matters that pertain to their needs, and in conjunction with other groups he has performed compliance studies for large health care organizations.

Mr. Speaker, Marvin L. Lifshutz has demonstrated exceptional skills and knowledge in the field of health care law and continues to provide important representation in this area. As such, he is more than worthy of receiving our recognition today, and I urge my colleagues to join me in honoring this truly remarkable person.

ANNIVERSARY OF THE DEATH OF LOUIS ALLEN

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize the anniversary of the death of Louis Allen. I submit the following article from Dittmer, John. "Local People." Urbana. University of Illinois Press, 1994, page 215.

"Mississippi Freedom Summer Timeline," January 31, 1964

On the evening of January 31, 1964, Louis Allen was gunned down outside his home in Amite County, Mississippi. Married and the father of four children, the 45-year-old independent logger was hit in the face with two loads of buckshot, dying almost instantly. Three years earlier, he had seen Mississippi State legislator E.H. Hurst shoot Herbert Lee, local civil rights pioneer, in cold blood. After word got around that Allen had talked with Justice Department officials about the case, his life became a nightmare. Over the next two years, Allen suffered economic harassment, was jailed on false charges and had his jaw broken by a deputy sheriff.

When, early in 1964, he learned that whites were planning to kill him, the victim made plans to join his brother in Milwaukee. Allen was to leave Mississippi on February 1, one day too late. No one was ever charged in the murder.

HONORING THE DALLAS ISD DURING SCHOOL BOARD APPRECIATION MONTH

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. HENSARLING. Mr. Speaker, in the month of January, across the country, the State of Texas and in the Fifth Congressional District, we celebrate School Board Recognition Month to acknowledge the hard work of school board members and thank them for their valuable service in the education of our children.

During School Board Recognition Month, we honor the administrators, staff, and volunteers of the Dallas Independent School District who work to promote academic excellence and provide a safe learning environment for our students.

School board members are responsible for fulfilling one of the most important roles in our society: helping develop young men and women into the future leaders of our Nation's economy, government, community, and houses of worship.

I would like to extend my most sincere thanks to all Dallas school board members for their continued dedication and hard work. Their contribution to the education of our children is truly helping to shape the future of our communities and our Nation.

PERSONAL EXPLANATION

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. LANGEVIN. Mr. Speaker, on February 3 and February 4, I was in Rhode Island performing official duties. I would like the RECORD to show that, had I been present, I would have voted "yea" on Roll Call Nos. 12, 13, 14, 15, 16, 17, and 18.

HONORING THE LIFE OF J.R. RICHARDS

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mrs. CAPPS. Mr. Speaker, I rise today to honor the remarkable life of J.R. Richards. J.R. was an exemplary leader in my community, the 23rd Congressional District. I had the pleasure of knowing and working alongside J.R. during my time as a school nurse in the Santa Barbara School Districts.

As a teacher, he devoted his life to public education, through which he daily strove to serve young people. In this capacity, he taught mathematics; and many of his students have commented to me on how interesting and dynamic he made the subject for them. J.R. told me once that his greatest pleasure came from drawing out math skills from a classroom of students for whom math was particularly challenging. As one of the most dedicated teachers in the Santa Barbara School Districts, he embodied the highest principles of the teaching profession.–

J.R.'s teaching extended beyond the required classroom curriculum. He challenged not only his students but also his colleagues to strive to achieve their highest potential. His role as a teacher was expanded to one of a friend, mentor and confidant to multitudes of his students, their families and the school staff and faculty.

When J.R. became principal of Santa Barbara High School in 1995 he came not as an outsider but as a leader among his peers. He was one of the family. He had graduated from the school in 1957 and in some ways never left. In his new position, he brought a light and warmth to the campus that enabled all students of all backgrounds to feel welcome. In return for his dedication, he has left a lasting impression on all of his students who feel his impact on their lives today. Each person who recalls J.R. Richards holds close at heart that welcoming, affirming "DON" standing in the halls before class. He inspired confidence, urging each of us to strive to be the very best we can. We won't let you down J.R. You mean too much to us.

Mr. Speaker, I ask that today we join with J.R.'s family in mourning the passing of this exceptional man, whose presence will be greatly missed.

LOWER BUCKS COUNTY DAV CHAPTER #117-PA CELEBRATES ITS 50TH ANNIVERSARY

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. GREENWOOD. Mr. Speaker, I would like to take this opportunity to commend the Lower Bucks County Disabled American Veterans Chapter #117–PA, an organization that will be celebrating its 50th anniversary on February 15, 2004.

Lower Bucks County DAV Chapter #117 shares a proud history with one of the Nation's oldest and most important housing developments. In 1951, developer William Levitt first unveiled the three styles of homes that would eventually populate what would later be known as Levittown, a planned housing development constructed to meet the needs of the employees of the Rohm and Haas Chemical plant in Bristol, 3M in Bristol Township, and the new steel-making facility for U.S. Steel-Fairless Works in Falls Township. Many veterans of World War II and the Korean War purchased homes in this community under the GI Bill's mortgage package. As a result, numerous Veterans of Foreign Wars and American Legion posts were established in the area to meet the needs of the local veteran population.

Although differing in their individual mission statements, all these groups had one common denominator: war-inflicted injuries. As a means of combating some of the myths associated with conflict-related disabilities, a small group of World War II and Korean War veterans petitioned the National Disabled Americans for a charter. On October 21, 1953, Lower Bucks County DAV Chapter #117–PA was established; and over the years, its members have shown that those injured in battle can become indispensable members of society through their activities within the community.

Throughout the past 50 years, Lower Bucks County DAV Chapter #117's leadership and its members have never failed to remember their primary objective: to come to the aid of veterans and to be an active service organization within the community it serves. I commend DAV Chapter #117 for its continued leadership, and I wish it all the best as it enters its next 50 years of service.

PAWNEE SESQUICENTENNIAL RECOGNITION

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to pay special tribute to the Village of Pawnee, Illinois, as they celebrate their sesquicentennial. Established in 1854, the people of Pawnee have prospered while giving so much to this great nation.

In the middle of the 19th century, the Village of Pawnee started as a settlement at the bottom of a hill next to a creek in central Illinois. In the past, the small town boasted its own coalmine and railroad. Pawnee's earliest inhabitants were farmers, coalminers, common folk, and businessmen. Today, because of its outstanding school system, churches, and low crime rate, the town has blossomed into a village of 2,800 residents.

I am proud to represent the great people of the Village of Pawnee and to share in this special occasion with them. I thank them for all they give to this great nation and I wish them many successes in the years to come. Congratulations!

For those today who don't know enough about Pawnee, Illinois I have included this brief history of the town by Skip Minder:

"Justus Henkle and his family were the first Pawnee area settlers, arriving in the middle of March, 1818. They were followed by other early settlers, many of who settled at the bottom of a hill next to a creek, thus assuring a water supply.

The small settlement became known as the Horse Creek Settlement. In 1854, it petitioned the U.S. Post Office Department for a post office. The Post Office Department did not like the Horse Creek Settlement name and arbitrarily changed it to Pawnee, and so it has been from that time forward.

The Village of Pawnee was incorporated on November 9, 1891, and was and is still governed by a Village President and six Village Trustees.

In its early days the town boasted its own coalmine, the Horse Creek Coal Company, which later became the Peabody Coal Company Mine #5, and its own railroad known as the Pawnee Railroad. That railroad was the forerunner of the current Chicago and Illinois Midland Railroad (C&IM).

One of Pawnee's inhabitants was a man named Edward A. Baxter (1847–1934). At age 14, he enlisted in Indiana as a Union soldier during the Civil War along with six of his brothers. They became known as the "seven fighting Baxter brothers". All survived the war.

In 1865, young soldier, Ed Baxter, stood in the honor guard at the head of Abraham Lincoln's casket during funeral services for Lincoln in Indianapolis, Indiana. Lincoln's body was then transported to Springfield, Illinois for burial. Later, Baxter came to Pawnee in the summer of 1870 and remained until his death in 1934.

Another prominent citizen was Harry Howland Mason (1873–1946). He was the publisher of the Pawnee Herald newspaper until he was elected to the U.S. Congress in 1934 as Representative for the 21st Congressional District.

Pawnee's earliest inhabitants were farmers, and later farmers and coal miners, common folk, and businessmen. Today it has blossomed into a village of 2,800 residents. Rather than growth in its business and agricultural areas, growth is attributed to its outstanding school system, churches, and low crime rate. Many residents choose to reside in Pawnee and commute to their employment in other communities.

In June of this year it will celebrate its sesquicentennial, 150 years of being. It looks forward to at least 150 more years!"

BLIND INTO BAGHDAD

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. OBEY. Mr. Speaker, anyone interested in why there has been such chaos in post-war Iraq needs to read the article I am inserting in the RECORD by James Fallows which appeared in the most recent issue of the Atlantic Monthly.

[From the Atlantic Monthly, January/February 2004]

BLIND INTO BAGHDAD

(By James Fallows)

On a Friday afternoon last November, I met Douglas Feith in his office at the Pentagon to discuss what has happened in Iraq. Feith's title is undersecretary of defense for policy, which places him, along with several other undersecretaries, just below Secretary of Defense Donald Rumsfeld and Deputy Secretary Paul Wolfowitz in the Pentagon's hierarchy. Informally he is seen in Washington as "Wolfowitz's Wolfowitz"—that is, as a deputy who has a wide range of responsibilities but is clearly identified with one particular policy. That policy is bringing regime change to Iraq—a goal that both Wolfowitz and Feith strongly advocated through the 1990s. To opponents of the war in Iraq, Feith is one of several shadowy, Rasputinlike figures who are shaping U.S. policy. He is seen much the way enemies of the Clinton Administration saw Hillary Clinton. Others associated with the Bush Administration who are seen this way include the consultant Richard Perle; Lewis "Scooter" Libby, the chief of staff for Vice President Dick Cheney; and the Vice President himself. What these officials have in common is their presumably great private influence and—even in the case of the Vice President—their limited public visibility and accountability.

In person Douglas Feith is nothing like Rasputin. Between a Reagan-era stint in the Pentagon and his current job he was a Washington lawyer for fifteen years, and he answered my questions with a lawyer's affability in the face of presumed disagreement. I could be biased in Feith's favor, because he was the most senior Administration official who granted my request for an interview about postwar Iraq. Like Donald Rumsfeld, Feith acts and sounds younger than many others of his age (fifty). But distinctly unlike Rumsfeld at a press conference, Feith in this interview did not seem at all arrogant or testy. His replies were relatively candid and unforced, in contrast to the angry or relentlessly on-message responses that have become standard from senior Administration officials. He acknowledged what was "becoming the conventional wisdom" about the Administration's failure to plan adequately for events after the fall of Baghdad, and then explained—with animation, dramatic pauses, and gestures—why he thought it was wrong.

Feith offered a number of specific illustrations of what he considered underappreciated successes. Some were familiar—the oil wells weren't on fire, Iraqis didn't starve or flee—but others were less so. For instance, he described the Administration's careful effort to replace old Iraqi dinars, which carried Saddam Hussein's image ("It's interesting how important that is, and it ties into the whole issue of whether people think that Saddam might be coming back"), with a new form of currency, without causing a run on the currency.

But mainly he challenged the premise of most critics: that the Administration could have done a better job of preparing for the consequences of victory. When I asked what had gone better than expected, and what had gone worse, he said, "We don't exactly deal in 'expectations.' Expectations are too close to 'predictions.' We're not comfortable with predictions. It is one of the big strategic premises of the work that we do."

The limits of future knowledge, Feith said, were of special importance to Rumsfeld, "who is death to predictions." "His big strategic theme is uncertainty," Feith said. "The need to deal strategically with uncertainty. The inability to predict the future. The limits on our knowledge and the limits on our intelligence."

In practice, Feith said, this meant being ready for whatever proved to be the situation in postwar Iraq. "You will not find a single piece of paper . . . . If anybody ever went through all of our records—and someday some people will, presumably—nobody will find a single piece of paper that says, 'Mr. Secretary or Mr. President, let us tell you what postwar Iraq is going to look like, and here is what we need plans for.' If you tried that, you would get thrown out of Rumsfeld's office so fast—if you ever went in there and said, 'Let me tell you what something's going to look like in the future,' you wouldn't get to your next sentence!"

"This is an important point," he said, "because of this issue of What did we believe? . . . . The common line is, nobody planned for security because Ahmed Chalabi told us that everything was going to be swell." Chalabi, the exiled leader of the Iraqi National Congress, has often been blamed for making rosy predictions about the ease of governing postwar Iraq. "So we predicted that everything was going to be swell, and we didn't plan for things not being swell." Here Feith paused for a few seconds, raised his hands with both palms up, and put on a "Can you believe it?" expression. "I mean—one would really have to be a simpleton. And whatever people think of me, how can anybody think that Don Rumsfeld is that dumb? He's so evidently not that dumb, that how can people write things like that?" He sounded amazed rather than angry.

No one contends that Donald Rumsfeld, or Paul Wolfowitz, or Douglas Feith, or the Administration as a whole is dumb. The wisdom of their preparations for the aftermath of military victory in Iraq is the question. Feith's argument was a less defensive-sounding version of the Administration's general response to criticisms of its postwar policy: Life is uncertain, especially when the lid comes off a long-tyrannized society. American planners did about as well as anyone could in preparing for the unforeseeable. Anyone who says otherwise is indulging in lazy, unfair second-guessing. "The notion that there was a memo that was once written, that if we had only listened to that memo, all would be well in Iraq, is so preposterous," Feith told me.

The notion of a single memo's changing history is indeed farfetched. The idea that a substantial body of knowledge could have improved postwar prospects is not. The Administration could not have known everything about what it would find in Iraq. But it could have—and should have—done far more than it did.

Almost everything, good and bad, that has happened in Iraq since the fall of Saddam Hussein's regime was the subject of extensive pre-war discussion and analysis. This is particularly true of what have proved to be the harshest realities for the United States since the fall of Baghdad: that occupying the country is much more difficult than conquering it; that a breakdown in public order can jeopardize every other goal; that the ambition of patiently nurturing a new democracy is at odds with the desire to turn control over to the Iraqis quickly and get U.S. troops out; that the Sunni center of the country is the main security problem; that with each passing day Americans risk being seen less as liberators and more as occupiers, and targets.

All this, and much more, was laid out in detail and in writing long before the U.S. government made the final decision to attack. Even now the collective efforts at planning by the CIA, the State Department, the Army and the Marine Corps, the United States Agency for International Development, and a wide variety of other groups inside and outside the government are underappreciated by the public. The one pre-war effort that has received substantial recent attention, the State Department's Future of Iraq project, produced thousands of pages of findings, barely one paragraph of which has until now been quoted in the press. The Administration will be admired in retrospect for how much knowledge it created about the challenge it was taking on. U.S. government predictions about postwar Iraq's problems have proved as accurate as the assessments of pre-war Iraq's strategic threat have proved flawed.

But the Administration will be condemned for what it did with what was known. The problems the United States has encountered are precisely the ones its own expert agencies warned against. Exactly what went wrong with the occupation will be studied for years—or should be. The missteps of the first half year in Iraq are as significant as other classic and carefully examined failures in foreign policy, including John Kennedy's handling of the Bay of Pigs invasion, in 1961, and Lyndon Johnson's decision to escalate U.S. involvement in Vietnam, in 1965. The United States withstood those previous failures, and it will withstand this one. Having taken over Iraq and captured Saddam Hussein, it has no moral or practical choice other than to see out the occupation and to help rebuild and democratize the country. But its missteps have come at a heavy cost. And the ongoing financial, diplomatic, and human cost of the Iraq occupation is the more grievous in light of advance warnings the government had.

BEFORE SEPTEMBER 11, 2001: THE EARLY DAYS

Concern about Saddam Hussein pre-dated the 9/11 attacks and even the inauguration of George W. Bush. In 1998 Congress passed and President Bill Clinton signed the Iraq Liberation Act, which declared that "it should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power." During the 2000 presidential campaign Al Gore promised to support groups working to unseat Saddam Hussein. In the week before Bush took office, Nicholas Lemann reported in The New Yorker that "the idea of overthrowing Saddam is not an idle fantasy—or, if it is, it's one that has lately occupied the minds of many American officials, including people close to George W. Bush." But the intellectual case for regime change, argued during the Clinton years by some Democrats and notably by Paul Wolfowitz, then the dean of the Johns Hopkins School of Advanced International Studies, shifted clearly toward operational planning after the destruction of the World Trade Center.

For much of the public this case for war against Iraq rested on an assumed connection (though this was never demonstrated, and was officially disavowed by the President) between Saddam Hussein's regime and the terrorist hijackers. Within the government the case was equally compelling but different. September 11 had shown that the United States was newly vulnerable; to protect itself it had to fight terrorists at their source; and because Saddam Hussein's regime was the leading potential source of future "state-sponsored" terrorism, it had become an active threat, whether or not it played any role in 9/11. The very next day, September 12, 2001, James Woolsey, who had been Clinton's first CIA director, told me that no matter who proved to be responsible for this attack, the solution had to include removing Saddam Hussein, because he was so likely to be involved next time. A military planner inside the Pentagon later told me that on September 13 his group was asked to draw up scenarios for an assault on Iraq, not just Afghanistan.

Soon after becoming the Army Chief of Staff, in 1999, General Eric Shinseki had begun ordering war-game exercises to judge strategies and manpower needs for possible combat in Iraq. This was not because he assumed a war was imminent. He thought that the greater Caspian Sea region, including Iraq, would present a uniquely difficult challenge for U.S. troops, because of its geography and political tensions. After 9/11, Army war games involving Iraq began in earnest.

In his first State of the Union address, on January 29, 2002, President Bush said that Iraq, Iran, and North Korea were an "axis of evil" that threatened world peace. "By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States."

By the time of this speech efforts were afoot not simply to remove Saddam Hussein but also to imagine what Iraq would be like when he was gone. In late October of 2001, while the U.S. military was conducting its rout of the Taliban from Afghanistan, the State Department had quietly begun its planning for the aftermath of a "transition" in Iraq. At about the time of the "axis of evil" speech, working groups within the department were putting together a list of postwar jobs and topics to be considered, and possible groups of experts to work on them.

ONE YEAR BEFORE THE WAR: THE "FUTURE OF IRAQ"

Thus was born the Future of Iraq project, whose existence is by now well known, but whose findings and potential impact have rarely been reported and examined. The State Department first publicly mentioned the project in March of 2002, when it quietly announced the lineup of the working groups. At the time, media attention was overwhelmingly directed toward Afghanistan, where Operation Anaconda, the half-successful effort to kill or capture al-Qaeda and Taliban fighters, was under way.

For several months before announcing the project the State Department had been attempting to coordinate the efforts of the many fractious Iraqi exile organizations. The Future of Iraq project held the potential for harnessing, and perhaps even harmonizing, the expertise available from the exile groups.

It was also in keeping with a surprisingly well established U.S. government tradition of preparing for postwar duties before there was a clear idea of when fighting would begin, let alone when it would end. Before the United States entered World War II, teams at the Army War College were studying what went right and wrong when American doughboys occupied Germany after World War I. Within months of the attack on Pearl Harbor, a School of Military Government had been created, at the University of Virginia, to plan for the occupation of both Germany and Japan. In 1995, while U.S. negotiators, led by Richard Holbrooke, were still working at the Dayton peace talks to end the war in the Balkans, World Bank representatives were on hand to arrange loans for the new regimes.

Contemplating postwar plans posed a problem for those who, like many in the State Department, were skeptical of the need for war. Were they making a war more likely if they prepared for its aftermath? Thomas Warrick, the State Department official who directed the Future of Iraq project, was considered to be in the antiwar camp. But according to associates, he explained the importance of preparing for war by saying, "I'm nervous that they're actually going to do it—and the day after they'll turn to us and ask, 'Now what?'" So he pushed ahead with the project, setting up numerous conferences and drafting sessions that would bring together teams of exiles—among them Kanan Makiya, the author of the influential anti-Saddam book, Republic of Fear, first published in 1989. A small number of "international advisers," mainly from the United States, were also assigned to the teams. Eventually there would be seventeen working groups, designed systematically to cover what would be needed to rebuild the political and economic infrastructure of the country. "Democratic Principles and Procedures" was the name of one of the groups, which was assigned to suggest the legal framework for a new government; Makiya would write much of its report. The "Transitional Justice" group was supposed to work on reparations, amnesty, and de-Baathification laws. Groups studying economic matters included "Public Finance," "Oil and Energy," and "Water, Agriculture and Environment."

In May of 2002 Congress authorized $5 million to fund the project's studies. In the flurry of news from Afghanistan the project went unnoticed in the press until June, when the State Department announced that the first meetings would take place in July. "The role of the U.S. government and State Department is to see what the Iraqis and Iraqi-Americans want," Warrick said at a conference on June 1, 2002. "The impetus for change comes from [Iraqis], not us. This is the job of Iraqis inside and outside."

That same day President Bush delivered a graduation speech at West Point, giving a first look at the doctrine of pre-emptive war. He told the cadets, to cheers, "Our security will require all Americans to be forward-looking and resolute, to be ready for preemptive action when necessary to defend our liberty and to defend our lives." Later in the summer the doctrine was elaborated in a new National Security Strategy, which explained that since "rogue states" could not be contained or deterred, they needed to be destroyed before they could attack.

Whenever National Security Adviser Condoleezza Rice was interviewed that summer, she talked mainly about the thinking behind the new policy. When Vice President Dick Cheney was interviewed, he talked mainly about Saddam Hussein's defiance of international law. But when Secretary of State Colin Powell was interviewed, he constantly stressed the value of an international approach to the problem and the need to give UN arms inspectors adequate time to do their job.

War with Iraq was not inevitable at this point, but it seemed more and more likely. Daily conversation in Washington, which usually reverts to "So, who do you think will be the next President?," switched instead to "So, when do you think we're going to war?"

It was in these circumstances that the Future of Iraq project's working groups deliberated. Most of the meetings were in Washington. Some were in London, and one session, in early September, took place in Surrey, where representatives of a dozen mutually suspicious exile groups discussed prospects for democratic coexistence when Saddam Hussein was gone. (Along with Chalabi's INC the meeting included several rival Kurdish groups, Assyrian and Turkomen organizations, the Iraqi Constitutional Monarchy Movement, and others.)

The project did not overcome all the tensions among its members, and the results of its deliberations were uneven. Three of its intended working groups never actually met—including, ominously, "Preserving Iraq's Cultural Heritage." The "Education" group finally produced a report only six pages long, in contrast to many hundreds of pages from most others. Some recommendations were quirky or reflected the tastes of the individual participants who drafted them. A report titled "Free Media" proposed that all Iraqi journalists be taken out of the country for a month-long re-education process: "Those who 'get it' go back as reporters; others would be retired or reassigned." A group that was considering ways of informing Iraq about the realities of democracy mentioned Baywatch and Leave It to Beaver as information sources that had given Iraqis an imprecise understanding of American society. It recommended that a new film, Colonial America: Life in a Theocracy, be shot, noting, "The Puritan experiments provide amazing parallels with current Moslem fundamentalism. The ultimate failures of these US experiments can also be vividly illustrated—witch trials, intolerance, etc."

But whatever may have been unrealistic or factional about these efforts, even more of what the project created was impressive. The final report consisted of thirteen volumes of recommendations on specific topics, plus a one-volume summary and overview. These I have read—and I read them several months into the occupation, when it was unfairly easy to judge how well the forecast was standing up. (Several hundred of the 2,500 pages were in Arabic, which sped up the reading process.) The report was labeled "For Official Use Only"—an administrative term that implies confidentiality but has no legal significance. The State Department held the report closely until, last fall, it agreed to congressional requests to turn over the findings.

Most of the project's judgments look good in retrospect—and virtually all reveal a touching earnestness about working out the details of reconstructing a society. For instance, one of the thickest volumes considered the corruption endemic in Iraqi life and laid out strategies for coping with it. (These included a new "Iraqi Government Code of Ethics," which began, "Honesty, integrity, and fairness are the fundamental values for the people of Iraq.") The overview volume, which appears to have been composed as a series of PowerPoint charts, said that the United States was undertaking this effort because, among other things, "detailed public planning" conveys U.S. government "seriousness" and the message that the U.S. government "wants to learn from past regime change experiences."

For their part, the Iraqi participants emphasized several points that ran through all the working groups' reports. A recurring theme was the urgency of restoring electricity and water supplies as soon as possible after regime change. The first item in the list of recommendations from the "Water, Agriculture and Environment" group read, "Fundamental importance of clean water supplies for Iraqis immediately after transition. Key to coalition/community relations." One of the groups making economic recommendations wrote, "Stressed importance of getting electrical grid up and running immediately—key to water systems, jobs. Could go a long way to determining Iraqis' attitudes toward Coalition forces."

A second theme was the need to plan carefully for the handling and demobilization of Iraq's very sizable military. On the one hand, a functioning army would be necessary for public order and, once coalition forces withdrew, for the country's defense. ("Our vision of the future is to build a democratic civil society. In order to make this vision a reality, we need to have an army that can work alongside this new society.") On the other hand, a large number of Saddam's henchmen would have to be removed. The trick would be to get rid of the leaders without needlessly alienating the ordinary troops—or leaving them without income. One group wrote, "All combatants who are included in the demobilization process must be assured by their leaders and the new government of their legal rights and that new prospects for work and education will be provided by the new system." Toward this end it laid out a series of steps the occupation authorities should take in the "disarmament, demobilization, and reintegration" process. Another group, in a paper on democratic principles, warned, "The decommissioning of hundreds of thousands of trained military personnel that [a rapid purge] implies could create social problems."

Next the working groups emphasized how disorderly Iraq would be soon after liberation, and how difficult it would be to get the country on the path to democracy—though that was where it had to go. "The removal of Saddam's regime will provide a power vacuum and create popular anxieties about the viability of all Iraqi institutions," a paper on rebuilding civil society said. "The traumatic and disruptive events attendant to the regime change will affect all Iraqis, both Saddam's conspirators and the general populace." Another report warned more explicitly that "the period immediately after regime change might offer these criminals the opportunity to engage in acts of killing, plunder and looting." In the short term the occupying forces would have to prevent disorder. In the long term, according to a report written by Kanan Makiya, they would need to recognize that "the extent of the Iraqi totalitarian state, its absolute power and control exercised from Baghdad, not to mention the terror used to enforce compliance, cannot be overestimated in their impact on the Iraqi psyche and the attendant feeling of fear, weakness, and shame." Makiya continued, "These conditions and circumstances do not provide a strong foundation on which to build new institutions and a modern nation state."

Each of the preceding themes would seem to imply a long, difficult U.S. commitment in Iraq. America should view its involvement in Iraq, the summary report said, not as it had Afghanistan, which was left to stew in lightly supervised warlordism, but as it had Germany and Japan, which were rebuilt over many years. But nearly every working group stressed one other point: the military occupation itself had to be brief. "Note: Military government idea did not go down well," one chart in the summary volume said. The "Oil and Energy" group presented a "key concept": "Iraqis do not work for American contractors; Americans are seen assisting Iraqis."

Americans are often irritated by the illogic of "resentful dependence" by weaker states. South Koreans, for example, complain bitterly about U.S. soldiers in their country but would complain all the more bitterly if the soldiers were removed. The authors of the Future of Iraq report could by those standards also be accused of illogical thinking, in wanting U.S. support but not wanting U.S. control. Moreover, many of the project's members had a bias that prefigured an important source of postwar tension: they were exiles who considered themselves the likeliest beneficiaries if the United States transferred power to Iraqis quickly—even though, precisely because of their exile, they had no obvious base of support within Iraq.

To skip ahead in the story: As chaos increased in Baghdad last summer, the chief U.S. administrator, L. Paul "Jerry" Bremer, wrestled constantly with a variant of this exile paradox. The Iraqi Governing Council, whose twenty-five members were chosen by Americans, was supposed to do only the preparatory work for an elected Iraqi government. But the greater the pressure on Bremer for "Iraqification," the more tempted he was to give in to the council's demand that he simply put it in charge without waiting for an election. More than a year earlier, long before combat began, the explicit recommendations and implicit lessons of the Future of Iraq project had given the U.S. government a very good idea of what political conflicts it could expect in Iraq.

TEN MONTHS BEFORE THE WAR: WAR GAMES AND WARNINGS

As combat slowed in Afghanistan and the teams of the Future of Iraq project continued their deliberations, the U.S. government put itself on a wartime footing. In late May the CIA had begun what would become a long series of war-game exercises, to think through the best- and worst-case scenarios after the overthrow of Saddam Hussein. According to a person familiar with the process, one recurring theme in the exercises was the risk of civil disorder after the fall of Baghdad. The exercises explored how to find and secure the weapons of mass destruction that were then assumed to be in and around Baghdad, and indicated that the hardest task would be finding and protecting scientists who knew about the weapons before they could be killed by the regime as it was going down.

The CIA also considered whether a new Iraqi government could be put together through a process like the Bonn conference, which was then being used to devise a post-Taliban regime for Afghanistan. At the Bonn conference representatives of rival political and ethnic groups agreed on the terms that established Hamid Karzai as the new Afghan President. The CIA believed that rivalries in Iraq were so deep, and the political culture so shallow, that a similarly quick transfer of sovereignty would only invite chaos.

Representatives from the Defense Department were among those who participated in the first of these CIA war-game sessions. When their Pentagon superiors at the Office of the Secretary of Defense (OSD) found out about this, in early summer, the representatives were reprimanded and told not to participate further. "OSD" is Washington shorthand, used frequently in discussions about the origins of Iraq war plans, and it usually refers to strong guidance from Rumsfeld, Wolfowitz, Feith, and one of Feith's deputies, William Luti. Their displeasure over the CIA exercise was an early illustration of a view that became stronger throughout 2002: that postwar planning was an impediment to war.

Because detailed thought about the postwar situation meant facing costs and potential problems, and thus weakened the case for launching a "war of choice" (the Washington term for a war not waged in immediate self-defense), it could be seen as an "antiwar" undertaking. The knowledge that U.S. soldiers would still be in Germany and Japan sixty-plus years after Pearl Harbor would obviously not have changed the decision to enter World War II, and in theory the Bush Administration could have presented the overthrow of Saddam Hussein in a similar way: as a job that had to be done, even though it might saddle Americans with costs and a military presence for decades to come. Everyone can think of moments when Bush or Rumsfeld has reminded the nation that this would be a longterm challenge. But during the months when the Administration was making its case for the war—successfully to Congress, less so to the United Nations—it acted as if the long run should be thought about only later on.

On July 31, 2002, the Senate Foreign Relations Committee invited a panel of experts to discuss the case for war against Iraq. On August 1 it heard from other experts about the likely "day after" consequences of military victory. Senator Joseph Biden, a Democrat from Delaware, was then the chairman of the committee. That first day Biden said that the threat of WMD might force him to vote in favor of the war (as he ultimately did). But he worried that if the United States invaded without full allied support, "we may very well radicalize the rest of the world, we may pick up a bill that's $70 billion, $80 billion, we may have to have extensive commitment of U.S. forces for an extended period of time in Iraq."

Phebe Marr, an Iraq scholar retired from the National Defense University, told the committee that the United States "should assume that it cannot get the results it wants on the cheap" from regime change. "It must be prepared to put some troops on the ground, advisers to help create new institutions, and above all, time and effort in the future to see the project through to a satisfactory end. If the United States is not willing to do so, it had best rethink the project." Rend Rahim Francke, an Iraqi exile serving on the Future of Iraq project (and now the ambassador from Iraq to the United States), said that "the system of public security will break down, because there will be no functioning police force, no civil service, and no justice system" on the first day after the fighting. "There will be a vacuum of political authority and administrative authority," she said. "The infrastructure of vital sectors will have to be restored. An adequate police force must be trained and equipped as quickly as possible. And the economy will have to be jump-started from not only stagnation but devastation." Other witnesses discussed the need to commit U.S. troops for many years—but to begin turning constitutional authority over to the Iraqis within six months. The upshot of the hearings was an emphasis on the short-term importance of security, the medium-term challenge of maintaining control while transferring sovereignty to the Iraqis, and the long-term reality of commitments and costs. All the experts agreed that what came after the fall of Baghdad would be harder for the United States than what came before.

SIX MONTHS BEFORE THE WAR: GETTING SERIOUS

One week before Labor Day, while President Bush was at his ranch in Texas, Vice President Cheney gave a speech at a Veterans of Foreign Wars convention in Nashville. "There is no doubt that Saddam Hussein now has weapons of mass destruction [and that he will use them] against our friends, against our allies, and against us," Cheney said. Time was running out, he concluded, for America to remove this threat. A few days later CNN quoted a source "intimately familiar with [Colin] Powell's thinking" as saying that Powell was still insistent on the need for allied support and would oppose any war in which the United States would "go it alone . . . as if it doesn't give a damn" about other nations' views. Just after Labor Day, Powell apparently won a battle inside the Administration and persuaded Bush to take the U.S. case to the United Nations. On September 12 Bush addressed the UN General Assembly and urged it to insist on Iraqi compliance with its previous resolutions concerning disarmament.

Before the war the Administration exercised remarkable "message discipline" about financial projections. When asked how much the war might cost, officials said that so many things were uncertain, starting with whether there would even be a war, that there was no responsible way to make an estimate. In part this reflected Rumsfeld's emphasis on the unknowability of the future. It was also politically essential, in delaying the time when the Administration had to argue that regime change in Iraq was worth a specific number of billions of dollars.

In September, Lawrence Lindsay, then the chief White House economic adviser, broke discipline. He was asked by The Wall Street Journal how much a war and its aftermath might cost. He replied that it might end up at one to two percent of the gross domestic product, which would mean $100 billion to $200 billion. Lindsay added that he thought the cost of not going to war could conceivably be greater—but that didn't placate his critics within the Administration. The Administration was further annoyed by a report a few days later from Democrats on the House Budget Committee, which estimated the cost of the war at $48 billion to $93 billion. Lindsay was widely criticized in "background" comments from Administration officials, and by the end of the year he had been forced to resign. His comment "made it clear Larry just didn't get it," an unnamed Administration official told The Washington Post when Lindsay left. Lindsay's example could hardly have encouraged others in the Administration to be forthcoming with financial projections. Indeed, no one who remained in the Administration offered a plausible cost estimate until months after the war began.

In September, the United States Agency for International Development began to think in earnest about its postwar responsibilities in Iraq. It was the natural contact for nongovernmental organizations, or NGOs, from the United States and other countries that were concerned with relief efforts in Iraq.

USAID's administrator, Andrew Natsios, came to the assignment with a complex set of experiences and instincts. He started his career, in the 1970s, as a Republican state legislator in Massachusetts, and before the Bush Administration he had been the administrator of the state's "Big Dig," the largest public-works effort ever in the country. Before the Big Dig, Natsios spent five years as an executive at a major humanitarian NGO called World Vision. He also served in the Persian Gulf during the 1991 Gulf War, as an Army Reserve officer. By background he was the Administration official best prepared to anticipate the combination of wartime and postwar obligations in Iraq.

At any given moment USAID is drawing up contingency plans for countries that might soon need help. "I actually have a list, which I will not show you," Natsios told me in the fall, "of countries where there may not be American troops soon, but they could fall apart—and if they do, what we could do for them." By mid-September of 2002, six months before the official beginning of Operation Iraqi Freedom, Natsios had additional teams working on plans for Iraq. Representatives of about a dozen relief organizations and NGOs were gathering each week at USAID headquarters for routine coordination meetings. Iraq occupied more and more of their time through 2002. On October 10, one day before Congress voted to authorize the war, the meetings were recast as the Iraq Working Group.

FIVE MONTHS BEFORE THE WAR: OCCUPIERS OR LIBERATORS?

The weekly meetings at USAID quickly settled into a pattern. The representatives of the NGOs would say, "We've dealt with situations like this before, and we know what to expect." The U.S. government representatives would either say nothing or else reply, No, this time it will be different.

The NGOs had experience dealing with a reality that has not fully sunk in for most of the American public. In the nearly three decades since U.S. troops left Vietnam, the American military has fought only two wars as most people understand the term: the two against Saddam Hussein's Iraq. But through the past thirty years U.S. troops have almost continuously been involved in combat somewhere. Because those engagements—in Grenada, Lebanon, Panama, Haiti, Somalia, Bosnia, Kosovo, Afghanistan, and elsewhere—have no obvious connection with one another, politicians and the public usually discuss them as stand-alone cases. Each one seems an aberration from the "real" wars the military is set up to fight.

To the NGO world, these and other modern wars (like the ones in Africa) are not the exception but the new norm: brutal localized encounters that destroy the existing political order and create a need for long-term international supervision and support. Within the U.S. military almost no one welcomes this reality, but many recognize that peacekeeping, policing, and, yes, nation-building are now the expected military tasks. The military has gotten used to working alongside the NGOs—and the NGOs were ready with a checklist of things to worry about once the regime had fallen.

An even larger question about historical precedent began to surface. When Administration officials talked about models for what would happen in Iraq, they almost always referred to the lasting success in Japan and Germany—or else to countries of the former Soviet bloc in Eastern Europe. (A civilian adviser who went to Baghdad early in the occupation recalls looking at his fellow passengers on the military transport plane. The ones who weren't asleep or flipping through magazines were reading books about Japan or Germany, not about the Arab world. "That was not a good sign," he told me.) If one thought of Iraq as Poland, or as the former East Germany, or as the former Czechoslovakia, or as almost any part of the onetime Soviet empire in Eastern Europe other than Romania, one would naturally conclude that regime change in itself would set the country well along the path toward recovery. These countries were fine once their repressive leaders were removed; so might Iraq well be. And if the former Yugoslavia indicated darker possibilities, that could be explained as yet another failure of Clinton-era foreign policy.

Many NGO representatives assumed that postwar recovery would not be so automatic, and that they should begin working on preparations before the combat began. "At the beginning our main message was the need for access," I was told by Sandra Mitchell, the vice-president of the International Rescue Committee, who attended the USAID meetings. Because of U.S. sanctions against Iraq, it was illegal for American humanitarian organizations to operate there. (Journalists were about the only category of Americans who would not get in trouble with their own government by traveling to and spending money in Iraq.) "Our initial messages were like those in any potential crisis situation," Mitchell said, "but the reason we were so insistent in this case was the precarious situation that already existed in Iraq. The internal infrastructure was shot, and you couldn't easily swing in resources from neighboring countries, like in the Balkans." The NGOs therefore asked, as a first step, for a presidential directive exempting them from the sanctions. They were told to expect an answer to this request by December. That deadline passed with no ruling. By early last year the NGOs felt that it was too dangerous to go to Iraq, and the Administration feared that if they went they might be used as hostages. No directive was ever issued.

Through the fall and winter of 2002 the International Rescue Committee, Refugees International, InterAction, and other groups that met with USAID kept warning about one likely postwar problem that, as it turned out, Iraq avoided—a mass flow of refugees—and another that was exactly as bad as everyone warned: the lawlessness and looting of the "day after" in Baghdad. The Bush Administration would later point to the absence of refugees as a sign of the occupation's underreported success. This achievement was, indeed, due in part to a success: the speed and precision of the military campaign itself. But the absence of refugees was also a sign of a profound failure: the mistaken estimates of Iraq's WMD threat. All pre-war scenarios involving huge movements of refugees began with the assumption that Saddam Hussein would use chemical or biological weapons against U.S. troops or his own Kurdish or Shiite populations—and that either the fact or the fear of such assaults would force terrified Iraqis to evacuate.

The power vacuum that led to looting was disastrous. "The looting was not a surprise," Sandra Mitchell told me. "It should not have come as a surprise. Anyone who has witnessed the fall of a regime while another force is coming in on a temporary basis knows that looting is standard procedure. In Iraq there were very strong signals that this could be the period of greatest concern for humanitarian response." One lesson of postwar reconstruction through the 1990s was that even a short period of disorder could have long-lasting effects.

The meetings at USAID gave the veterans of international relief operations a way to register their concerns. The problem was that they heard so little back. "The people in front of us were very well-meaning," says Joel Chamy, who represented Refugees International at the meetings. "And in fairness, they were on such a short leash. But the dialogue was one-way. We would tell them stuff, and they would nod and say, Everything's under control. To me it was like the old four-corners offense in basketball. They were there to just dribble out the clock but be able to say they'd consulted with us."

And again the question arose of whether what lay ahead in Iraq would be similar to the other "small wars" of the previous decade-plus or something new. If it was similar, the NGOs had their checklists ready. These included, significantly, the obligations placed on any "occupying power" by the Fourth Geneva Convention, which was signed in 1949 and is mainly a commonsense list of duties—from protecting hospitals to minimizing postwar reprisals—that a victorious army must carry out. "But we were corrected when we raised this point," Sandra Mitchell says. "The American troops would be 'liberators' rather than 'occupiers,' so the obligations did not apply. Our point was not to pass judgment on the military action but to describe the responsibilities."

In the same mid-October week that the Senate approved the war resolution, a team from the Strategic Studies Institute at the Army War College, in Carlisle Barracks, Pennsylvania, began a postwar-planning exercise. Even more explicitly than the NGOs, the Army team insisted that America's military past, reaching back to its conquest of the Philippines, in 1898, would be a useful guide to its future duties in Iraq. As a rule, professional soldiers spend more time thinking and talking about history than other people do; past battles are the only real evidence about doctrine and equipment. The institute—in essence, the War College's think tank—was charged with reviewing recent occupations to help the Army "best address the requirements that will necessarily follow operational victory in a war with Iraq," as the institute's director later said in a foreword to the team's report. "As the possibility of war with Iraq looms on the horizon, it is important to look beyond the conflict to the challenges of occupying the country."

The study's principal authors were Conrad Crane, who graduated from West Point in the early 1970s and taught there as a history professor through the 1990s, and Andrew Terrill, an Army Reserve officer and a strategic-studies professor. With a team of other researchers, which included representatives from the Army and the joint staff as well as other government agencies and think tanks, they began high-speed work on a set of detailed recommendations about postwar priorities. The Army War College report was also connected to a pre-war struggle with yet another profound postwar consequence: the fight within the Pentagon, between the civilian leadership in OSD and the generals running the Army, over the size and composition of the force that would conquer Iraq.

FOUR MONTHS BEFORE THE WAR: THE BATTLE IN THE PENTAGON

On November 5, 2002, the Republicans regained control of the Senate and increased their majority in the House in national midterm elections. On November 8 the UN Security Council voted 15–0 in favor of Resolution 1441, threatening Iraq with "serious consequences" if it could not prove that it had abandoned its weapons programs.

Just before 9/11 Donald Rumsfeld had been thought of as standing on a banana peel. The newspapers were full of leaked anonymous complaints from military officials who thought that his efforts to streamline and "transform" the Pentagon were unrealistic and damaging. But with his dramatic metamorphosis from embattled Secretary of Defense to triumphant Secretary of War, Rumsfeld's reputation outside the Administration and his influence within it rose. He was operating from a position of great power when, in November, he decided to "cut the TPFDD."

"Tipfid" is how people in the military pronounce the acronym for "time-phased force and deployment data," but what it really means to the armed forces, in particular the Army, is a way of doing business that is methodical, careful, and sure. The TPFDD for Iraq was an unbelievably complex master plan governing which forces would go where, when, and with what equipment, on which planes or ships, so that everything would be coordinated and ready at the time of attack. One reason it took the military six months to get set for each of its wars against Iraq, a comparatively pitiful foe, was the thoroughness of TPFDD planning. To its supporters, this approach is old-school in the best sense: if you fight, you really fight. To its detractors, this approach is simply old—ponderous, inefficient, and, although they don't dare call it cowardly, risk-averse at the least.

A streamlined approach had proved successful in Afghanistan, at least for a while, as a relatively small U.S. force left much of the ground fighting to the Northern Alliance. In the longer run the American strategy created complications for Afghanistan, because the victorious Northern Alliance leaders were newly legitimized as warlords. Donald Rumsfeld was one member of the Administration who seemed still to share the pre-9/11 suspicion about the risks of nation-building, and so didn't much care about the postwar consequences of a relatively small invasion force. (His deputy, Paul Wolfowitz, was more open to the challenge of rebuilding Iraq, but he would never undercut or disobey Rumsfeld.) In November, Rumsfeld began working through the TPFDD, with the goal of paring the force planned for Iraq to its leanest, lightest acceptable level.

The war games run by the Army and the Pentagon's joint staff had led to very high projected troop levels. The Army's recommendation was for an invasion force 400,000 strong, made up of as many Americans as necessary and as many allied troops as possible. "All the numbers we were coming up with were quite large," Thomas White, a retired general (and former Enron executive) who was the Secretary of the Army during the war, told me recently. But Rumsfeld's idea of the right force size was more like 75,000. The Army and the military's joint leadership moderated their requests in putting together the TPFDD, but Rumsfeld began challenging the force numbers in detail. When combat began, slightly more than 200,000 U.S. soldiers were massed around Iraq.

"In what I came to think of as Secretary Rumsfeld's style," an Army official who was involved in the process told me recently, "he didn't directly say no but asked a lot of hard questions about the plan and sent us away without approval. He would ask questions that delayed the activation of units, because he didn't think the planned flow was right. Our people came back with the understanding that their numbers were far too big and they should be thinking more along the lines of Afghanistan"—that is, plan for a light, mobile attack featuring Special Forces soldiers. Another participant described Rumsfeld as looking line by line at the deployments proposed in the TPFDD and saying, "Can't we do this with one company?" or "Shouldn't we get rid of this unit?" Making detailed, last-minute adjustments to the TPFDD was, in the Army's view, like pulling cogs at random out of a machine. According to an observer, "The generals would say, Sir, these changes will ripple back to every railhead and every company."

The longer-term problem involved what would happen after Baghdad fell, as it inevitably would. This was distinctly an Army rather than a general military concern. "Where's the Air Force now?" an Army officer asked rhetorically last fall. "They're back on their bases—and they're better off, since they don't need to patrol the 'no-fly' zones [in northern and southern Iraq, which U.S. warplanes had patrolled since the end of the Gulf War]. The Navy's gone, and most of the Marines have been pulled back. It's the Army holding the sack of shit." A related concern involved what a long-term commitment to Iraq would do to the Army's "ops tempo," or pace of operations—especially if Reserve and National Guard members, who had no expectations of long-term foreign service when they signed up, were posted in Iraq for months or even years.

The military's fundamental argument for building up what Rumsfeld considered a wastefully large force is that it would be even more useful after Baghdad fell than during actual combat. The first few days or weeks after the fighting, in this view, were crucial in setting long-term expectations. Civilians would see that they could expect a rapid return to order, and would behave accordingly—or they would see the opposite. This was the "shock and awe" that really mattered, in the Army's view: the ability to make clear who was in charge. "Insights from successful occupations suggest that it is best to go in real heavy and then draw down fast," Conrad Crane, of the Army War College, told me. That is, a larger force would be necessary during and immediately after the war, but might mean a much smaller occupation presence six months later.

"We're in Baghdad, the regime is toppled—what's next?" Thomas White told me, recounting discussions before the war. One of the strongest advocates of a larger force was General Eric Shinseki, the Army Chief of Staff. White said, "Guys like Shinseki, who had been in Bosnia [where he supervised the NATO force], been in Kosovo, started running the numbers and said, 'Let's assume the world is linear.' For five million Bosnians we had two hundred thousand people to watch over them. Now we have twenty-five million Iraqis to worry about, spread out over a state the size of California. How many people is this going to take?" The heart of the Army's argument was that with too few soldiers, the United States would win the war only to be trapped in an untenable position during the occupation.

A note of personal rancor complicated these discussions, as it did many disagreements over postwar plans. In our interview Douglas Feith played this down—maintaining that press reports had exaggerated the degree of quarreling and division inside the Administration. These reports, he said, mainly reflected the experience of lower-level officials, who were embroiled in one specific policy area and "might find themselves pretty much always at odds with their counterparts from another agency." Higher up, where one might be "fighting with someone on one issue but allied with them on something else," relations were more collegial. Perhaps so. But there was no concealing the hostility within the Pentagon between most uniformed leaders, especially in the Army, and the civilians in OSD.

Donald Rumsfeld viewed Shinseki as a symbol of uncooperative, old-style thinking, and had in the past gone out of his way to humiliate him. In the spring of 2002, fourteen months before the scheduled end of Shinseki's term, Rumsfeld announced who his successor would be; such an announcement, which converts the incumbent into a lame duck, usually comes at the last minute. The action was one of several calculated insults.

From OSD's point of view, Shinseki and many of his colleagues were dragging their feet. From the Army's point of view, OSD was being reckless about the way it was committing troops and highhanded in disregarding the military's professional advice. One man who was then working in the Pentagon told me of walking down a hallway a few months before the war and seeing Army General John Abizaid standing outside a door. Abizaid, who after the war succeeded Tommy Franks as commander of the Central Command, or CENTCOM, was then the director of the Joint Staff—the highest uniformed position in the Pentagon apart from the Joint Chiefs. A planning meeting for Iraq operations was under way. OSD officials told him he could not take part.

The military-civilian difference finally turned on the question of which would be harder: winning the war or maintaining the peace. According to Thomas White and several others, OSD acted as if the war itself would pose the real challenge. As White put it, "The planning assumptions were that the people would realize they were liberated, they would be happy that we were there, so it would take a much smaller force to secure the peace than it did to win the war. The resistance would principally be the remnants of the Baath Party, but they would go away fairly rapidly. And, critically, if we didn't damage the infrastructure in our military operation, as we didn't, the restart of the country could be done fairly rapidly." The first assumption was clearly expressed by Cheney three days before the war began, in an exchange with Tim Russert on Meet the Press:

RUSSERT: "If your analysis is not correct, and we're not treated as liberators but as conquerors, and the Iraqis begin to resist, particularly in Baghdad, do you think the American people are prepared for a long, costly, and bloody battle with significant American casualties?"

CHENEY: "Well, I don't think it's likely to unfold that way, Tim, because I really do believe that we will be greeted as liberators . . . The read we get on the people of Iraq is there is no question but what they want to get rid of Saddam Hussein and they will welcome as liberators the United States when we come to do that."

Through the 1990s Marine General Anthony Zinni, who preceded Tommy Franks as CENTCOM commander, had done war-gaming for a possible invasion of Iraq. His exercises involved a much larger U.S. force than the one that actually attacked last year. "They were very proud that they didn't have the kind of numbers my plan had called for," Zinni told me, referring to Rumsfeld and Cheney. "The reason we had those two extra divisions was the security situation. Revenge killings, crime, chaos—this was all foreseeable."

Thomas White agrees. Because of reasoning like Cheney's, "we went in with the minimum force to accomplish the military objectives, which was a straightforward task, never really in question," he told me. "And then we immediately found ourselves shorthanded in the aftermath. We sat there and watched people dismantle and run off with the country, basically."

THREE MONTHS BEFORE THE WAR

In the beginning of December, Iraq submitted its 12,000–page declaration to the UN Security Council contending that it had no remaining WMD stores. Near the end of December, President Bush authorized the dispatch of more than 200,000 U.S. soldiers to the Persian Gulf.

There had still been few or no estimates of the war's cost from the Administration—only contentions that projections like Lawrence Lindsay's were too high. When pressed on this point, Administration officials repeatedly said that with so many uncertainties, they could not possibly estimate the cost. But early in December, just before Lindsay was forced out, The New York Review of Books published an article by William Nordhaus titled "Iraq: The Economic Consequences of War," which included carefully considered estimates. Nordhaus, an economist at Yale, had served on Jimmy Carter's Council of Economic Advisers; the article was excerpted from a much longer economic paper he had prepared. His range of estimates was enormous, depending on how long the war lasted and what its impact on the world economy proved to be. Nordhaus calculated that over the course of a decade the direct and indirect costs of the war to the United States could be as low as $121 billion or as high as $1.6 trillion. This was a more thoroughgoing approach than the congressional budget committees had taken, but it was similar in its overall outlook. Nordhaus told me recently that he thinks he should have increased all his estimates to account for the "opportunity costs" of stationing soldiers in Iraq—that is, if they are assigned to Iraq, they're not available for deployment somewhere else.

On the last day of December, Mitch Daniels, the director of the Office of Management and Budget, told The New York Times that the war might cost $50 billion to $60 billion. He had to backtrack immediately, his spokesman stressing that "it is impossible to know what any military campaign would ultimately cost." The spokesman explained Daniels's mistake by saying, "The only cost estimate we know of in this arena is the Persian Gulf War, and that was a sixty-billion-dollar event." Daniels would leave the Administration, of his own volition, five months later.

In the immediate run-up to the war the Administration still insisted that the costs were unforeseeable. "Fundamentally, we have no idea what is needed unless and until we get there on the ground," Paul Wolfowitz told the House Budget Committee on February 27, with combat less than three weeks away. "This delicate moment—when we are assembling a coalition, when we are mobilizing people inside Iraq and throughout the region to help us in the event of war, and when we are still trying, through the United Nations and by other means, to achieve a peaceful solution without war—is not a good time to publish highly suspect numerical estimates and have them drive our declaratory policy."

Wolfowitz's stonewalling that day was in keeping with the policy of all senior Administration officials. Until many months after combat had begun, they refused to hazard even the vaguest approximation of what financial costs it might involve. Shinseki, so often at odds with OSD, contemplated taking a different course. He was scheduled to testify, with Thomas White, before the Senate Appropriations Committee on March 19, which turned out to be the first day of actual combat. In a routine prep session before the hearing he asked his assistants what he should say about how much the operations in Iraq were going to cost. "Well, it's impossible to predict," a briefer began, reminding him of the official line.

Shinseki cut him off. "We don't know everything," he said, and then he went through a list of the many things the military already did know. "We know how many troops are there now, and the projected numbers. We know how much it costs to feed them every day. We know how much it cost to send the force there. We know what we have spent already to prepare the force and how much it would cost to bring them back. We have estimates of how much fuel and ammunition we would use per day of operations." In short, anyone who actually wanted to make an estimate had plenty of information on hand.

At this point Jerry Sinn, a three-star general in charge of the Army's budget, said that in fact he had worked up some numbers—and he named a figure, for the Army's likely costs, in the tens of billions of dollars. But when Senator Byron Dorgan, of North Dakota, asked Shinseki at hearings on March 19 how much the war just beginning would cost, Shinseki was loyally vague ("Any potential discussion about what an operation in Iraq or any follow-on probably is undefined at this point").

When Administration officials stopped being vague, they started being unrealistic. On March 27, eight days into combat, members of the House Appropriations Committee asked Paul Wolfowitz for a figure. He told them that whatever it was, Iraq's oil supplies would keep it low. "There's a lot of money to pay for this," he said. "It doesn't have to be U.S. taxpayer money. We are dealing with a country that can really finance its own reconstruction, and relatively soon." On April 23 Andrew Natsios, of USAID, told an incredulous Ted Koppel, on Nightline, that the total cost to America of reconstructing Iraq would be $1.7 billion. Koppel shot back, "I mean, when you talk about one-point-seven, you're not suggesting that the rebuilding of Iraq is gonna be done for one-point-seven billion dollars?" Natsios was clear: "'Well, in terms of the American taxpayers" contribution, I do; this is it for the U.S. The rest of the rebuilding of Iraq will be done by other countries who have already made pledges . . . But the American part of this will be one-point-seven billion dollars. We have no plans for any further-on funding for this." Only in September did President Bush make his request for a supplemental appropriation of $87 billion for operations in Iraq.

Planning for the postwar period intensified in December. The Council on Foreign Relations, working with the Baker Institute for Public Policy, at Rice University, convened a working group on "guiding principles for U.S. post-war conflict policy in Iraq." Leslie Gelb, then the president of the Council on Foreign Relations, said that the group would take no position for or against the war. But its report, which was prepared late in January of last year, said that "U.S. and coalition military units will need to pivot quickly from combat to peacekeeping operations in order to prevent post-conflict Iraq from descending into anarchy." The report continued, "Without an initial and broad-based commitment to law and order, the logic of score-settling and revenge-taking will reduce Iraq to chaos."

The momentum toward war put officials at the United Nations and other international organizations in a difficult position. On the one hand, they had to be ready for what was coming; on the other, it was awkward to be seen discussing the impending takeover of one of their member states by another. "Off-the-record meetings were happening in every bar in New York," one senior UN official told me in the fall. An American delegation that included Pentagon representatives went to

Rome in December for a confidential meeting with officials of the UN's World Food Programme, to discuss possible food needs after combat in Iraq. As The Wall Street Journal later reported, the meeting was uncomfortable for both sides: the Americans had to tell the WFP officials, as one of them recalled, "It is looking most probable you are going to witness one of the largest military engagements since the Second World War." This was hyperbole (Korea? Vietnam?), but it helped to convince the WFP that relief preparations should begin.

On December 11 an ice storm hit the Mid-Atlantic states. For Conrad Crane and his associates at the Army War College, deep in their crash effort to prepare their report on postwar Army challenges, this was a blessing. "The storm worked out perfectly," Crane told me afterward. "We were all on the post, there was no place anyone could go, we basically had the whole place to ourselves."

By the end of the month the War College team had assembled a draft of its report, called "Reconstructing Iraq: Insights Challenges and Missions for Military Forces in a Post-Conflict Scenario." It was not classified, and can be found through the Army War College's Web site.

The War College report has three sections. The first is a review of twentieth-century occupations—from the major efforts in Japan and Germany to the smaller and more recent ones in Haiti, Panama, and the Balkans. The purpose of the review is to identify common situations that occupiers might face in Iraq. The discussion of Germany, for instance, includes a detailed account of how U.S. occupiers "de-Nazified" the country without totally dismantling its bureaucracy or excluding everyone who had held a position of responsibility. (The main tool was a Fragebogen, or questionnaire, about each person's past activities, which groups of anti-Nazi Germans and Allied investigators reviewed and based decisions on.)

The second section of the report is an assessment of the specific problems likely to arise in Iraq, given its ethnic and regional tensions and the impact of decades of Baathist rule. Most Iraqis would welcome the end of Saddam Hussein's tyranny, it said. Nonetheless, "Long-term gratitude is unlikely and suspicion of U.S. motives will increase as the occupation continues. A force initially viewed as liberators can rapidly be relegated to the status of invaders should an unwelcome occupation continue for a prolonged time. Occupation problems may be especially acute if the United States must implement the bulk of the occupation itself rather than turn these duties over to a postwar international force."

If these views about the risk of disorder and the short welcome that Americans would enjoy sound familiar, that is because every organization that looked seriously into the situation sounded the same note.

The last and most distinctive part of the War College report is its "Mission Matrix"—a 135-item checklist of what tasks would have to be done right after the war and by whom. About a quarter of these were "critical tasks" for which the military would have to be prepared long before it reached Baghdad: securing the borders so that foreign terrorists would not slip in (as they in fact did), locating and destroying WMD supplies, protecting religious sites, performing police and security functions, and so on. The matrix was intended to lay out a phased shift of responsibilities, over months or years, from a mainly U.S. occupation force to international organizations and, finally, to sovereign Iraqis. By the end of December copies of the War College report were being circulated throughout the Army.

According to the standard military model, warfare unfolds through four phases: "deterrence and engagement," "seize the initiative," "decisive operations," and "post-conflict." Reality is never divided quite that neatly, of course, but the War College report stressed that Phase IV "post-conflict" planning absolutely had to start as early as possible, well before Phase III "decisive operations"—the war itself. But neither the Army nor the other services moved very far past Phase III thinking. "All the A-Team guys wanted to be in on Phase III, and the B-team guys were put on Phase IV," one man involved in Phase IV told me. Frederick Barton, of the Center for Strategic and International Studies, who was involved in postwar efforts in Haiti, Rwanda, and elsewhere, put it differently. "If you went to the Pentagon before the war, all the concentration was on the war," he said. "If you went there during the war, all the concentration was on the war. And if you went there after the war, they'd say, 'That's Jerry Bremer's job.'" Still, the War College report confirmed what the Army leadership already suspected: that its real challenges would begin when it took control of Baghdad.

TWO MONTHS BEFORE THE WAR

On January 27, 2003, the chief UN weapons inspector, Hans Blix, reported that "Iraq appears not to have come to a genuine acceptance, not even today, of the disarmament that was demanded of it." Twenty-four hours later, in his State of the Union address, President Bush said that the United States was still hoping for UN endorsement of an action against Iraq—but would not be limited by the absence of one.

Increasingly the question in Washington about war was When? Those arguing for delay said that it would make everything easier. Perhaps Saddam Hussein would die. Perhaps he would flee or be overthrown. Perhaps the UN inspectors would find his weapons, or determine conclusively that they no longer existed. Perhaps the United States would have time to assemble, if not a broad alliance for the battle itself, at least support for reconstruction and occupation, so that U.S. soldiers and taxpayers would not be left with the entire job. Even if the responsibility were to be wholly America's, each passing month would mean more time to plan the peace as thoroughly as the war: to train civil-affairs units (which specialize in peacekeeping rather than combat), and to hire Arabic-speakers. Indeed, several months into the U.S. occupation a confidential Army "lessons learned" study said that the "lack of competent interpreters" throughout Iraq had "impeded operations." Most of the "military linguists" who were operating in Iraq, the study said, "basically [had] the ability to tell the difference between a burro and a burrito."

Those arguing against delay said that the mere passage of time wouldn't do any good and would bring various risks. The world had already waited twelve years since the Gulf War for Saddam Hussein to disarm. Congress had already voted to endorse the war. The Security Council had already shown its resolve. The troops were already on their way. Each passing day, in this view, was a day in which Saddam Hussein might deploy his weapons of terror.

Early in January the National Intelligence Council, at the CIA, ran a two-day exercise on postwar problems. Pentagon representatives were still forbidden by OSD to attend. The exercise covered issues similar to those addressed in the Future of Iraq and Army War College reports—and, indeed, to those considered by the Council on Foreign Relations and the Senate Foreign Relations Committee: political reconstruction, public order, border control, humanitarian problems, finding and securing WMD.

On January 15 the humanitarian groups that had been meeting at USAID asked for a meeting with Donald Rumsfeld or Paul Wolfowitz. They never got one. At an earlier meeting, according to a participant, they had been told, "The President has already spent an hour on the humanitarian issues." The most senior Pentagon official to meet with them was Joseph Collins, a deputy assistant secretary of defense. The representatives of the NGOs were generally the most senior and experienced figures from each organization; the government representatives were not of the same stature. "Without naming names, the people we met were not real decision-makers," Joel Charny says.

On January 24 a group of archaeologists and scholars went to the Pentagon to brief Collins and other officials about the most important historic sites in Iraq, so that they could be spared in bombing. Thanks to precision targeting, the sites would indeed survive combat. Many, of course, were pillaged almost immediately afterward.

On January 30 the International Rescue Committee, which had been participating in the weekly Iraq Working Group sessions, publicly warned that a breakdown of law and order was likely unless the victorious U.S. forces acted immediately, with martial law if necessary, to prevent it. A week later Refugees International issued a similar warning.

At the end of January, Sam Gardiner entered the picture. Gardiner is a retired Air Force colonel who taught for years at the National War College in Washington. His specialty is war gaming, and through the 1990s he was involved once or twice a year in major simulations involving an attack on Baghdad. In the late 1990s Gardiner had been a visiting scholar at the Swedish National Defense University, where he studied the effects of the bombing of Serbia's electrical grid. The big discovery was how long it took to get the system up and running again, after even a precise and limited attack. "Decapitation" attacks on a regime, like the one planned for Iraq, routinely begin with disabling the electrical grid. Gardiner warned that this Phase III step could cause big Phase IV problems.

Late in 2002 Gardiner had put together what he called a "net assessment" of how Iraq would look after a successful U.S. attack. His intended audience, in government, would recognize the designation as droll. "Net assessment" is a familiar term for a CIA-style intelligence analysis, but Gardiner also meant it to reflect the unusual origin of his data: none of it was classified, and all of it came from the Internet. Through the power of search engines Gardiner was able to assemble what in other days would have seemed like a secret inside look at Iraq's infrastructure. He found electricity diagrams for the pumps used at Iraq's main water stations; he listed replacement parts for the most vulnerable elements of the electrical grid. He produced a scheme showing the elements of the system that would be easiest to attack but then quickest to repair. As it happened, damage to the electrical grid was a major postwar problem. Despite the precision of the bombing campaign, by mid-April wartime damage and immediate postwar looting had reduced Baghdad's power supply to one fifth its pre-war level, according to an internal Pentagon study. In mid-July the grid would be back to only half its pre-war level, working on a three-hours-on, three-hours-off schedule.

On January 19 Gardiner presented his net assessment, with information about Iraq's water, sewage, and public-health systems as well as its electrical grid, at an unclassified forum held by the RAND Corporation, in Washington. Two days later he presented it privately to Zalmay Khalilzad. Khalilzad was a former RAND analyst who had joined the Bush Administration's National Security Council and before the war was named the President's "special envoy and ambassador-at-large for Free Iraqis." (He has recently become the U.S. ambassador to Afghanistan.) Gardiner told me recently that Khalilzad was sobered by what he heard, and gave Gardiner a list of other people in the government who should certainly be shown the assessment. In the next few weeks Gardiner presented his findings to Bear McConnell, the USAID official in charge of foreign disaster relief, and Michael Dunn, an Air Force general who had once been Gardiner's student and worked with the Joint Chiefs of Staff as acting director for strategic plans and policy. A scheduled briefing with Joseph Collins, who was becoming the Pentagon's point man for postwar planning, was canceled at the last minute, after a description of Gardiner's report appeared in Inside the Pentagon, an influential newsletter.

The closer the nation came to war, the more the Administration seemed to view people like Gardiner as virtual Frenchmen—that is, softies who would always find some excuse to oppose the war. In one sense they were right. "It became clear that what I was really arguing was that we had to delay the war," Gardiner told me. "I was saying, 'We aren't ready, and in just six or eight weeks there is no way to get ready for everything we need to do.'" (The first bombs fell on Baghdad eight weeks after Gardiner's meeting with Khalilzad.) "Everyone was very interested and very polite and said I should talk to other people," Gardiner said. "But they had that 'Stalingrad stare'—people who had been doing stuff under pressure for too long and hadn't had enough sleep. You want to shake them and say, 'Are you really with me?'"

At the regular meeting of the Iraq Working Group on January 29, the NGO representatives discussed a recent piece of vital news. The Administration had chosen a leader for all postwar efforts in Iraq: Jay M. Garner, a retired three-star Army general who A cartoon by Sage Stossel. had worked successfully with the Kurds at the end of the Gulf War. The NGO representatives had no fault to find with the choice of Garner, but they were concerned, because his organization would be a subunit of the Pentagon rather than an independent operation or part of a civilian agency. "We had been pushing constantly to have reconstruction authority based in the State Department," Joel Charny told me. He and his colleagues were told by Wendy Chamberlin, a former ambassador to Pakistan who had become USAID's assistant administrator for the area including Iraq, that the NGOs should view Garner's appointment as a victory. After all, Garner was a civilian, and his office would draw representatives from across the government. "We said,'C'mon, Wendy, his office is in the Pentagon!'" Charny says. Jim Bishop, a former U.S. ambassador who now works for InterAction, pointed out that the NGOs, like the U.S. government, were still hoping that other governments might help to fund humanitarian efforts. Bishop asked rhetorically, "Who from the international community is going to fund reconstruction run through the Pentagon?"

Garner assembled a team and immediately went to work. What happened to him in the next two months is the best-chronicled part of the postwar fiasco. He started from scratch, trying to familiarize himself with what the rest of the government had already done. On February 21 he convened a two-day meeting of diplomats, soldiers, academics, and development experts, who gathered at the National Defense University to discuss postwar plans. "The messiah could not have organized a sufficient relief and reconstruction or humanitarian effort in that short a time," a former CIA analyst named Judith Yaphe said after attending the meeting, according to Mark Fineman, Doyle McManus, and Robin Wright, of the Los Angeles Times. (Fineman died of a heart attack last fall, while reporting from Baghdad.) Garner was also affected by tension between OSD and the rest of the government. Garner had heard about the Future of Iraq project, although Rumsfeld had told him not to waste his time reading it. Nonetheless, he decided to bring its director, Thomas Warrick, onto his planning team. Garner, who clearly does not intend to be the fall guy for postwar problems in Baghdad, told me last fall that Rumsfeld had asked him to kick Warrick off his staff. In an interview with the BBC last November, Garner confirmed details of the firing that had earlier been published in Newsweek. According to Garner, Rumsfeld asked him, "Jay, have you got a guy named Warrick on your team?" "I said, 'Yes, I do.' He said, 'Well, I've got to ask you to remove him.' I said, 'I don't want to remove him; he's too valuable.' But he said, 'This came to me from such a high level that I can't overturn it, and I've just got to ask you to remove Mr. Warrick.'" Newsweek's conclusion was that the man giving the instructions was Vice President Cheney.

This is the place to note that in several months of interviews I never once heard someone say "We took this step because the President indicated . . ." or "The President really wanted . . ." Instead I heard "Rumsfeld wanted," "Powell thought," "The Vice President pushed," "Bremer asked," and so on. One need only compare this with any discussion of foreign policy in Reagan's or Clinton's Administration—or Nixon's, or Kennedy's, or Johnson's, or most others—to sense how unusual is the absence of the President as prime mover. The other conspicuously absent figure was Condoleezza Rice, even after she was supposedly put in charge of coordinating Administration policy on Iraq, last October. It is possible that the President's confidants are so discreet that they have kept all his decisions and instructions secret. But that would run counter to the fundamental nature of bureaucratic Washington, where people cite a President's authority whenever they possibly can ("The President feels strongly about this, so . . .").

To me, the more likely inference is that Bush took a strong overall position—fighting terrorism is this generation's challenge—and then was exposed to only a narrow range of options worked out by the contending forces within his Administration. If this interpretation proves to be right, and if Bush did in fact wish to know more, then blame will fall on those whose responsibility it was to present him with the widest range of choices: Cheney and Rice.

ONE MONTH BEFORE THE WAR

On February 14 Hans Blix reaffirmed to the United Nations his view that Iraq had decided to cooperate with inspectors. The division separating the United States and Britain from France, Germany, and Russia became stark. On February 15 antiwar demonstrators massed in major cities around the world: a million in Madrid, more than a million in Rome, and a million or more in London, the largest demonstration in Britain's history.

On February 21 Tony Blair joined George Bush at Camp David, to underscore their joint determination to remove the threat from Iraq.

THREE WEEKS BEFORE THE WAR

As the war drew near, the dispute about how to conduct it became public. On February 25 the Senate Armed Services Committee summoned all four Chiefs of Staff to answer questions about the war—and its aftermath. The crucial exchange began with a question from the ranking Democrat, Carl Levin. He asked Eric Shinseki, the Army Chief of Staff, how many soldiers would be required not to defeat Iraq but to occupy it. Well aware that he was at odds with his civilian superiors at the Pentagon, Shinseki at first deflected the question. "In specific numbers," he said, "I would have to rely on combatant commanders' exact requirements. But I think . . ." and he trailed off.

"How about a range?" Levin asked. Shinseki replied—and recapitulated the argument he had made to Rumsfeld.

"I would say that what's been mobilized to this point, something on the order of several hundred thousand soldiers, are probably, you know, a figure that would be required.

"We're talking about post-hostilities control over a piece of geography that's fairly significant, with the kinds of ethnic tensions that could lead to other problems. And so, it takes significant ground force presence to maintain safe and secure environment to ensure that the people are fed, that water is distributed, all the normal responsibilities that go along with administering a situation like this."

Two days later Paul Wolfowitz appeared before the House Budget Committee. He began working through his prepared statement about the Pentagon's budget request and then asked permission to "digress for a moment" and respond to recent commentary, "some of it quite outlandish, about what our postwar requirements might be in Iraq." Everyone knew he meant Shinseki's remarks.

"I am reluctant to try to predict anything about what the cost of a possible conflict in Iraq would be," Wolfowitz said, "or what the possible cost of reconstructing and stabilizing that country afterwards might be." This was more than reluctance—it was the Administration's consistent policy before the war. "But some of the higher-end predictions that we have been hearing recently, such as the notion that it will take several hundred thousand U.S. troops to provide stability in post-Saddam Iraq, are wildly off the mark."

This was as direct a rebuke of a military leader by his civilian superior as the United States had seen in fifty years. Wolfowitz offered a variety of incidental reasons why his views were so different from those he alluded to: "I would expect that even countries like France will have a strong interest in assisting Iraq's reconstruction," and "We can't be sure that the Iraqi people will welcome us as liberators . . . [but] I am reasonably certain that they will greet us as liberators, and that will help us to keep requirements down." His fundamental point was this: "It's hard to conceive that it would take more forces to provide stability in post-Saddam Iraq than it would take to conduct the war itself and to secure the surrender of Saddam's security forces and his army. Hard to imagine."

None of the government working groups that had seriously looked into the question had simply "imagined" that occupying Iraq would be more difficult than defeating it. They had presented years' worth of experience suggesting that this would be the central reality of the undertaking. Wolfowitz either didn't notice this evidence or chose to disbelieve it. What David Halberstam said of Robert McNamara in The Best and the Brightest is true of those at OSD as well: they were brilliant, and they were fools.

TWO WEEKS BEFORE THE WAR

At the beginning of March, Andrew Natsios won a little-noticed but crucial battle. Because the United States had not yet officially decided whether to go to war, Natsios had not been able to persuade the Office of Management and Budget to set aside the money that USAID would need for immediate postwar efforts in Iraq. The battle was the more intense because Natsios, unlike his counterparts at the State Department, was both privately and publicly supportive of the case for war. Just before combat he was able to arrange an emergency $200 million grant from USAID to the World Food Programme. This money could be used to buy food immediately for Iraqi relief operations—and it helped to ensure that there were no postwar food shortages.

ONE WEEK BEFORE THE WAR

On March 13 humanitarian organizations had gathered at USAID headquarters for what was effectively the last meeting of the Iraq Working Group. Wendy Chamberlin, the senior USAID official present, discussed the impending war in terms that several participants noted, wrote down, and later mentioned to me. "It's going to be very quick," she said, referring to the actual war. "We're going to meet their immediate needs. We're going to turn it over to the Iraqis. And we're going to be out within the year."

On March 17 the United States, Britain, and Spain announced that they would abandon their attempt to get a second Security Council vote in favor of the war, and President Bush gave Saddam Hussein an ultimatum: leave the country within forty-eight hours or suffer the consequences. On March 19 the first bombs fell on Baghdad.

AFTERWARD

On April 9 U.S. forces took Baghdad. On April 14 the Pentagon announced that most of the fighting was over. On May 1 President Bush declared that combat operations were at an end. By then looting had gone on in Baghdad for several weeks. "When the United States entered Baghdad on April 9, it entered a city largely undamaged by a carefully executed military campaign," Peter Galbraith, a former U.S. ambassador to Croatia, told a congressional committee in June. "However, in the three weeks following the U.S. takeover, unchecked looting effectively gutted every important public institution in the city—with the notable exception of the oil ministry." On April 11, when asked why U.S. soldiers were not stopping the looting, Donald Rumsfeld said, "Freedom's untidy, and free people are free to make mistakes and commit crimes and do bad things. They're also free to live their lives and do wonderful things, and that's what's going to happen here."

This was a moment, as when he tore up the TPFDD, that Rumsfeld crossed a line. His embrace of "uncertainty" became a reckless evasion of responsibility. He had only disdain for "predictions," yes, and no one could have forecast every circumstance of postwar Baghdad. But virtually everyone who had thought about the issue had warned about the risk of looting. U.S. soldiers could have prevented it—and would have, if so instructed.

The looting spread, destroying the infrastructure that had survived the war and creating the expectation of future chaos. "There is this kind of magic moment, which you can't imagine until you see it," an American civilian who was in Baghdad during the looting told me. "People are used to someone being in charge, and when they realize no one is, the fabric rips."

On May 6 the Administration announced that Bremer would be the new U.S. administrator in Iraq. Two weeks into that job Bremer disbanded the Iraqi army and other parts of the Baathist security structure.

If the failure to stop the looting was a major sin of omission, sending the Iraqi soldiers home was, in the view of nearly everyone except those who made the decision, a catastrophic error of commission. There were two arguments for taking this step. First, the army had "already disbanded itself," as Douglas Feith put it to me—soldiers had melted away, with their weapons. Second, the army had been an integral part of the Sunni-dominated Baathist security structure. Leaving it intact would be the wrong symbol for the new Iraq—especially for the Shiites, whom the army had oppressed.

"These actions are part of a robust campaign to show the Iraqi people that the Saddam regime is gone, and will never return," a statement from Bremer's office said.

The case against wholesale dissolution of the army, rather than a selective purge at the top, was that it created an instant enemy class: hundreds of thousands of men who still had their weapons but no longer had a paycheck or a place to go each day. Manpower that could have helped on security patrols became part of the security threat. Studies from the Army War College, the Future of Iraq project, and the Center for Strategic and International Studies, to name a few, had all considered exactly this problem and suggested ways of removing the noxious leadership while retaining the ordinary troops. They had all warned strongly against disbanding the Iraqi army. The Army War College, for example, said in its report, "To tear apart the Army in the war's aftermath could lead to the destruction of one of the only forces for unity within the society."

"This is not something that was dreamed up by somebody at the last minute," Walter Slocombe—who held Feith's job, undersecretary of defense for policy, during the Clinton Administration, and who is now a security adviser on Bremer's team—told Peter Slevin, of The Washington Post, last November. He said that he had discussed the plan with Wolfowitz at least once and with Feith several times, including the day before the order was given. "The critical point," he told Slevin, "was that nobody argued that we shouldn't do this." No one, that is, the Administration listened to.

Here is the hardest question: How could the Administration have thought that it was safe to proceed in blithe indifference to the warnings of nearly everyone with operational experience in modern military occupations? Saying that the Administration considered this a truly urgent "war of necessity" doesn't explain the indifference. Even if it feared that Iraq might give terrorists fearsome weapons at any moment, it could still have thought more carefully about the day after the war. World War II was a war of absolute necessity, and the United States still found time for detailed occupation planning.

The President must have known that however bright the scenarios, the reality of Iraq eighteen months after the war would affect his re-election. The political risk was enormous and obvious. Administration officials must have believed not only that the war was necessary but also that a successful occupation would not require any more forethought than they gave it.

It will be years before we fully understand how intelligent people convinced themselves of this. My guess is that three factors will be important parts of the explanation.

One is the panache of Donald Rumsfeld. He was near the zenith of his influence as the war was planned. His emphasis on the vagaries of life was all the more appealing within his circle because of his jauntiness and verve. But he was not careful about remembering his practical obligations. Precisely because he could not foresee all hazards, he should have been more zealous about avoiding the ones that were evident—the big and obvious ones the rest of the government tried to point out to him.

A second is the triumphalism of the Administration. In the twenty-five years since Ronald Reagan's rise, political conservatives have changed position in a way they have not fully recognized. Reagan's arrival marked the end of a half century of Democrat-dominated government in Washington. Yes, there has been one Democratic President since Reagan, and eventually there will be others. But as a rule the Republicans are now in command. Older Republicans—those who came of age in the 1960s and 1970s, those who are now in power in the Administration—have not fully adjusted to this reality. They still feel like embattled insurgents, as if the liberals were in the driver's seat. They recognize their electoral strength but feel that in the battle of ideology their main task is to puncture fatuous liberal ideas.

The consequence is that Republicans are less used to exposing their own ideas to challenges than they should be. Today's liberals know there is a challenge to every aspect of their world view. All they have to do is turn on the radio. Today's conservatives are more likely to think that any contrary ideas are leftovers from the tired 1960s, much as liberals of the Kennedy era thought that conservatives were in thrall to Herbert Hoover. In addition, the conservatives' understanding of modem history makes them think that their instincts are likely to be right and that their critics will be proved wrong. Europeans scorned Ronald Reagan, and the United Nations feared him, but in the end the Soviet Union was gone. So for reasons of personal, political, and intellectual history, it is understandable that members of this Administration could proceed down one path in defiance of mounting evidence of its perils. The Democrats had similar destructive self-confidence in the 1960s, when they did their most grandiose Great Society thinking.

The third factor is the nature of the President himself. Leadership is always a balance between making large choices and being aware of details. George W. Bush has an obvious preference for large choices. This gave him his chance for greatness after the September 11 attacks. But his lack of curiosity about significant details may be his fatal weakness. When the decisions of the past eighteen months are assessed and judged, the Administration will be found wanting for its carelessness. Because of warnings it chose to ignore, it squandered American prestige, fortune, and lives.

PAYING TRIBUTE TO ORVILLE ROUCH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to a remarkable man from my district. Orville Rouch of Pueblo, Colorado, died recently at the age of eighty-five. Orville was a patriot, a devoted family man and a father who will be missed by many in the community. I think it appropriate that we remember his life here today.

After serving his nation in the Army during World War II, Orville returned to the states and enrolled in the San Francisco College of Mortuary Science. He soon joined the family business started by his parents, the Rouch Funeral Home, which has served the community for over eighty years. Orville was an active member of the Pueblo Charter Lions Club, Pueblo Masonic Lodge 17, and the First United Methodist Church. Orville cherished the relationships he established in the civic community. He will be forever remembered for his dedication to his business and community, and most of all, Orville will be remembered as a loving father to his two sons.

Mr. Speaker, it is an honor to rise before this body of Congress to pay tribute to the life of Orville Rouch. Orville was remarkable man who served the Pueblo community and State of Colorado selflessly. My heart goes out to his family during this difficult time of bereavement.

TRIBUTE TO MARTHA LAFFER ZIEGLER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in paying tribute to Martha Laffer Ziegler who passed away during the congressional recess. Martha served as the District Representative in my congressional office from 1981 until 1985, but her public service long predated our association, and she continued to work for the community after she moved on to the private sector.

Martha Ziegler played an active role in the political life of San Mateo County for nearly four decades beginning in the 1960s. She developed her political skills working to elect Governor Edmund G. "Pat" Brown in 1958 and 1962. She fought for civil rights, women's rights, and the environment, and was an advocate against the Vietnam war. With a reputation as a skilled political organizer, she directed numerous campaigns in San Mateo County, including the McGovern presidential campaign in 1972.

In 1980, Martha joined me in my first campaign for Congress. In that year of the Reagan landslide, Mr. Speaker, I was the only Democratic challenger to defeat an un-indicted Republican incumbent. I am grateful for Martha's help in that effort. After my election, I asked Martha to be my District Representative in my office in San Mateo, California. We worked together for four years, until she took a position in the private sector. She continued to play an active political roll, serving as a member of the Northern California Steering Committee for the Gore presidential campaign in 1988. She also assisted in fund raising for the Clinton-Gore campaigns in 1992 and 1996.

Mr. Speaker, Martha Laffer was born in Jewell, Kansas, in 1926. She received a degree in economics from the University of Kansas in 1947 and on June 17, 1948, married Robert Boynton Ziegler. They settled in the Bay Area, where her husband established a medical practice, and in 1957 they moved to Redwood City. Martha and Robert Ziegler were the parents of four children—Robert, Nancy, David and Daniel.

In addition to her extensive community and political service, Martha was a devoted wife and mother, lover of animals, and wonderful cook and gardener, with a passion for music and literature. She was a singer, first with the West Bay Opera Company and later with the California Bach Society, which she co-founded in 1974 with music director Edwin Flath.

Mr. Speaker, in 1990, Martha and Bob Ziegler moved from Redwood City to Heraldsburg, California, where they were winegrowers and active in the community for over a decade. Martha passed away in Heraldsburg last December. I invite my colleagues to join me in paying tribute to her.

TRIBUTE TO LON MANN

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. BERRY. Mr. Speaker, I rise today to honor one of Arkansas' finest citizens, Lon Mann. I am proud to recognize Lon in the Congress for his invaluable contributions and service to his profession, his family, his state and this nation.

A third generation farmer, Mr. Mann returned from World War II to continue in the family tradition as a cotton producer and ginner as a partner at McClendon Mann & Felton Gin Company in Marianna, AR. He was a leader in the revitalization of the National Cotton Council of America and served as its president as he advocated for America's cotton farmers. He also served as president of the Mid-South Ginners Council and the Agricultural Council of Arkansas, as a trustee of the National Cotton Council's Cotton Foundation and was rightfully inducted into the Arkansas Agricultural Hall of Fame. Mr. Mann was the recipient of numerous awards including the University of Arkansas Cooperative Extension Service "Cotton Achievement" award, the Harry Baker Award from the National Cotton Council and the Horace Hayden Cotton Ginner of the Year Award in 2000.

Mr. Mann's efforts extended beyond the cotton fields into the community as Chairman of the Board of Methodist Hospital and Health Systems in Memphis, TN, and president of the Marianna-Lee County School Board.

Lon Mann was a faithful and dedicated husband to his wife, June, a loving father to daughters June, Louise and Burkley and son William, and the proud grandfather of six grandchildren. Throughout his life, he was dedicated to serving his fellow citizens as a leader in both his profession and his community, and he deserves our respect and gratitude for his priceless contributions. I will be forever honored by our friendship.

On behalf of the Congress, I extend sympathies to Lon's family, and gratitude for all he did.

TRIBUTE TO JAY LAWHON

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen. I am proud to recognize Jay Lawhon in the Congress for his invaluable contributions and service to his community, his family, his state and this nation.

Mr. Lawhon was born on a small farm near Harrison in northwest Arkansas in 1919. After serving in the Navy in World War II, Mr. Lawhon moved to southeast Arkansas to become a vocational agriculture teacher. He served as principal of McCrory High School before beginning his career in the seed industry. Mr. Lawhon opened Lawhon Farm Supply in the late 1950's, and passed the thriving business to his son, Noal, in 1975 in order to begin his work as a missionary.

As lay leader in McCrory's Methodist Church and founder of the World Christian Relief Fund, Mr. Lawhon made several humanitarian trips to Bangladesh when floods and famine struck in the 1970's. He later traveled to Haiti to help build a hospital and continued to visit the country to teach Haitians to drill and repair wells for water and plant trees.

Jay Lawhon was a faithful and dedicated husband to his wife, Lillian, a loving father to Noal and the proud grandfather of two grandchildren and one great-granddaughter. Throughout his life, he was dedicated to serving his fellow citizens as a leader in both his profession and his community, and he deserves our respect and gratitude for his priceless contributions. I will be forever honored by his friendship.

On behalf of the Congress, I extend sympathies to Jay's family, and gratitude for all he did to make the world a better place.

HONORING RETIRING COUNCIL MEMBER DORIS RODRIQUEZ

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. STARK. Mr. Speaker. I rise today to pay tribute to Council Member Doris Rodriquez, who is retiring from the Hayward City Council at the end of her term on April 6, 2004. Ms. Rodriquez will leave a legacy of 27 years of dedicated service to the city of Hayward, California.

Her initial service was on the City of Hayward Citizens Advisory Commission from 1977 to 1984, followed by an appointment to the city's Planning Commission, where she served a seven-year stint. Rodriquez was first appointed to the City Council in 1991 and was elected in 1992 and has served consecutive four-year terms.

The city of Hayward has benefited from Rodriquez's tireless contributions as a city council liaison on the Airport Committee, Commercial Center Improvement Committee, Citizens Advisory Commission, Downtown Revitalization Committee, Public Agencies Committee and the Route 92/880 Interchange Citizens Advisory Committee. Serving as the council's liaison, Rodriquez has been the city's vital link to the community. She has garnered wide-ranging respect with all segments of the community. Her intellect, her sound judgment, her calming personality, her sincere interest in Hayward issues and its citizens, and her ability to work with myriad organizations have benefited Hayward immeasurably.

Rodriguez is an integral part of Hayward's fabric. She is a member of numerous organizations. Her name is not merely listed on the membership rosters but she is intricately involved in the heart of the organizations to make a positive contribution to Hayward. These organizations, who continue to benefit from Rodriquez's experience and commitment, include Friends of the Hayward Library, Hayward Area Planning Association, Hispanic Elected Local Officials, Southgate Home Owners Association, League of Women Voters, and Sun Gallery.

On March 19, 2004, the City of Hayward will host a farewell dinner to thank Council Member Doris Rodriguez for her tireless efforts on behalf of Hayward and its citizens. I join the fine citizens of the city to thank Doris for a job well done.

PAYING TRIBUTE TO LUCY MEYRING

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to the historic achievement of a remarkable woman from my home state. Lucy Meyring of North Park, Colorado was recently chosen as the next president of the Colorado Cattleman's Association. What makes this more special is the fact that the Cattleman's association is the oldest in the country and Lucy will become its first female president. I join with my colleagues to congratulate Lucy on this remarkable achievement.

Lucy has spent her entire life as a cattlewoman in Colorado, and has a deep love of ranching and the cattle industry. As the newest leader of the Colorado Cattleman's Association, Lucy hopes to educate our youth on the importance of agriculture and the origin of such staples as milk and meat. While Lucy recognizes that she will have an extensive travel schedule over the next year, she believes that doing so will provide a unified voice for all cattlemen throughout Colorado.

Mr. Speaker, it is an honor to rise before this body of Congress to pay tribute to the achievements of Lucy Meyring. Throughout her life, Lucy has been a devoted cattlewoman and earned the respect and admiration of her colleagues, friends and fellow citizens. It is a great honor to rise before this body of Congress to congratulate Lucy on her achievements. I wish her all the best throughout her tenure.

CONGRATULATING MR. PORTNOW AND THE RECORDING ACADEMY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. HOYER. Mr. Speaker, I rise today to share remarks made by Recording Academy President Neil Portnow at the 46th Annual Grammy Awards on February 8th, 2003. Mr. Portnow worked on behalf to the Recording Academy in a variety of volunteer leadership roles for over 20 years before being selected as President by the Board of Trustees in September of 2002.

In his first two years as President of the Academy, Mr. Portnow has used his creative talents in marketplace development and his many years in the entertainment industry to advocate on behalf of the Music and Arts community, especially in the area of Music Education funding.

I know I am joined by my colleagues in the House of Representatives in congratulating Mr. Portnow and the Recording Academy on their success in fostering, supporting and promoting a myriad of music-based education and community programs throughout the country.

To follow are the remarks presented by Neil Portnow, President, Recording Academy, on February 8th, 2004 on the occasion of the 46th Annual Grammy Awards:

> Thank you for joining as we celebrate the 46th Annual Grammy Awards.
>
> Tonight, you've seen some remarkable performances that span the spectrum of recorded music, with musical icons joining wonderfully talented young artists to demonstrate that we are all one family.
>
> But our family extends beyond the boundaries of the artists nominated tonight for Grammy Awards. You, the music fans, are the most important part of our family for whom all of us in this creative community give our all. We are inspired to create and make our music so that you can hear and enjoy it. After all, music uplifts the very fabric of our daily lives.
>
> As in all families, there are times when we must all come together as one. Tonight is one of those times.
>
> Many of our music family have arrived here on this Grammy stage because they had the benefit of exposure to music and the arts in school. Proposals for dramatic cuts in funding for the arts mean that our children will be denied that vital opportunity. We cannot sit idly by and allow this to happen. If our leaders spend our resources to search for something, it ought to be for tools of mass education and cultural enlightenment in our nation.
>
> The Recording Academy recognizes your hunger and passion for music. We also represent the music-makers and many others involved in the creative process whose livelihood depends on your support. And tonight we are asking for that support.
>
> We have spent the past year researching and examining the complex issues created by the digital world and this evening, we are announcing a national program designed to educate and inform music lovers everywhere about the serious issues and alternatives surrounding digital downloading of music. We encourage you to visit our new Web site, What's The Download.com, and learn about legal downloading and the ethical choices you can make about how you get your music.
>
> The coming months and years will be a critical time for all of us who bring you the music. Our industry will emerge from what has been a perfect storm. And we will reinvent and renew that which requires change, providing more choices and options to discover and enjoy music.
>
> Just as you would respond to one of your family members seeking your help, we ask you to help us keep music strong and alive for this and for generations to come. You can be sure that we will continue to do our part; we're counting on you to please do yours.

A TRIBUTE TO JUDGE LENARD D. LOUIE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. LANTOS. Mr. Speaker, I am honored to pay tribute to an extraordinary man and an excellent judge who has dedicated his life to the people of San Francisco. Judge Lenard D. Louie currently presides in the San Francisco Superior Court.

Born in San Francisco, Judge Louie attended both the University of San Francisco and Hastings School of Law. Upon graduation, he passed the bar and began his public service career as a Deputy District Attorney for the City and County of San Francisco. During the sixteen years that Judge Louie was a prosecutor he proudly points out that he "handled everything from the most Mickey Mouse of cases to the heaviest of homicides," experiences that would later serve him well when he became a Judge.

Mr. Speaker, after sixteen years of tireless public service as a prosecutor for the City and County of San Francisco, Lenard Louie was appointed to a seat on the San Francisco Municipal Court by then Governor Deukmejian.

After serving admirably on that bench for three years, Governor Deukmejian then appointed Judge Louie to a seat on the San Francisco Superior Court, a position he continues to hold to this day. At the Superior Court Judge Louie utilizes a tough but fair approach, described by many as politely banging heads, in handling cases. In fact, he is often described as the Emperor of Settlements for his ability to squeeze both sides into agreement.

In addition to his public service in the judicial system, Judge Louie is an active participant in the Chinese American community. He is a past National President of the Chinese American Alliance, a member of the Board of the Chinese Times Newspaper Association and an active member of the Louise Fong Kwong Family Association.

Mr. Speaker, I urge all of my colleagues to join me in paying tribute to Judge Lenard D. Louie for his tireless hard work and exemplary service to the people of San Francisco and extending our best wishes to his wife Lily, his daughters and his grandchildren.

PAYING TRIBUTE TO GEOFFREY ZARAGOZA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the short but inspiring life of a citizen from my district. Geoffrey Zaragoza from La Jara, Colorado passed away recently at the young age of nineteen. Geoffrey was a beloved son, friend and sportsman who will be missed by all and I think it is appropriate that we take the time to recognize his remarkable young life here today.

Geoffrey will be remembered for his love of the outdoors. He always looked forward to casting his line upon the many fishing spots throughout the state. Geoffrey was also an accomplished track athlete whose speed mesmerized the crowds cheering on the Alamosa track and cross-country teams. Those in the community who knew Geoffrey will remember his devotion to always do his very best. He will certainly remain an inspiration to the entire La Jara community.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life of Geoffrey Zaragoza. Geoffrey was a beloved young man who made a tremendous impact on his community in his short life. He was a loving son, a devoted fisherman, track athlete and a loyal friend to many. The La Jara community and State of Colorado will truly miss him. My heart goes out to Geoffrey's loved ones in this difficult time of bereavement.

TRIBUTE TO SAMUEL KONECNY

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen; I am proud to recognize Samuel Konecny in the Congress. His recent death was a great loss to his community, his family, his state and this nation.

As a third-generation farmer and a member of the Arkansas State Plant Board, he was proud of his efforts to preserve the Grand Prairie. His desire to conserve was highlighted when he allocated 53 acres of virgin prairie to the Department of Arkansas Heritage and received the Arkansas Conservationist of the Year award.

Mr. Konecny served his country with distinction as a retired captain in the Arkansas National Guard and served as company commander for the local unit. He and his unit were deployed throughout the Central High School crisis and helped break the stranglehold of segregation when he escorted "The Little Rock Nine" safely to school.

An avid churchgoer, Mr. Konecny was a member of Holy Rosary Catholic Church in Stuttgart. He was a 4th Degree Knights of Columbus and helped initiate the Slovak Oyster Supper.

Maybe most importantly, Mr. Konecny was a man of great generosity both with his money and his time. He was instrumental in persuading Riceland Foods and Producers Rice Mill to encourage members to donate rice to the food program to feed the hungry. He spent many hours of his life helping people in need and performed many acts of charity throughout his church and community.

A devout public servant, he served as a supporter and legislative liaison to former Governors Bill Clinton and Jim Guy Tucker and was a long-time sergeant at arms for the Arkansas State Senate. Sam Konecny was a man of honor, religion and compassion. On behalf of the Congress, I extend sympathies to his family, and gratitude for all he did to make the world a better place.

HONORING DR. JACOB EAPEN, RECIPIENT OF MEDICAL BOARD OF CALIFORNIA'S AWARD FOR OUTSTANDING SERVICE AS A CALIFORNIA PHYSICIAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. STARK. Mr. Speaker, I rise today to honor Jacob Eapen, M.D., a Fremont, California pediatrician, who is the recipient of the first Physician Recognition Award from the Medical Board of California. The California Medical Board, which licenses physicians throughout the State, created a Physician Recognition Task Force last year to begin an annual program to recognize physicians for outstanding service.

On January 30, 2004, Dr. Eapen received the award in recognition of his career devoted to improving public health for the underserved worldwide, as well as for his current work as a pediatrician for Alameda County Health Services, where he reaches out to poor children in East Bay communities and children being held at Juvenile Hall in San Leandro, California.

He has been the commissioner of public health in Alameda County for more than four years.

A native of India, Dr. Eapen graduated from the Tivandrum Medical College at Kerala University and traveled to Africa, where he worked as the director of the pediatric unit in Agha Kahn Hospital in Tanzania. He also worked and taught in Nigeria.

While he was working in a Nigerian hospital, Dr. Eapen saw hundreds of children die from diseases because of malnourishment. Since then, he has dedicated his career to pediatric services for the underprivileged. He has also served as a United Nations' health adviser in the Philippines.

Dr. Eapen earned a master's degree in public health in 1984 from the University of California, Berkeley. He completed a second residency in 1992 from Stanford University, which allowed him to practice in the United States. He has been honored by Stanford Medical School as one of the 40 outstanding Stanford Medical alumni from among 7000 graduates of the last sixty years.

Dr. Eapen has embraced Public Health Services in an explicit attempt to foster more appropriate and effective policies and practices to benefit poor, underserved patients. He devotes his time and energy to working in the county health system to improve public health.

After receiving his award, Dr. Eapen told the Medical Board of California that epidemics have no borders, and he also spoke against the potential closure of clinics in Alameda County, California, because of costs.

Dr. Eapen epitomizes the essence of the award he received from the Medical Board. He is indeed dedicated to improving public health care and is working daily to usher in real changes in the lives of people. To quote Dr. Eapen: "There's so much to be done."

TRIBUTE TO AMBASSADOR WARREN ZIMMERMANN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. HOYER. Mr. Speaker, last week a prominent thinker and actor in American foreign policy passed away. Ambassador Warren Zimmermann died on Tuesday, February 3, from pancreatic cancer. He was a career foreign service officer, who later taught at both Johns Hopkins and Columbia universities.

I had the honor and privilege of working with Ambassador Zimmermann in the late 1980s and early 1990s. Our collaboration began when he was chosen to represent the United States at the Vienna Follow-Up Meeting of the Conference on Security and Cooperation in Europe. At the time, I was Chairman of the Helsinki Commission. Under his leadership, State Department officers and Commission staff together formed the basis of the U.S. delegation. Ambassador Zimmermann recognized the talent, expertise and political support offered by the Commission and ensured that bureaucratic hurdles would not jeopardize its integration and effectiveness.

Warren Zimmermann also agreed essentially with Commission views about being bold on human rights, on naming the names of political prisoners and divided families as well as the names of the countries whose governments were denying them and many others their basic human rights. Ambassador Zimmermann challenged the Soviets and their Warsaw Pact allies to uphold their Helsinki Final Act commitments. This happened during the critical first years that Gorbachev was in power in Moscow, and the Vienna meeting helped to give real meaning to words like glasnost and perestroika by insisting, before it would conclude, on actual implementation of existing commitments along with more specific and forward-looking new human rights commitments.

To his credit, and with potential implications for his, career, Ambassador Zimmermann was prepared to remain in Vienna until the Soviets resolved long-standing human rights cases. During the course of the meeting, over 600 of the 750 Soviet political prisoners listed as such by the United States were freed, including all Helsinki monitors. The number of bilateral family reunification cases was reduced from 150 to about 10, and foreign radio broadcast jamming ended. While other, larger factors were, of course, at play, Warren Zimmermann, the U.S. Delegation and the friends and allies of the United States meeting in Vienna from 1986 to 1989 helped in no small way to bring an end to the Cold War and the decades-long, artificial division of Europe.

Warren Zimmermann not only engaged his fellow diplomats. He also developed close contacts with Soviet human rights activists during his postings at the U.S. Embassy in Moscow which he maintained through the Vienna meeting. For his efforts on behalf of refuseniks, he was awarded the Anatoly Sharansky Freedom Award by the Union of Councils for Soviet Jews.

After the Vienna meeting ended in 1989, he went on to serve as the United States Ambassador to Yugoslavia. In that capacity, he would again work with the Commission at a decisive time, namely the beginning of the violent disintegration of the Yugoslav federation. The Helsinki principles, which we had just defended in Vienna, were about to witness their most severe violations primarily at the direction of Slobodan Milosevic. Ambassador Zimmermann knew well the complexities of the Balkans, but, like the Commission, he also knew that human rights violations—in this case taking the form of ethnic cleansing—could not be explained and accepted as the historical inevitability that the region's nationalist propagandists would want us to believe.

Warren Zimmermann's approach to U.S. foreign policy embraced the broader, comprehensive view of security that was relevant to the Cold War, to the Balkan conflicts and to our world today. In 1986, he noted the vital connection between a state's approach to human rights domestically and its conduct internationally. "If a state is pathologically distrustful of its own citizens," he asked, "is it not prone to a certain paranoia in its foreign policy? If a state does not earn the trust of its own citizens, should it have the confidence of other states? If a state is a threat to its own people, can it fail to present a potential threat to peoples beyond its borders?"

Mr. Speaker, Warren Zimmermann was an American patriot who served this Nation with honor and distinction for decades. His professional legacy is marked by a continual striving for freedom, democracy and human rights, and today there are innumerable people in Europe and elsewhere who live freer, happier lives because of his life's work.

I want to extend my sincerest condolences to Ambassador Zimmermann's wife, Teeny, his entire family, many friends and admiring colleagues.

TRIBUTE TO GEORGE AND MARY GLEASON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. McINNIS. Mr. Speaker, I am privileged to pay tribute today to two phenomenal individuals from my district who have devoted over a half century to each other and to their fellow citizens. George and Mary Gleason of Aspen, Colorado, recently marked 60 years of marriage. As they, their family, and friends celebrate this union, I would like to take this time to honor the Gleasons and their dedication to each other before this body of Congress and this nation.

George and Mary first met in 1942. As native Coloradans, they attended college in state and exchanged their vows there as well. Early in their marriage, the Gleason's spent time away from the state during World War II due to George's career as an aerospace engineer. As dedicated skiers, Aspen was a favorite destination for them and they eventually purchased a cabin there. In the 1980s they became permanent residents. The Gleason were able to pass along the love of this town to their children, many of whom still call Aspen home. The Gleasons have truly become pillars in this picturesque mountain town, maintaining their love of skiing and organizing outdoors trips for the senior community.

Mr. Speaker, George and Mary Gleason have maintained their commitment to each other and to their community for 60 years. Their enthusiasm for life and for the outdoors is infectious for all who they encounter. Their love for each other, their children, and grandchildren knows no bounds. I am honored to pay tribute to the anniversary of their vows and to the abiding love the Gleasons have for each other. I wish them many more years in matrimonial bliss. Happy 60th wedding anniversary!

HONORING FRENCH WORLD WAR II VETERAN OUTREACH AMBASSADORS

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to honor three French citizens who, in spite of prevailing politics, have graciously opened their communities and homes to visiting World War II veterans as part of a person-to-person outreach leading up to the 60th anniversary observance of the Normandy invasion.

The 70th Infantry Division fought in the Alsace/Lorraine province of France for 86 consecutive days during World War II. The division successfully liberated 58 towns before culminating their combat by breaching the Siegfried Line at Saarbrucken, Germany. During the operation they suffered 835 killed in action, 2,713 wounded, and lost 397 soldiers as prisoners of war. An additional 54 of their number were classified as missing in action.

Since the war, veterans of the division have returned many times, establishing lasting friendships among the people they helped to liberate. In return, the people of France have erected solemn monuments to their liberators and routinely decorate the graves of Americans buried in nearby military cemeteries.

As preparations commence to observe the 60th anniversary of the June 6, 1944 invasion at Normandy, I would like to specifically recognize three individuals whose consistent hospitality is demonstrative of the goodwill that continues to be shared between many French citizens and the American veterans who fought for their liberation.

Mr. Leon Dietsch, Mayor of Spicheren, has hosted numerous receptions during recent years to honor visiting Americans. Mr. Dietsch was particularly instrumental in establishing a memorial on Spicheren Heights, the site of one of the bloodiest battles in the history of the 70th Infantry Division.

I also wish to honor Mr. Edwin Neis, curator of the Museum of History and Military at Freyming-Merlebach, France. The museum maintains numerous displays depicting American operations during the battle to liberate the area in World War II. Mr. Neis has gone to great efforts to honor American soldiers and make all American visitors feel welcome when they visit.

Finally, I would like to pay tribute to the family of Thomas Kirsch of Spicheren. The Kirsch family has welcomed American veterans into their homes as guests, treating visitors to home cooked meals and rich cultural activities. Their friendship to visiting Americans contributes greatly to the fostering of good French/American relations.

Mr. Speaker, in these times of global insecurities, it is refreshing to observe that, in spite of political and cultural differences, the people of the United States and France can still warmly reach out and embrace each other in friendship and respect.

HONORING MAKER'S MARK DISTILLERY FOR 50TH ANNIVERSARY OF FIRST BATCH

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to celebrate the 50th anniversary of the first batch of whisky being barreled at the Maker's Mark Distillery in Loretto, Kentucky.

As you may be aware, bourbon whisky is "America's native spirit." It was recognized by a 1964 Act of Congress as a "Distinctive product of the United States." This designation has brought prestige and respect to this fine whisky. However, over the years, the Maker's Mark brand has brought even more.

Maker's Mark was created in 1953 by Bill Samuels, Sr. Dissatisfied with the traditional taste of bourbon, he forsook his family's generations-old bourbon recipe and created a new one. By substituting red winter wheat for the typical bourbon flavoring grain of rye, he created a bourbon that was gentler on the palate, yet remained full-flavored. This not only created a whisky with a surprisingly smooth finish, it created a whole new class of bourbon: premium bourbon. Today, every other premium bourbon on the market owes its existence to that first batch of Maker's Mark that went into the barrel in 1954.

Maker's Mark is still handcrafted every step of the way at the same distillery, which is the world's oldest working bourbon distillery in continuous operation and has been designated a National Historic Landmark. Each bottle is hand-dipped in its distinctive signature red sealing wax, symbolizing the brand's handcrafted nature. No wonder it has become the top-selling bourbon in the state of Kentucky, the number one call brand bourbon in New York City, and one of the few brands of bourbon that continues to grow in a declining product category.

Maker's Mark has brought tremendous economic benefits to the State of Kentucky, not only by providing a steady source of employment for Kentucky residents, but also through regular contributions to local and national charities. Maker's Mark also is a key destination on the Bourbon Heritage Trail, which brings thousands of visitors to our State annually.

While the Maker's Mark folks are committed to making fine bourbon, they're also passionate about helping to ensure that their product is enjoyed responsibly. That's why they and other distillers have joined forces to invest millions of dollars in the Century Council, a national not-for-profit group dedicated to reducing drunk driving and underage drinking.

For all of these accomplishments, the men and women at Maker's Mark deserve our utmost respect and our heartfelt congratulations.

TRIBUTE TO LOUIS RAMSAY

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen; I am proud to recognize Louis Ramsay in the Congress. His recent death was a great loss to his community, his family, his state and this nation.

Born, raised and educated in Fordyce, Arkansas, Mr. Ramsay left his home town to play quarterback for the Razorback football team at the University of Arkansas at Fayetteville. After earning a pre-law degree from the university, Mr. Ramsay served as a pilot in the U.S. Army Air Corps in Europe in WWII where he was awarded the Air Medal with four Oak Leaf Clusters. He was discharged from the U.S. Air Force Reserve as a Major.

Mr. Ramsay lived his life serving his community in every capacity imaginable. He worked at the law firm baring his name, Ramsay, Bridgforth, Harrelson & Starling, and was Chairman of the Executive Committee and Emeritus Director of Simmons First National Corp. He was the only person in Arkansas history to have been elected and served as president of both the Arkansas Bar Association and Arkansas Bankers' Association.

He served as chair to Arkansas' Sesquicentennial Commission in 1985, appointed by then-Governor Bill Clinton. In 2003 he was inducted into the Walton School of Business, Arkansas Business Hall of Fame and a faculty fund was soon established at the University of Arkansas Sam M. Walton College of Business in honor of Mr. Ramsay and his wife.

Mr. Ramsay was a role model for us all. A man who worked hard and did his best to give back to his community more then he took from it. On behalf of the Congress, I extend sympathies to Louis' family, and gratitude for all he did to make the world a better place.

PAYING TRIBUTE TO DOROTHY FAUGHT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to a remarkable woman from my district. Dorothy Faught of Cortez, Colorado just celebrated her 80th birthday. As her family and friends mark the occasion, I would like to honor Dorothy here today.

Dorothy Faught has spent decades caring for others in her career as a nurse. In fact, Dorothy has been working in the healing profession since 1945, having started by treating soldiers returning from World War II. Dorothy has spent her first 30 years as the head nurse in the intensive care units in Detroit, Michigan. She went on to continue her career as the Director of Nursing at the Cortez hospital. Dorothy continues her career to this day, working at Southwest Home Health. Her love and knowledge of nursing has won the praise from her colleagues and patients. Dorothy has passed down her enthusiasm for the profession to her two daughters and serves as a role model to others serving in health care.

Mr. Speaker, I rise today to give praise to Dorothy's remarkable career. Dorothy serves as an inspiration to the Cortez community, especially her patients. I am truly honored to recognize her here today. I congratulate Dorothy for her success and thank her for her service. Happy 80th birthday!

WELCOMING TUNISIAN PRESIDENT BEN ALI TO THE UNITED STATES

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. KIRK. Mr. Speaker, for nearly 50 years, the Republic of Tunisia has thrived as an independent, prosperous nation in a region often synonymous with instability. Tunisia's political, social, and economic success can be partially attributed to the continued positive leadership of His Excellency President Zine El Abidine Ben Ali. I would like to join my colleagues in welcoming President Ben Ali to the United States and to Washington, D.C. on February 17th.

President Ben Ali has worked tirelessly to ensure a free society, greater democratic openness, and complete respect for human rights in Tunisia. Over the last two decades, Tunisia has shown tremendous development, reducing poverty, bolstering educational standards, and strengthening economic growth.

Tunisia's flourishing economy offers great hope for African and Middle Eastern countries, while she also continues to play an increasingly important role in the politics of the international community. One of Tunisia's most valuable assets has been its continued willingness to support a Middle East peace process. Despite being surrounded by nations engulfed in political turmoil, Tunisia continues to take an active role in combating international unrest.

Mr. Speaker, I hope my colleagues will join me in recognizing President Ben Ali during his visit as a critical figure in the enhancement of positive global relations with the Middle East.

TRIBUTE TO STEWARD E. JESSUP

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan, an outstanding citizen, an accomplished farmer and a World War II Veteran; I am proud to recognize Stewart E. Jessup in the Congress.

Mr. Jessup was a third generation rice grower who, with his wife and sons, farmed approximately 3,000 acres of rice, soybeans, wheat and milo at their farm at Lodge's Corner, Arkansas. He also served his country with honor in World War II as a first lieutenant navigator aboard B–29's in the Pacific theater.

When Mr. Jessup wasn't tending to his farm or serving his country, he spent his time restoring antique tractors and engines—a painstaking art that demonstrated his extreme focus and deep patience.

He served his community loyally as a member of the Arkansas State Water Code Study Commission, Arkansas Soybean Promotion Board, Farmers Home Administration—Arkansas Advisory Board, Stuttgart Grain Drying Cooperative board of directors, Arkansas County ASCS Committee, president of the Arkansas County Farm Bureau, and chairman of the DeWitt School Board.

Mr. Jessup was an Arkansan by choice, a veteran by duty and a farmer by nature. On behalf of the Congress, I extend sympathies to his family, and gratitude for all he did to make the world a better place.

HONORING COACH GLENN ROBINSON

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. PITTS. Mr. Speaker, I am honored to offer this statement of recognition for Glenn Robinson, the men's basketball head coach for Franklin and Marshall College.

Coach Robinson is a hometown hero for us here in Lancaster. He has passed Illinois Wesleyan's coaching legend, Dennie Bridges, to become the all-time winningest coach in NCAA Division III men's basketball with 667 wins.

Coaching more than 900 games for the Diplomats, Coach Robinson has compiled a historic record. He has won more games than any other college basketball coach in Pennsylvania. Historically, he is one of only 41 coaches in collegiate basketball history to have won 600 games.

Among the top thirty coaches on all levels of the NCAA, Coach Robinson holds the tenth best winning percentage of all time. That puts him in the elite company of coaching legends like John Wooden, Jerry Tarkanian, Dean Smith, Don Meyer, Jim Boeheim, Lute Olson, Phog Allen, and Mike Krzyzewski.

Robinson, who will be inducted into the West Chester Hall of Fame on February 13, has guided the Diplomats to the Division III Final Four four times (1979, 1991, 1996 and 2000) and was named the Basketball Times Division III "Coach of the Year" in 1991. He has earned conference and National Association of Basketball Coaches (NABC) regional "Coach of the Year" honors 11 times.

But Coach Robinson isn't just about winning basketball games. He produces young men who are winners in life as well. You can't talk about records and winning percentage without mentioning the players who have made it possible. Part of his success has been the players with whom he has worked. Players like Will Lasky (1991 honorable mention, 1992 first team), Don Marsh (1977 & 1979 second team), Jeremiah Henry (1996 first team), Phil Hoeker (1989 honorable mention), Dave Janetta (1994 honorable mention, 1995 third team, 1995 second team), Dennis Westley (1981 second team) and Alex Kraft (2000 first team, 2001 honorable mention) all earned All-America honors under Robinson.

Unlike most Division I schools, which measure graduation rate based on the percentage of 4-year players who get a degree, Coach Robinson has a different standard. During his tenure, all but one player to earn a varsity letter in basketball has earned a degree, a statistic which few, if any, other college in the Nation can boast.

Coach Robinson grew up in Yeadon, Pennsylvania, just outside of Philadelphia and played high school basketball at nearby Aldan Lansdowne High before continuing his studies at West Chester University. At West Chester, he played collegiate baseball and basketball for the Division II Rams before graduating in 1967, earning a masters degree a year later.

Robinson joined the F&M basketball coaching staff in 1968 under Hall of Fame coach and athletic trainer Chuck Taylor. In 1971, he took over the Diplomats' when Taylor resigned to focus on his athletic training responsibilities.

His first win came on December 7, 1971 in Mayser Gymnasium, as Franklin & Marshall men's basketball team, then sporting an 0–2 record downed Western Maryland College 80–51. Robinson went on to lead the 1971–72 Diplomats to a 7–14 record with wins over Western Maryland, Eastern, Penn State-Harrisburg, Haverford, Juniata, Messiah and a season concluding 68–51 victory over Drexel University.

In 1973 the team improved to 11–13 as Coach Robinson put the pieces in place to build a successful program.

In 1974, Robinson and the Diplomats snapped their 10-year span of losing records, with 13–11 season record, the team's most wins for a Franklin and Marshall men's basketball team since its 13–6 showing in 1959.

In 1976, Coach Robinson set the school win record with a 17–8 record, erasing the 16 win seasons of Woody Sponaugle in 1952, J. Shober Barr in 1941 and Robinson's own mark from the 1975 season.

In 1977, he broke his own record with 22 wins. And he did it again in 1979 with 27, 1991 with 28 and 1996 with 29.

His career win total accounts for an astonishing 60 percent of the total collegiate wins in Franklin & Marshall men's basketball history (1,115) since the inception of the sport in 1899–1900 under H.S. Wingert.

Coach Robinson is a pillar in our community and has built a program known for the success of its teams on the court and its players off of it.

I commend Coach Robinson for reaching this historic milestone. He has earned it. He deserves every accolade and award he receives.

PAYING TRIBUTE TO DR. J. ALAN SHAND

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise to pay tribute to the passing of a great man from my district. Dr. J. Alan Shand was a beloved member of his community and a staple in most of their lives. He will be remembered as a valued member of the La Junta, Colorado community and I am honored to bring his many contributions to the attention of this body of Congress and nation today.

Following service in World War II, Dr. Shand moved to La Junta in 1946 along with his wife and son and he found a job at Mennonite Hospital. They expanded their family to include another son and daughter. During Dr. Shand's career he was not only one of the town's most beloved doctors but he also helped deliver a gift to hundreds of families: babies. Wanting to be a doctor since he was young, Dr. Shand reached his goal and then went beyond.

Mr. Speaker, Dr. Shand, a humble man with a great disposition, was a pillar of his community. Dr. Shand brought many young ones into this world and continued to touch their lives from that day forward. It is with great sadness that we mourn his loss. I join this body of Congress in paying tribute to his good works and fine example. My heart goes out to Dr. Shand's loved ones and to his community during this difficult time of bereavement.

TRIBUTE TO DEPUTY COMMISSIONER R. LEWIS SHAW, SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. SPRATT. Mr. Speaker, I rise to honor R. Lewis Shaw of South Carolina for his service to our state and great contribution to our environment. Lewis Shaw is retiring as Deputy Commissioner of the South Carolina Department of Health and Environmental Control (DHEC), a position he has held since 1984. During his long tenure, Lewis Shaw has become equated with DHEC and the whole gamut of environmental regulation: clean air, clean water, toxic and nuclear waste disposal, and waste remediation. He has supervised the state's involvement in all aspects of the clean-up of Savannah River Site. His command of the issues and professional ability are such that Lewis Shaw has served as our state's chief environmental quality officer under both Republican and Democratic Governors.

Lewis Shaw was long ago recognized on the national as well as the state level. In 1985, Attorney General Meese appointed him to one of four State Environmental Directorships on the National Enforcement Council. He served on the Council from 1985–1990, and as Chairman in 1989. In 1988, Lewis Shaw helped create the Southern Environmental Enforcement Network (SEEN,) to facilitate the enforcement of environmental statutes, rules and regulations in member states. He served as Chairman of Southern Environmental Enforcement Network in 1991.

Lewis Shaw was a member of the governing body which founded the Southern Appalachian Mountains Initiative (SAMI) in 1994. SAMI is an organization of stakeholders formed to explore the environmental stability of the Southern Appalachian Mountains and develop long-range plans to protect those resources. In 1997, Lewis Shaw was selected to serve as Chairman of SAMI. In 1999, he was elected President of the Environmental Council of the States (ECOS), the non-partisan organization of state environmental commissioners, after serving as secretary-treasurer and vice-president. From 2001–2004, Lewis Shaw served as President of the Environmental Research Institute of the States, ECOS's research arm.

Out of respect for him and his wide-ranging experience, Lewis Shaw has been called to testify before numerous committees of Congress, representing the views of South Carolina, and on occasion, all the states on environmental issues.

I have had the good fortune of working with Lewis Shaw on some tough issues: on the multiple problems at Savannah River Site, on a toxic waste landfill at Pinewood and a hazardous waste incinerator in Rock Hill; at Superfund sites in Cherokee and Chester Counties; on ozone exceedences in York County and ozone transport, and on clean water throughout my district. I could always count on Lewis Shaw to understand the problem and know the law, and to present solutions that were fair and feasible. He has been an asset to South Carolina for 33 years and to me for the 22 years that I have served in Congress. He will be sorely missed and hard to replace, but he leaves a great legacy: a much better environment and a model of performance that everyone in the field of environmental regulation would do well to emulate.

CRAIG NIGRELLI DEPARTS KOAT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to one of the finest and most respected news anchors in New Mexico—Craig Nigrelli. Craig is departing KOAT television of Albuquerque, New Mexico, after a strong four-year run. He will soon be leaving for KSTP-TV in Minnesota. Before he departs, I would like to reflect on his career.

Craig is one of New Mexico's most highly respected broadcast journalists. He joined the Action 7 News anchor desk in February 2000. As a popular morning and noontime anchor, he has commanded high ratings against some tough competition and is often credited with making a major contribution toward building KOAT's solid reputation.

In 1989, Craig received his B.A. degree in Communications/Economics from Rutgers University. He began his broadcasting career in radio as an anchor/reporter for radio station WJJL-AM in Niagara Falls, New York, and then as anchor/reporter for WBEN–AM in Buffalo, New York, from May 1991 until June 1993. In April 1993, Craig made the move to television as a general assignment reporter for WIVB-TV in Buffalo, and became the station's anchor/co-anchor from October 1995 until January 2000. During this time, he was praised for his reports on the crash of TWA Flight 800, the one-year anniversary of the federal-building bombing in Oklahoma, and the FBI raid on Timothy McVeigh's childhood home near Buffalo. This extensive experience prepared him well for his successful tenure at KOAT.

Throughout his years at KOAT, Craig has developed a reputation in the New Mexico political community for being one of the few TV reporters to whom the moniker "political reporter" is applied. He has been a major presence on KOAT election coverage, and his departure will leave a void in this busy year. After being interviewed dozens of times by Craig, I can honestly say that I do not know his political affiliation or leanings. He has asked me, and countless other elected officials and candidates, the tough questions that New Mexico viewers want to know. I do not think there can be a higher compliment than that for a journalist.

On February 16, I will travel to the KOAT studio in Albuquerque for what will probably be my last interview with Craig on the noon news. I have no doubt that he will be missed by his colleagues and viewers alike for his judgment, experience, toughness under pressure, and his wonderful sense of humor. He will be gone, but not forgotten.

Mr. Speaker, I ask that my colleagues join me in wishing Craig the best of luck in all his future endeavors. His dedication to quality journalism cannot be understated, and I am pleased to have been able to honor him here today. While Craig and his lovely wife, Carol, embark on a new chapter in their life, I want them to know they will always have friends in New Mexico.

A TRIBUTE TO FORMER NORTH CAROLINA CONGRESSMAN DAVID HENDERSON FOR A LIFETIME OF PUBLIC SERVICE

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES.

Tuesday, February 10, 2004

Mr. MCINTYRE. Mr. Speaker, it is with great honor that I rise here today to pay tribute to one of North Carolina's greatest public servants, former Congressman David Henderson. With true dedication and talent, Congressman Henderson left a lasting mark on his community, his state, and his country.

Born in Wallace, North Carolina, in 1921, David Henderson began a life of accomplishment that spanned from a Major in the U.S. Air Corps to Congressman of the United States. After graduating from Davidson College in 1942, Henderson served his country overseas in India, China, and Okinawa, only to return to the University of North Carolina Law School to earn a law degree in 1949. He held numerous leadership positions throughout his career including: solicitor and judge of the Duplin County General Court, Chairman of the U.S. House of Representatives' Post Office and Civil Service Committee, Member of the Governor's Advisory Boards for Economic Development and Aviation, Member of the Duplin County Board of Economic Development, and even Fireman of the Year for the Wallace County Volunteer Fire Department.

Although Congressman Henderson earned many achievements throughout his life, his greatest accomplishment was securing legislation to establish the Cape Lookout National Seashore along the Outer Banks. His commitment to preserving this natural landmark created one of the most popular coastal parks in the United States. Prior to serving sixteen years in the U.S. House of Representatives, Henderson came to Washington to serve as Assistant Counsel to the House Education and Labor Committee, and the Chief Staffer of an investigating sub-committee chaired by Congressman John F. Kennedy.

Former Congressman Henderson passed away on January 7, 2004, but will be remembered for his endless contributions to our society. This nation was blessed to have known and honored a true public servant.

PAYING TRIBUTE TO ERIC AND GRACE CROSS–

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. MCINNIS. Mr. Speaker, it is with a sad heart that I rise to pay tribute to the passing of two great people from my district. Eric and Grace Cross, who spent the last 32 years of their life in Alamosa, Colorado, recently passed away at the ages of 76 and 74. The Crosses dedicated their lives to public service and to the challenging fields of teaching and missionary work. I am honored today to bring their contributions to the attention of this body of Congress and this nation.

Eric and Grace met as teenagers at the Briercrest Bible Institute, and after their marriage in 1949, moved to Ecuador for four years to work as missionaries. They served an additional six years as missionaries in Del Rio, Texas before moving to Alamosa. Eric later earned a Bachelor's Degree in special education from Adams State College and the two of them continued to minister to the migrants who worked the fields of the San Luis Valley.

In 1966, after a move to Palisade, Colorado, Eric became a teacher, and later principal, at the Regional Center, where Grace also worked as a technician and later a dorm a supervisor. At night, Eric earned his Masters degree in special education at Western State College. In what little spare time Eric had left he served as an interim minister in churches throughout western Colorado and eastern Utah. When Eric and Grace retired, they continued to serve the Alamosa community, coordinating the soup kitchen and help desk for the Palisade Migrant Center.

Mr. Speaker, Eric and Grace were dedicated people that selflessly served their community and country and I am honored to pay tribute to them here today. Their lifetime of service is an incredible model for all Americans and my thoughts and prayers go out to their families during this difficult time of bereavement.

THE LOSS OF CAPTAIN MATTHEW J. AUGUST

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. LANGEVIN. Mr. Speaker, it is with profound sorrow that I rise to recognize the loss of a soldier in Iraq, a Rhode Island citizen who served with dignity and honor. I join the people of Rhode Island in mourning this great loss.

On Tuesday, January 27, U.S. Army Captain Matthew J. August was killed in

Khalidiyah, Iraq, when an improvised explosive device exploded next to his convoy. Captain August was commander of B Company, 1st Engineer Battalion out of Fort Riley, Kansas. A resident of North Kingstown, Rhode Island, Capt. August graduated in 1993 from Bishop Hendricken High School—my alma mater—and then further distinguished himself as a graduate of the U.S. Military Academy at West Point in 1997. It was at West Point that he met his wife, Captain Maureen August, who also served in Iraq in the 1st Armored Division.

Last week, I was honored to join Captain August's wife, his parents, Donna and Richard August, his older brother Mark, his younger sister Melanie, and other family and friends at a memorial service in Rhode Island. Those who knew him well spoke highly of his kindness, his commitment to his wife and family, and his patriotism and love of service. He was described as a natural leader who earned the respect of all those he encountered.

This loss causes us to reflect on the bravery demonstrated by our men and women in uniform as they carry out their obligations in the face of danger. When their Nation called them to duty to preserve freedom, liberty and the security of their neighbors, they answered without hesitation. We remember those who have fallen not only as soldiers, but also as patriots who made the ultimate sacrifice for their country. May we keep their loved ones in our thoughts and prayers as they struggle to endure this difficult period and mourn the heroes America has lost.

We will continue to hope for the safe and speedy return of all of our troops serving throughout the world.

TRIBUTE TO DAVID H. MILLER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. PAYNE. Mr. Speaker, I rise before this body of Congress and this Nation today to pay tribute to the passing of a man who spent his lifetime seeking to expand trade and investment ties between the United States and Africa. David H. Miller, of Silver Spring, Maryland, and originally from the state of Michigan, passed away on February 2 following a yearlong battle with cancer. As his family, relatives, and friends mourn their loss, I would like to recognize a few of his many achievements here today.

The son of Mr. and Mrs. William P. Miller of Farmington Hills, Michigan, Mr. Miller received a Bachelor's degree in Political Science from George Washington University and a Masters degree in Business Administration with a concentration on finance from the Virginia Polytechnic Institute and State University. Mr. Miller worked for the public relations company of Black, Manafort, Stone & Kelly as a Research Associate and for Congressman Mark Siljander as a Legislative Assistant for Foreign Affairs. Thereafter, Mr. Miller was the Desk Officer for South Africa, Angola, and Namibia at the U.S. Agency for International Development. Mr. Miller then served as the Senior Associate for Africa at the Overseas Private Investment Corporation (OPIC), where he led over 140 U.S. companies on investment missions to 16 African countries.

Mr. Miller helped to create the Corporate Council on Africa, and served as its first Executive Director from May 1993 to June 1999. At the Council, Miller was the principal liaison between the Council staff and more than 210 corporate and individual members. Mr. Miller was responsible for advising member companies on trade and investment activities in Africa; outreach to African government and private sector leaders; U.S. executive and legislative activities relating to African issues; and projects before international financial institutions such as the World Bank Group and the African Development Bank. Under his direction, the Corporate Council on Africa grew from an organization with six members, a limited budget, and one employee to an organization of over 210 members, an annual budget in excess of $3 million, and fourteen employees.

Mr. Miller formed AfricaGlobal, and served as its Managing Director and Director of Government Affairs. He was responsible for handling the government clients and the governmental affairs of AfricaGlobal's corporate clients. Mr. Miller advised government clients on how to best communicate and create positive relationships with the international private sector and political leaders. Mr. Miller had extensive experience in corporate affairs and communications, and was the speechwriter for AfricaGlobal's clientele.

Mr. Speaker, David H. Miller worked with great dedication in advancing relations between African nations and the United States, and is certainly deserving of praise before this body today. He is survived by his wife, the former Kyung Hee Cho; his children Max, Audrey, and Han; his parents; his brothers Bill and John, his sisters Anne and Mary; other extended family members; and a host of friends both in Africa and in the United States. Our thoughts are with them during their time of bereavement. To his family, friends, and the many people in the community who knew him, David H. Miller will be missed deeply.

DO WE REALLY WANT A WAL-MART ECONOMY?

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. OBEY. Mr. Speaker, I am inserting in the RECORD today an article which appeared in the Washington Post on Sunday, February 8, 2004. The article is about the price that is paid by Chinese workers for Wal-Mart's low prices. But, in fact, the article has far broader implications for American workers.

The article makes clear that low prices offered by Wal-Mart are built on a foundation of injustice for Chinese workers. But more importantly, for American workers the article demonstrates how the race to the bottom for workers wages and benefits occurs in this country. By implication, it illustrates that if today Wal-Mart and companies like it produce lower wages by squeezing their own workers wages and benefits, that creates pressure on competitors to do the same thing.

Every Member of Congress and every American ought to ask whether America really wants to follow the Wal-Mart economic model.

[From the Washington Post Foreign Service, Feb. 8, 2004]

CHINESE WORKERS PAY FOR WAL-MART'S LOW PRICES

(By Peter S. Goodman and Philip P. Pan)

SHENZHEN, CHINA.—Inside the factory, amid clattering machinery and clouds of sawdust, men without earplugs or protective goggles feed wood into screaming electric saws, making cabinets for stereo speakers. Women hunch over worktables, many hands bandaged and few covered by gloves, pressing transistors into circuit boards.

Most of the 2,100 workers here are poor migrants from the countryside who have come to this industrial hub in southern China for jobs that pay about $120 a month. A sign on the wall reminds them of their expendability in a nation with hundreds of millions of surplus workers: "If you don't work hard today, tomorrow you'll have to try hard to look for a job."

The calculations driving production here at Shenzhen Baoan Fenda Industrial Co. are no different from those governing global capitalism in general—make more for less—but it is applied with particular vigor on this shop floor. Sixty percent of the stereos coming off the line are for one customer: Wal-Mart Stores Inc., whose mastery at squeezing savings from its supply chain made it the world's largest company.

"The profit is really small," said Surely Huang, a factory engineer, speaking of the 350,000 stereos that Fenda agreed in March to supply to the retailer for $30 to $40 each. Huang said they sell for $50 in the United States. "We have to constantly cut costs to satisfy Wal-Mart."

Yet this factory and thousands of others along China's east coast have decided, with China's leaders, that the deal is worth the price. Wal-Mart provides access to vastly more store shelves than they could ever reach by themselves, a way to build a brand from Fort Worth to Frankfurt. Meeting Wal-Mart's strict requirements could improve the factory's efficiency and make it easier to land contracts from other major retailers.

As capital scours the globe for cheaper and more malleable workers, and as poor countries seek multinational companies to provide jobs, lift production and open export markets, Wal-Mart and China have forged themselves into the ultimate joint venture, their symbiosis influencing the terms of labor and consumption the world over.

With sales of more than $245 billion a year, Wal-Mart is the largest retailer in the United States, still the ultimate consumer market. China is the most populous country, with 1.3 billion people, most still poor enough to willingly move hundreds of miles from home for jobs that would be shunned by anyone with better prospects. The Communist Party government has become perhaps the world's greatest facilitator of capitalist production, beckoning multinational giants with tax-free zones and harsh punishment for anyone with designs on organizing a labor movement.

More than 80 percent of the 6,000 factories in Wal-Mart's worldwide database of suppliers are in China. Wal-Mart estimates it spent $15 billion on Chinese-made products last year, accounting for nearly one-eighth of all Chinese exports to the United States.

If the company that Sam Walton built with his "Made in America" ad campaign were itself a separate nation, it would rank as China's fifth-largest export market, ahead of Germany and Britain.

Back in its home market, Wal-Mart's vast appetite for Chinese imports has placed it at the center of a sharp debate over whether the influx of low-cost products from China is good for Americans.

Domestic manufacturers, labor groups and some politicians point to China's record trade surplus with the United States, estimated to have totaled $120 billion last year, and accuse Beijing of manipulating its currency, condoning the exploitation of its workers and competing unfairly, resulting in the loss of U.S. manufacturing jobs.

But Chinese officials counter that nearly two-thirds of the country's exports are shipped from factories wholly or jointly owned by foreign investors, with Wal-Mart often cited as the prime example, supplying Americans with a steady flow of low-cost, high-quality goods.

With its near-religious devotion to the pursuit of "everyday low prices," Wal-Mart illustrates why U.S.-based multinationals with operations here have not joined in the chorus for protectionism.

"For the benefit of the consumer, we should buy merchandise where we get the best value," said Andrew Tsuei, managing director of Wal-Mart's global procurement center in Shenzhen.

Joe Hatfield, president of Wal-Mart's Asia operations, noted that many of the goods his company buys in China—toys, furniture, textiles and holiday ornaments—have mostly not been made in the United States for years. The Bush administration has pressed China to increase the value of its currency, which some argue makes China's goods unfairly cheap on world markets. Hatfield rolled his eyes.

"That would be a travesty to do to the consumer in the United States," he said. "You do that and the cost of living is going to go up."

For Wal-Mart and other multinational companies doing business in China, a stable currency, political peace and a compliant workforce are nearly as important as low costs.

"There might be places in other parts of the world where you can buy cheaper, but can you get [the product] on the ship?" Tsuei said. "If we have to look at a country that's not politically stable, you might not get your order on time. If you deal in a country where the currency fluctuates, everyday there is a lot of risk. China happens to have the right mix."

Labor activists in China and abroad say that mix includes the ruling party's ban on independent trade unions—workers may join only the party-run union—as well as courts and regulatory agencies controlled by local party officials who are often willing to overlook labor violations to appease businesses that can be milked for taxes, fees and bribes.

The activists argue that as Wal-Mart pits suppliers against one another and squeezes them for the lowest price, the workers suffer.

"Wal-Mart pressures the factory to cut its price, and the factory responds with longer hours or lower pay," said a Chinese labor official, who declined to be named for fear of punishment. "And the workers have no options."

In the city of Dongguan in southern Guangdong province, where Wal-Mart suppliers are concentrated, a 27-year-old worker who gave her name as Miss Qin complained that she can rarely afford meat with her $75-per-month wages at Kaida Toy Co. "Every day we eat vegetables, mostly we eat vegetables," she said, leaning over a plate of fried carrots in a dingy restaurant.

Qin helps make plastic toy trains for Wal-Mart, but says she cannot afford to buy toys for her 9-year-old son. "In four years, they haven't increased the salary," she said.

Kong Xianghong, the No. 2 official for the party-run union in Guangdong province, acknowledged that low wages, long hours and poor conditions are common in factories that supply Wal-Mart and other U.S.-based corporations. "It's better than nothing," he said. "Labor protections, working conditions and wages are related to a country's level of economic development. Of course, we want better labor protections, but we can't afford it. We need the jobs. We need to guarantee people can eat."

Still, Kong said, the party-controlled union has been frustrated that Wal-Mart has refused for three years to allow it to set up branches in the 31 Wal-Mart stores in China—even though he has assured the company that the union wouldn't help workers struggle for better pay. Wal-Mart has also fought efforts to unionize its U.S. stores.

Wal-Mart's China headquarters is a monument to its frugality—a low building covered in white tile. The linoleum conference table is pockmarked with gaps where the plywood shows through. Tea is served in plastic cups. In Hatfield's office, where he presides over Wal-Mart's Asia operations, the rusty window frame is open, the sound of car horns washing in from the street.

Wal-Mart portrays itself as a force for good in China. The company says it enforces labor standards for its suppliers and insists that they comply with Chinese law.

"We look at safety. We look at health, and this comes with a cost. We ensure people get paid above minimum wage. They have to have fire extinguishers, fire exits," Tsuei said. "There are people out there who cannot have those things and offer a lower price. We do not do business with those people."

Wal-Mart employs 100 auditors who annually inspect every supplier's factory. Last year, the company suspended deals with about 400 suppliers, primarily for exceeding limits on overtime, Tsuei said. Another 72 factories were blacklisted permanently last year, he said, almost all for employing children under China's legal working age of 16.

But Wal-Mart does not conduct regular inspections of smaller factories that sell goods to the company through middlemen. Nor does it inspect all its suppliers' subcontractors or the Chinese manufacturing operations of U.S. suppliers such as Mattel Inc. and Dell Inc.

"The inspection system is not effective," said Li Qiang, a labor organizer who has been in contact with workers at more than a dozen factories that supply Wal-Mart, and who worked in one himself before leaving China three years ago. "The factories are usually notified in advance, and they often prepare by cleaning up, creating fake time sheets and briefing workers on what to say."

Li said these factories often require employees to work as many as 80 hours per week during the busy season for $75 to $110 per month, violating Chinese labor laws. If Wal-Mart really wanted to monitor conditions among its suppliers, Li said, it could do so with surprise visits, longer inspections and independent auditors. "But if they did that, prices would definitely go up," he said.

Wal-Mart is such a big player in China that it does not have to go looking for suppliers; the suppliers come to them, jamming a reception area at the procurement center.

Yu Xiaoma of Guangzhou Kangaroo Leathers Co., which makes handbags and wallets for Wal-Mart and other multinationals, said: "You can't make much money from Wal-Mart. They demand the lowest, lowest price."

Amy Gu, vice manager for exports for Goodbaby Corp., which makes baby strollers near Shanghai, said the company sometimes takes orders to supply Wal-Mart at or below cost through a partnership with a Canadian distributor, Dorel Industries Inc. "Dorel will tell us, 'Well, Wal-Mart has given us this price, we need a factory cost of this much,' " Gu said. "And we have to find a way to deliver it."

Wal-Mart says such arrangements benefit both sides. Hatfield said the company has made distribution more efficient and fair by cutting out middlemen and resisting corruption. In a country where transportation remains unreliable, WalMart's distribution network has given manufacturers access to customers around the country and the world.

He touted the case of a Guangdong factory that began supplying Wal-Mart stores in Shenzhen with a drink made of milk and egg yolk, delivering 25,000 units the first month. It proved popular. By September, Wal-Mart was shipping 1 million units a month across southern China.

"They can just drop it at our distribution center and we take care of the rest," Hatfield said. "Now it's a national brand."

Yet those who run the factory that produces the drink, Weijiasi Food & Beverage Co., say they haven't yet shared in the success.

"In the beginning, we made money," said a manager reached by telephone, who gave his name as Mr. Li.

"But when Wal-Mart started to launch nationwide distribution, they pressured us for a special price at below our cost. Now, we're losing money on every box, while Wal-Mart is making more money."

PAYING TRIBUTE TO GEORGE MERRIWETHER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a devoted entrepreneur from Monte Vista, Colorado. George Merriwether sets an example for people to work hard no matter their age. His enthusiasm for life is an inspiration to the community and I would like to join my colleagues here today in recognizing George's tremendous service to the Monte Vista community.

At ninety years old, George Merriwether is still putting in countless hours five to six times a week at his own irrigation business. George started the business at age sixty when, after working twenty-six years in Los Angeles, he decided to return to Colorado. George's irrigation business is oriented towards service, with two pump crews installing pumps and one man in charge of their rebuilding.

Mr. Speaker, George Merriwether is a dedicated individual who enriches the lives of Monte Vista citizens by providing a great irrigation service to the community. George has demonstrated a passion for work that is rare for a man of any age. One can only imagine what our nation could do if we all had as much energy and compassion as he does. George's enthusiasm and commitment certainly deserve the recognition of this body of Congress.

HONORING CONGREGATION SINAI AS THEY CELEBRATE THEIR 75TH ANNIVERSARY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Ms. DELAURO. Mr. Speaker it is with great pleasure that I rise today to extend my sincere congratulations to Congregation Sinai of West Haven, Connecticut as they celebrate their seventy-fifth anniversary. Today's celebration marks a tremendous milestone in the Congregation's history and I am proud to join them in commemorating this special occasion.

Houses of worship play a vital role in our communities—providing a haven for those in search of comfort as well as a place to build and strengthen the bonds of fellowship. In addition to catering to the cultural and spiritual needs of West Haven's Jewish community, the contributions made by both the organization and its members are innumerable. Throughout its seventy-five year history, Congregation Sinai has been an active member of the West Haven community—touching the lives of many.

Founded in 1929 by ten families as the West Haven Jewish Community Center, Congregation Sinai has grown to become a leading synagogue in the Greater New Haven area—providing spiritual leadership and working diligently for the betterment of their community. From annual blood drives and spiritual programs to sponsoring local political debates and charity fundraising events, the members of Congregation Sinai have truly helped to shape their community.

Working with the West Haven Clergy Association, the Congregation's leaders have worked diligently to promote brotherhood and understanding between groups of varying religious backgrounds. Members donate their time and energies to a variety of causes and the Congregation has opened its doors to youth and other community groups—offering them a place to meet so that they too can make a difference in the community.

Through their endless compassion and generosity, Congregation Sinai and its membership have left an indelible mark on the City of West Haven. I am proud to rise today to extend my sincere congratulations and very best wishes to Congregation Sinai as they celebrate their seventy-fifth anniversary. Mazel Tov!

HONORING THE MEN AND WOMEN OF THE 459TH AEROMEDICAL STAGING SQUADRON

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. YOUNG of Florida. Mr. Speaker, since September 11, 2001, valiant young Americans have served our country on the front lines of the War on Terrorism, and some have made the ultimate sacrifice. We will always remember and recognize their courage and selflessness in defense of our Nation.

Over the past two and a half years, thousands of brave soldiers, sailors, airmen and Marines have returned home wounded, sometimes seriously, from Operations Enduring Freedom and Iraqi Freedom. These heroes have arrived at Andrews Air Force base aboard the U.S. Air Force's Worldwide Aeromedical Evacuation flights.

Upon arrival, these service members are met by a group of heroes in their own right, the reserve airmen and women of the 459th Aeromedical Staging Squadron. Since their mobilization on April 3, 2003 these men and women have worked tirelessly to ensure that our injured and wounded service members are moved safely from the Aeromedical Evacuation System to stateside facilities where they can receive critical lifesaving care.

The 100-bed Contingency Aeromedical Staging Facility (CASF) was established in March to supplement the existing Andrews Air Force Base ASF in anticipation of Operation Iraqi Freedom. Working out of makeshift facilities, including a fitness building and tennis center, the men and women of the Andrews CASF maintain the highest standard of care for wounded service members transiting the U.S. Air Force's Evacuation system. Since April 2003 the Andrews CASF staff has moved 11,307 injured military personnel through Andrews on their way to military medical centers nationwide.

In our many visits to the Walter Reed Army Medical Center here in Washington, DC, and the National Naval Medical Center in Bethesda, Maryland, my wife Beverly and I have met countless young soldiers, sailors and Marines who survived life-threatening injuries because of the quick and effective work of those responsible for the Air Force's Aeromedical Evacuation Flights and Staging Facilities. Each and every day, the nurses, physicians, and medical technicians of the Andrews CASF stand ready to receive and care for some of our most critically wounded heroes from the War on Terrorism. All Americans are proud of their service and grateful for their efforts, none more so than those whose lives they held in their hands. The men and women of the Contingency Aeromedical Staging Facility have fulfilled their responsibility with distinction and with grace under pressure, and have demonstrated yet again the skill and dedication of America's citizen soldiers.

Mr. Speaker, I commend this often overlooked group of American heroes and I ask that my colleagues in the Congress join with me today in honoring their patriotism and their contribution to the cause of freedom around the globe.

So that they may be honored individually, I am submitting the names of the 86 personnel of the Andrews CASF, including 30 members of the 89th Medical Group, for the RECORD:

Adams, Shaun—MD; Anderson, James—VA; Anderson, Larry Jr—MD; Arrington, Shelia—VA; Allis, Patrick—NC; Ascue, Joseph—VA; Ayala-Tipmongkol, Patricia—VA; Barlow, Raymond—PA; Becton, Avery—VA; Beebe, Deborah—TX; Bowles, Charmayne—MD; Brandon, Lewis—MD;

Brooks, Sylvia—MD; Bullock, Geraldine—NC; Bulow, Tequela—MD; Campbell, Shanita—VA; Cesaro, Roger—MD; Delaney, Allen—SC; Devilla, Eustaquio—VA; Drummond, Jimmie—MD; Emeagwali, Edith—MD; Fairley, Xamodria—MD; Fields, Darrell—MO; Finn, Sophia—MD;

Fitzpatrick, Alice—VA; Fletcher, James—MA; Fullenwilder, Edson—MD; Gadsden, Tamar—MD; Gavin, Shaun—MD; Gill,—Mary—MD; Goston, Santoskaun—VA; Green (Walker), Candice—PA; Guerra, Adrian—IL; Hagans, Rudy—MD; Harvey, Nakia—MD; Hayden, Donald—KY;

Heyward, Cheryl—DC; Hodge, Nketia—VA; Howard, Charles—MD; James, Joseph—MD; James, Zenobia—MD; Johnson, Deborah—NC; Johnson, Doreen—MD; Johnson, Dwinese—NC; Jones, Bonnie—MD; Jones-Everett, Jennifer—MD; Kee, Frances—MD; Kellner, Karen—MD;

King, Caleb—MD; Knight, Nina—PA; Leggett, Taeka—VA; Lewis, Christopher—MD; Lipscomb, Marina—MD; Longfellow, Dawn—DE; Lyde, Georgia—MD; Martin, Roberta—MD; Masonis, Michael—MD; McCall, Colon—MD; Meredith, Janelle—MD; Mewborn, Margaret—VA;

Millner, Johnnie—VA; Mills, Edwards, Shera—NC; Moore, Ricardo—VA; Moore, Vanessa—NC; Morgan, Jennifer—VA; Morton, Sandi—VA; Myles, Larry—VA; Pauldine, Ronald—MD; Persons, Cynthia—VA; Phifer, Dianett—VA; Plog, Hunter—MD; Quinerly, Julius—VA;

Retener, Jose—MD; Reynolds, Gary—MD; Richardson, Leonard—MD; Roberts, Tracy—SC; Rudd, Brant—MD; Sawka, Ann—PA; Sherry-Notar, Precious—VA; Silver, James—MD; Simon, Norman—VA; Smith, William—VA;

Stiles, Erlinda—MD; Sylvestro, Patricia—MD; Taylor, Meghan—VA; Thomas, Edward—VA; Troutman, Wanda—NC; Tutwiler, Terry—VA; Vogan, Kieth—WV; Whitney, Angel—DE; Williams, Cornelius—VA; and Woodyard, April—NC.

PAYING TRIBUTE TO FRANK MONTERA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. MCINNIS. Mr. Speaker, it is with a sad heart that I rise to pay tribute to the passing of a great man from my district. Mayor Frank Montera, a native of Pueblo, Colorado, recently passed away at the age of 87. Frank dedicated his life to public service and I am honored today to bring his contributions to the attention of this body of Congress and this nation.

Mayor Montera will be forever remembered for his tremendous service to his community. He served on the Aguilar Town Council for almost 30 years, spent another eight on the

Aguilar School Board, and later served as the town's Mayor. Frank was a diligent public servant who had a long history of involvement in community affairs. Frank's example serves as a model of how hard work and altruistic endeavors facilitate a prosperous and rewarding community.

Mr. Speaker, Frank Montera was an incredible role model for America's youth. Frank dedicated his life to representing the scholastic endeavors of a generation. His compassionate and selfless service to Aguilar and the Colorado community certainly deserves the recognition of this body of Congress and this nation. My thoughts and prayers go out to his family during this time of bereavement.

H.R. 3030—IMPROVING THE COMMUNITY SERVICES BLOCK GRANT ACT

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. KIND. Mr. Speaker, last week, the House of Representatives passed H.R. 3030, Reauthorization of the Community Services Block Grant (CSBG). I am a strong supporter of this block grant, as noted in my previous remarks on February 4, 2004.

I am disappointed, however, that H.R. 3030, as passed, failed to correct provisions in current law that permit religious organizations receiving funds under this Act to discriminate in employment based on religion. While these provisions have existed in current law for five years, I cannot condone the continuation of discriminatory policies.

I supported the Democratic substitute offered by my colleagues on the Education and the Workforce Committee, Representatives LYNN WOOLSEY and GEORGE MILLER, that restore basic civil rights for workers while ensuring the ongoing participation of faith-based groups in CSBG programs. I also supported the Miller amendment to extend the Temporary Extended Unemployment Compensation program for an additional six months.

This extension is long overdue given that 8.4 million Americans are now unemployed—159,344 in Wisconsin alone—and it is taking longer and longer for them to find work. I hear daily from job seekers in my district about how difficult it has been to find employment in this economy. It is unconscionable that previous attempts to extend aid to those who have lost their jobs as a result of this Administration's misguided economic policies have been blocked by the majority leadership. Passing an extension of this important program has given hope to those who have, through no fault of their own, lost their jobs in these tough economic times.

Mr. Speaker, I am disappointed that the Woolsey amendment did not pass and that congressional leadership insists on retaining language discriminating against employees at faith-based organizations based on religion. Despite these reservations, I supported final passage of H.R. 3030, as amended by Mr. MILLER's unemployment extension amendment, and I hope the Senate will pass this important bill quickly to help millions of job seekers currently unemployed and looking for work.

DEMOCRATIC PROPOSAL TO EXTEND UI BENEFITS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. OWENS. Mr. Speaker, the Republican economists, the Wall Street Journal and other conservative propaganda organs are loudly proclaiming that the recession is over. They are trumpeting a new prosperity. But there are no jobs for the more than three million who lost their jobs. In my District unemployment is an awful reality. Every worker would like to be employed in a job that allows him to bring home a check big enough to meet his family's needs. However, if you don't have a job, then you welcome the desperately needed unemployment insurance.

The stories of two unemployed workers in my district put a human face on the ugly statistics related to this calamity. John Pleck and Nina Worrell both face an uncertain future because of the Bush Administration's focus on tax cuts for the rich. John's UI benefits expired in December, leaving him with no income. He spends each day searching the "job wanted ads" while submitting applications for various jobs. The Democratic plan would provide John with more time to find a well paying job. John's story is heard everyday throughout the United States. In fact, John's current situation is very similar to another constituent in my district. Mrs. Nina Worrell spent 14 years working for United Airlines. Mrs. Worrell has been unemployed for more than a year and has struggled to pay her bills. Her UI benefits also expired in December, leaving Mrs. Worrell with few choices. While she has continued to search for a new job, the unemployment rate in New York has continued to skyrocket. We must extend UI benefits for people such as John and Nina.

The Republican Administration continues to support policies that harm America: Continuation of the Republican war against working families; failure to appreciate contributions of working families to the overall national resources and purpose; the war in Iraq being fought by the relatives of these unemployed Americans.

Democrats prefer an economic stimulus package for jobs. The compassionate, the right action to take, the policy which best serves the national interests and national security at this time is the simple extension of unemployment insurance.

I urge a "yes" vote for this amendment.

COMMEMORATING KOREAN AMERICAN DAY

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to commemorate the 100th anniversary of the arrival of Korean immigrants to the United States.

On January 13, 1903, the first wave of Korean immigrants arrived in Hawaii. Although recruited to do backbreaking work on the sugar plantations, they arrived with great hope that they would find a better life for themselves and their children in this country. The second wave of Korean immigrants arrived after World War II and the Korean War. They came in search of political and educational freedom. The third influx of Korean immigrants arrived after 1965. Many in this last group were medical professionals who came to fill the shortage of health care workers in our inner cities. Since then, others have arrived and have pursued the American Dream of owning successful small businesses. These "mom and pop" shops have helped to revitalize declining neighborhoods and provide an important economic stimulus in communities throughout the nation. Despite language and cultural barriers and sometimes blatant discrimination, Korean Americans—like so many other immigrants who arrive to this country—are helping to keep America strong.

Toward this end, the Korean American community has shown its tremendous resiliency. Racial struggles exist in all communities. But we are obligated to reflect back upon certain tragedies as important reminders. Following the loss of life and extensive property damage in the Los Angeles riots of 1992, the Korean-American community and the Nation grieved and sought out better ways to prevent future violence. Many in the Korean-American community cite the Los Angeles riots as the historical turning point that led to the political mobilization of Korean Americans nationwide and brought about a new awareness for the need to reach out and build better relationships with other ethnic groups.

Today, as we continue to heal past wounds and embrace our differences, I can say with great pride that the growing Korean American community in this country makes up a valuable, dynamic and integral part of our diverse society. Korean Americans serve in our armed services. World War II history buffs will recall the brave and heroic acts of Colonel Young Oak Kim. He became the most decorated soldier in the 100th Infantry Battalion/442nd Regimental Combat Team. For his bravery, he earned the Silver Star Medal for saving countless American lives. As successful entrepreneurs, Korean-American business owners contribute $45 billion annually to our Nation's economy. Korean Americans have a great influence in the fashion industry, international trade, restaurants and many other community businesses. Korean cuisine is also crossing cultural lines. Enjoyed by Americans throughout the country, kimchi, for example, is a spicy pickled cabbage that is now famous for literally bringing tears to the faint.

Overall, Korean Americans have made significant contributions to this country in a wide variety of professions, ranging from the arts to medicine to the sciences. As a Nation, we are benefiting from this tremendous wealth of knowledge and talent.

With nearly 2 million Korean Americans living in the United States, Korean immigration is an important part of our Nation's history and collective heritage. Like most immigrants, Koreans brought with them the deeply embedded and cherished American values of hard work, sacrifice, and respect for family, church and community.

This was especially apparent at the January 13 gala dinner that I attended along with my colleague, LINDA SÁNCHEZ. The beautiful affair brought to an end a year-long celebration marking the 100th anniversary of the arrival of Korean Americans to this country. The Centennial Committee of Korean Immigration to the U.S. and the Korean American Day Committee are to be commended for making the celebration possible.

I would like to thank both Committees for allowing me to be a part of this wonderful celebration and, above all, for their commitment to preserving the tremendous history of the Korean American community. Because of their efforts, current and future generations will have a greater awareness of the proud legacy of the Korean American community and its important contribution over the last 100 years to the beautiful mosaic that today makes up and binds our diverse and great Nation.

HOUSE OF REPRESENTATIVES—*Wednesday, February 11, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 11, 2004.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

With all my heart, I will praise You, Lord, as the House of Representatives is called to order and this Nation is invited to join in prayer for its leaders.

Great are Your works of creation and salvation, Lord. For those who are bound to You in the covenant of love, Your marvelous ways are revealed day by day.

You, O Lord, are gracious and merciful. You provide food and shelter for all those who trust in You. You are faithful to Your promises and strengthen Your people for the task You set before them.

For Your faithful ones, fear of the Lord is the beginning of wisdom. Once embraced, Your goodness and truth enlighten each deed, each decision, and the entire experience of a new day.

Because You are so reliable, we can build on the foundation of Your justice and measure each step with prudence, both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1302

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. QUINN) at 1 o'clock and 2 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H. Con. Res. 354. Concurrent resolution to correct technical errors in the enrollment of the bill S. 610.

The message also announced that pursuant to section 4355(a)(2) of title 10, United States Code, the Chair, on behalf of the President pro tempore, appoints the Senator from Alabama (Mr. SESSIONS), from the Armed Services Committee, to the Board of Visitors of the United States Military Academy.

The message also announced that pursuant to section 1501(b)(1)(C), title XV, of Public Law 108-136, the Chair, on behalf of the Majority Leader, appoints the following individual to serve on the Veteran's Disability Benefits Commission:

Vice Admiral Dennis Vincent McGinn.

The message also announced that pursuant to section 710(2)(A)(ii) of Public Law 105-277, the Chair, on behalf of the Majority Leader, appoints the following individual to serve as a member of the Parents Advisory Council on Youth Drug Abuse:

David C. Guth of Tennessee, vice June Martin Milam, term expired.

UNITED AIRLINES UNFAIRLY CUTTING RETIREE HEALTH BENEFITS

(Mr. MICHAUD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHAUD. Mr. Speaker, as cofounder of the House Labor and Working Families Caucus, I come to the floor today to address a serious injustice, United Airlines' plan to further cut the retirees benefits of 1,000 United retirees and their families. This is in spite of an agreement established between the airline and the employees when United entered bankruptcy.

Two thousand five hundred flight attendants chose to retire early in order to preserve their retiree health benefits and agreed to sacrifice up to 30 percent of their well-earned pension. These loyal employees did so as part of a $1 billion concessionary contract to help their struggling employer. Now United is reneging on that deal.

This is underhanded, and this is wrong.

I urge our distinguished Speaker of the House, who has a large number of these retirees in his district, and all my colleagues to demonstrate a commitment to our retirees and join in asking the CEO of United Airlines to do the honorable thing and keep his promise to these workers.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 520 ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 520

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order, a motion offered by the chairman of the Committee on Ways and Means or his designee that the House concur in the Senate amendment. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 520 provides for the consideration of a motion offered by the chairman of the Committee on Ways and Means or his designee to concur in the Senate amendment to H.R. 743. The rule provides for 1 hour of debate in the House on the motion, equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means.

H. Res. 520 provides that the Senate amendment and the motion shall be considered as read. It waives all points of order against consideration of the motion to concur in the Senate amendment, and it provides that the previous question shall be considered as ordered on the motion to final adoption without intervening motion.

Mr. Speaker, the purpose of H. Res. 520 is to expedite the final consideration of H.R. 743, the Social Security Protection Act of 2003. Adopting this rule will allow the chairman of the Committee on Ways and Means to offer a motion to concur in the Senate amendment to the House-passed version of H.R. 743, which, if approved by the House today, will clear this bill for the President's signature. I urge my colleagues to join me in supporting this rule.

Last April, the full House of Representatives approved H.R. 743 with a 396 to 28 vote. The overwhelmingly bipartisan vote on House passage was preceded by the House rejecting the Green amendment. The Green amendment sought to maintain the so-called "last day rule," which is a loophole that a small number of workers in certain States have exploited in the past. To its credit, the underlying legislation before us closes down that loophole. Last December, the U.S. Senate approved its amendment to H.R. 743 by unanimous consent.

Let us be clear: H.R. 743 is noncontroversial legislation that has wide bipartisan support in both the House and Senate, and promptly adopting the Senate amendment to H.R. 743 will enable the President to sign this legislation into law this month.

The Committee on Rules approved this rule by voice vote yesterday, and I urge my colleagues to support it so we may proceed with debate and consideration of the underlying, bipartisan bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my fellow Texas Democrats have joined me here today on an issue of fairness. Will this House be fair to those who stand to lose a Social Security pension that has been fairly paid into and is fairly deserved, or will they vote to drive valuable public servants out of a system that desperately needs them?

Some Members believe that the Texas teachers and other public employees want some sort of special treatment. They do not. Their spouse correctly and completely paid into the Social Security system. And if they were just not teachers, policemen or firefighters, then they would receive their spousal benefit. Is this the message that we want to send, that the Social Security system will treat everyone honestly except those who are most valuable to our society?

Every Member here today supports the underlying bill, the Social Security Protection Act. Its main provisions would deny Supplemental Security Income, SSI, to fugitive felons, make it easier for seniors to get a lawyer for the complicated disability process, and reform the representative payee program so that seniors are not defrauded.

In fact, the House considered all of these reforms during the 107th Congress in a bill that passed the House unanimously. Unfortunately, that bill, H.R. 4070, was not conferenced before the end of the Congress, and it has returned in this much more controversial form.

I support all the reforms in this bill, Mr. Speaker; and if the bill consisted of just these provisions, we would again pass this bill unanimously. But the same bill that helps protect our seniors from Social Security fraud hurts our teachers, firefighters, police officers and other public servants around the country, including in my home State of Texas. Specifically, section 418 of this bill would prevent those hard-working public servants from protecting their retirement benefits from the harsh impact of the Government Pension Offset.

Mr. Speaker, this issue may appear complicated to some, but it is very clear to the thousands and thousands of dedicated teachers and other public servants who are affected by it. So clear, that both the National Education Association and the American Federation of Teachers are opposed to this bill.

Many teachers in this country have pension plans that are not covered under Social Security, but they have spouses who are working in jobs that do pay into Social Security. Under normal circumstances, a surviving spouse, such as a teacher, would be eligible for spousal or survivor's benefits if their spouse, who paid into Social Security, dies. But under current law, the Government Pension Offset reduces or eliminates the spousal or survivor's benefits for teachers and others who pay into pension plans that are not covered by Social Security.

Fortunately, there is a provision in the law right now that helps some people in this situation. It allows you to protect your retirement by switching jobs at the end of your career. This "last day exemption," as it is called, has helped many teachers in Texas and other States protect the Social Security benefits they deserve and that they now need to retire. However, section 418 of the underlying bill would eliminate this exemption. Instead, it would force teachers, police officers, firefighters, and other public servants to work 5 additional years before receiving full spousal benefits.

Mr. Speaker, that is no way to treat hard-working people who have dedicated their entire lives to serving their communities and this Nation. It hurts real people, especially women and lower-income individuals. That is why I will ask Members to defeat the previous question on this bill today. If we do, then I will do something that 285 of our colleagues have asked this Congress to do, and that is to eliminate the Government Pension Offset.

Our colleague, the gentleman from California (Mr. MCKEON), has a bill, H.R. 594, which 285 of us have cosponsored, which calls for the elimination of the GPO. If we defeat the previous question, then I will attach that bill to H.R. 743 without section 418 and then bring the measure before the House for its immediate passage so that teachers and other public servants can continue to protect their retirement benefits.

Mr. Speaker, there should not be a Texas Member in this House who does not vote to defeat the previous question. I would hope others would join us. I urge my colleagues to support Social Security fairness for teachers, firefighters, and police officers by voting to defeat the previous question.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I want to thank my colleague from Texas for his hard work on this issue and urge my colleagues to oppose this rule and support his amendment.

Mr. Speaker, if cosponsoring a bill is any indication of support for an issue, then the Frost amendment should pass by a minimum of 285 votes to 150. That is because 285 Members of this House have cosponsored H.R. 594, which is the underlying bill that the Frost amendment would add to H.R. 743. But now it is time to put our money where our mouth is. I am afraid that the so-called supporters of the GPO repeal are going to turn their back on the hundreds of thousands of public servants who are affected by the Government Pension Offset.

As we have heard, the Government Pension Offset unfairly reduces an individual's Social Security spousal benefit if he or she receives a government pension from employment not covered by Social Security. This is unfair and arbitrary and affects individuals at the Federal, State, and local level. Most often it hurts teachers, anyone who works for a school district, firefighters, police officers and other public servants.

Our office hears more about the GPO than practically any other issue. Teachers, firefighters, police officers, and civil servants are finding out every day that their Social Security spousal benefits are being reduced by the Government Pension Offset.

These are people who have dedicated their lives to making America better. When it comes time to retire, they lose out. That is because the GPO unfairly reduces Social Security spousal benefits by two-thirds, regardless of how much your government pension is. This is particularly unfair to low-income folks and widows, the very people Social Security was designed to protect. The Frost amendment would give us a chance to correct this serious problem and make sure that public servants receive a fair spousal benefit.

Like I said earlier, this is clearly a good idea, because 285 Members of the House have cosponsored this legislation, and that is why I urge support of the Frost amendment.

It is interesting to note we have someone, for example, in my own district who is a teacher for 30 years and has been married for 30 years; and when she retires, when her husband passes away, she is penalized for her spousal benefit under Social Security because she worked at a public school system, not by her choice; but they decided not to pay into Social Security because in 1983 that was one of the groups left out.

□ 1315

They did not pay into it, rightfully so, but under Social Security, under our law, if they are married 10 years to an individual, they have a right to those benefits, a spousal benefit.

It is interesting that our law punishes a group of teachers, for example, in Texas and Georgia who have said, okay, the law says I have to work 1 day; I will go work 1 day somewhere that pays both the teacher retirement and the Social Security. Is that right? Sure, it is not, but neither is the GPO, and that is why the Frost amendment is so important.

We need to reform the Government Pension Offset, and the best time is today, not waiting until the end of this year. We have been waiting for 15 years to reform the Government Pension Offset. So by voting for this legislation today, we are making the Government Pension Offset even worse. That is why the Frost amendment is so important.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, today the House stands to make a choice. We can choose to support our widowed teachers or we can choose to oppose them. The choice is ours. It is as simple as that.

I am appalled that our friends on the other side of the aisle would take a stand against our teachers and claim, as they have, that the teachers are engaged in a gimmick or a trick or a fraud. That is absolutely insulting to America's teachers. Obtaining spousal benefits is not a trick or a fraud. It is a payment for an entire lifetime of work by a spouse. It is a payment for an entire lifetime of a man and woman working together.

Saying that teachers receive Social Security for working 1 day is simply not true, and our friends on the other side of the aisle know it. It is embarrassing for them to say that. The real fraud is that the Republicans have failed to address the GPO.

Here is the way the Republican plan works. If someone works for an insurance company, there is no offset. If someone works for a pharmaceutical company, there is no offset. If someone works for an HMO, there is no offset. But if that person elects to be a teacher and educate our children, there is an offset and their spouse's lifetime of work is absolutely meaningless under the Republican plan.

At least our friends on the other side of the aisle are consistent. They believe that neither veterans nor teachers should receive benefits they have earned. Teachers work hard. They follow the rules. They deserve their earned benefits.

Section 418 was not included in the version of this legislation that the House passed with my support during the 107th Congress. I support other provisions of this legislation but cannot support H.R. 743 as introduced. Allowing section 418 to remain will strike at the very heart of public schoolteachers in Texas and at the very heart of our children.

The greater issue of this bill is the failure of Congress to address the Government Pension Offset. Our Republican leadership stood on this very floor during consideration of H.R. 743 last April and testified to their commitment towards ending the GPO. The gentleman from Texas (Mr. DOGGETT), a representative of Congress and a supporter and champion of Texas teachers, read an excerpt from a letter of the Majority Leader to a constituent stating, "I strongly believe that the GPO is an unfair and misguided piece of legislation. It undercuts the people who have spent their entire working life paying into the Social Security system by denying them their fair share of the hard-earned money they contributed. Married couples should be able to share those benefits with their spouses."

The chairman of the Committee on Ways and Means: "Is there a problem with the offset? Of course there is. We just had a colloquy on the floor with the chairman of the Subcommittee on Social Security and the ranking member of the Subcommittee on Social Security, and there was an agreement we will seriously address the pension offset."

The chairman of the Subcommittee on Social Security of the Committee on Ways and Means: "We absolutely need a full discussion of all Social Security provisions affecting public employees, which is why the Subcommittee on Social Security will have a hearing on these issues and legislative opportunities."

Well, enough is enough, Mr. Speaker. Talk is talk. Enough hearings. This is an example of actions speaking louder than words. Surely the leadership, who only scheduled four suspension bills and H.R. 743 for this entire week, can find the time to vote to repeal the GPO and the windfall elimination provision. All they have to do is call up a vote on H.R. 594, a piece of legislation that has 285 bipartisan cosponsors.

Here is the deal. Either we support the teachers, we support first responders, we support firefighters, we support police, we support public employees, or we do not. That is it. It is that simple. Put up or shut up. That is the deal.

Until we vote on H.R. 594 to repeal the GPO, we cannot allow H.R. 743 to pass. We cannot be involved in changing the rules of the game right in the middle of the game. And truthfully, Mr. Speaker, this is no game. This is our retired teachers' livelihood. Our teachers should be rewarded, not punished. Let us stand up for teachers today. Let us vote for the Frost amendment and let us vote "no" on H.R. 743.

Mr. LINDER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, let me commend the Committee on Rules and certainly the gentleman from Florida (Mr. SHAW) for initiating these kinds of needed changes.

My suggestion is, let us start dealing with some of the real problems of Social Security and move this, allow this bill to proceed, because what is in this bill is fair and it is needed.

I just want to take a couple of seconds to say how important I think it is to deal with the huge problem that we are going to be facing in Social Security.

We have an unfunded liability now of $12 trillion in today's dollars. If we look at the dollars in future years that is going to be required to keep our promises in Social Security, then it is going to be over $25 trillion. It is something that is terribly disrespectful of current and future retirees to continue to put off the solution to Social Security. I would hope that we would continue this debate and discussion and look for ways that we can keep Social Security solvent.

It has been a good program. Putting off the problem that we are facing and demagoguing in elections is not the solution.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, there is something ironic when we have 17,000 soldiers from my district in Fort Hood, Texas, fighting for democracy in Iraq, yet right here on the floor of the House with this bill the House leadership is denying democracy in the people's House of Representatives in America.

Basically, what is happening is that we are being denied, 435 Members are being denied the right to even vote on an amendment to this bill. Regardless of the substance of amendments, that is wrong. We cannot be preaching democracy in Iraq and fighting for it there while denying democracy here in America.

Secondly, for this bill to be called the Social Security Protection Act, I think it needs a large asterisk. Mr. Speaker, because the same people pushing this legislation are the ones who are the architects of the largest fiscal deficit disaster in American history. The greatest threat to the solvency of Social Security, its trust fund and benefits for seniors is the massive $7 trillion national debt that is stealing money away from the Social Security Trust Fund, money that should be saved to provide benefits for Social Security recipients.

So let us point out that, despite some of the good things in this bill, the fact is that this is not going to truly protect Social Security unless the leadership and the administration are willing to change their fiscal policies and stop the largest deficits in American history that are stealing $200 billion in just the last years from the Social Security Trust Fund.

Thirdly, while I support most of the specific reforms in this bill, I take great exception to the provisions that I think will harm not just firefighters and police officers, those who are protecting our homeland from burglars and problems here at home, as well as threats from abroad, but this is going to hurt soldiers. And let me tell my colleagues how.

The 17,000 soldiers from Fort Hood, Texas, who are in Iraq right now are paying Social Security taxes. When they get home, if they finish 20 years of service in the military and then they decide to continue that public service as a public schoolteacher in Texas, they are basically, under this bill, going to be punished in their retirement benefits, simply because they served our country for 20 years in the military, paid Social Security taxes, and they are going to have those Social Security benefits reduced.

It is wrong to be saluting them with our words, our soldiers in Iraq, while passing legislation today that is going to hurt thousands of Texas soldiers fighting in Iraq from being able to become a public schoolteacher and still receive the Social Security benefits that they have already paid into for 20 years.

The ultimate victim of this bill is going to be the children of States like Texas. Because, right now, teachers are planning on retiring in Texas, experienced teachers in communities that desperately need them to stay in the classroom. But this bill is going to deny those teachers an opportunity to receive their full Social Security benefits within the public school classroom.

Mr. Speaker, this bill should be defeated. This rule should be defeated. It is wrong.

Mr. LINDER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time.

Anyone watching this debate today must wonder, what in the world is the Congress doing to the schoolteachers? What in the world is going on here? I think a few things need a little bit of explaining.

We have two people, a man and a woman, working and receiving and paying into the Social Security Trust Fund. When one dies, the surviving spouse gets either surviving benefits or their own Social Security, whichever is higher. If we take a situation now and say, well, let us look at people who are not covered under Social Security. If they work 1 day under Social Security, they get both their survivor benefits and their pension plan. This is not fair.

If we were to allow this to happen for all American workers under Social Security where they could receive both their pension and the survivor's benefits, within 10 years we will have a $1 trillion deficit in the Social Security Trust Fund and we will be bankrupt.

This bill passed this House with only 28 people in the whole House voting against it. It passed the Senate under unanimous consent. There are some wonderful parts of this bill that we need to address. The problem with the noncovered workers, we are simply putting them on a level playing field with those that are covered. It is the right thing to do. It is the fair thing to do.

This House has already been through this. We have had a vote. The Senate has passed it by unanimous consent, and we should have a similar vote.

So when my colleagues come down to vote, look also at other provisions within the bill which are tremendously important to all of us. Waste, fraud, and abuse, paying in to fraudulent caregivers, all of these things are covered throughout this bill.

The amount that we are talking about, it affects some, and only a few and I might say a minority of the schoolteachers in Texas, but it does affect some of them, there is no question about that, but it in no way discriminates against them. They still are at an advantage, because they can work 5 years under Social Security, pay into for 5 years, and then they will receive the higher of their benefits or survivor benefits. But those people who give up their job and work 1 year in the cafeteria or something of this nature under a job that is not covered under Social Security, then they will collect, for paying 1 year into this, they will collect approximately $100,000 in Social Security dollars. It is wrong. It is not fair.

Mr. Speaker, let us pass this rule. Let us pass this bill and send it to the President for signature.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I apologize for not being able to ask a question to the chairman of our Subcommittee on Social Security, but all of Texas educators, teachers, administrators, custodial, cafeteria workers, everyone is affected by this bill. It moves it to be qualified to 5 years.

But let me explain the reason. They are not paying into Social Security now. They do not receive anything for what they pay into Social Security. It is for them as being a widow of someone who paid into Social Security.

The best example is that someone in my district works at a machine shop for 40 years and they are married to someone who works in a public school system in Texas, that the vast majority of the Texas school districts are not participants in Social Security by law from this Congress. That widow, that person dies, the person who paid in their whole work life into Social Security, their widow is penalized by this legislation. So Texas has found a way around it by letting them go to find a school district and work 1 day. Well, it is a loophole, but, in all honesty, it is a loophole that benefits widows.

It is interesting. I want to deal with the big issues in Social Security, but, in all honesty, we need to deal with it without punishing the widows of people who have paid into Social Security their whole work life and may have been married for 40 years and then they get penalized by the Government Pension Offset.

□ 1330

This legislation may have good parts in it, but the GPO part is wrong. We ought to deal with the Frost amendment so we can have reform of GPO on this House of Representatives floor without waiting for the Committee on Ways and Means to deal with it.

Mr. Speaker, I yield to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I take offense to the words that were used by the chairman when he talked about fraud and abuse when you talk about the widows of these individuals. Their husbands have worked 30, 40 years of their life.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Texas (Mr. GREEN) controls the time.

Mr. GREEN of Texas. Mr. Speaker, I have yielded my time to the gentleman from Texas (Mr. RODRIGUEZ). I would have gladly asked a question, and we would not have had to have this debate if we could have asked the question earlier.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW) for more illumination on this exciting subject which will be covered at great length in the next hour.

Mr. SHAW. Mr. Speaker, I would just speak to the gentleman who just spoke when he referred to what I talked about in taking offense of fraud and abuse. If the gentleman would read the bill, he would see what I am talking about is a completely different section.

This is the area where caregivers are receiving checks and misappropriating them. It has nothing to do with spouses.

This is a very large bill, and I would suggest that the gentleman read it and understand it, and then he would not misinterpret what I have just said.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIQUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today to discuss my disappointment with the provisions of this bill that affect many of the public service employees in Texas. Although the legislation has a number of good provisions, and I agree there are some good provisions in it, it does not correct the injustice that is hurting many of the firefighters, the policemen, officers and our teachers.

This act fails to correct the unjust Government Pension Offset, the windfall elimination provisions in the Social Security Act. These two sections of the Federal law take billions of dollars in earned Social Security benefits away from public service employees that have dedicated their lives to our communities; and often it is not until retirement age that these employees find out that their Social Security benefits will be cut, in some cases even eliminated.

Currently, the Government Pension Offsets can completely wipe out the amount these public service employees expect to receive based on Social Security contributions made by their spouses. In addition, the windfall elimination provision can dock their retirement benefits and their Social Security by as much as $303 dollars a month.

The original intent, Mr. Speaker, of the GPO was not to hurt public service employees. Rather, its purpose was to prevent higher paid workers from reaping extra benefits, and it was not the intent to have such a drastic effect on low-paid workers. Health insurance premiums and other out-of-pocket health costs alone can easily eat up more than half of a retiree's State retirement annuity. In some circumstances, it is sufficient to throw the worker into poverty. So we have got to look at this issue. It is critical.

By targeting the pensions of teachers and other school employees, the offset discourages qualified individuals from serving in our public schools, precisely at a time when our Nation faces a severe shortage in teachers. This is going to discourage someone who has worked out there for 20, 30 years in one job and chooses to go into education on the offset because they know that they are going to lose money because they have earned that Social Security. This is not the way to go about it.

Mr. Speaker, I am not alone in expressing my opposition to the Government Pension Offset; and my Republican friends know this. In fact, 285 House Members on both sides of the aisle have added their support to the legislation which would repeal their unjust provisions. So they know that if it is allowed most people will support it and vote for it. The thing is that they are not allowing this to occur, which is unfortunate.

If you agree that this provision is unfair, which 285 people have indicated that it is, then I would strongly urge you to vote in favor of the amendment that will be brought forth.

In addition, let me say we have an opportunity to take care of this. Let us take care of it. We are only working with the Republican leadership two days out of the week. My God, we can at least take care of this issue.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Speaker, as we take up H.R. 743, the Social Security Protection Act, for a third time in the 108th Congress, I cannot help but feel we still find ourselves with a flawed piece of legislation.

Mr. Speaker, the original intent of this bill was a worthy one, to reimburse Social Security benefits if people representing the recipient misuse them. That is not controversial. But the provision reducing the spousal Social Security benefits for countless teachers, school support personnel, police officers, firefighters and other public servants is most certainly controversial; and I intend to oppose the entire bill since it contains this provision and will adversely affect teachers and others across our State.

Let me say one thing, when teachers work one day, that does not mean that they are going to qualify to get a Social Security benefit for 30 years. What it means is that their spouses who have paid in 30 or 40 or 50 years into the Social Security system and then they die, that is money that they have earned, the family has put into Social Security. That is the money that you will get.

Now we need to understand that targeting pensions of teachers and other school employees will discourage qualified individuals from entering the classroom at exactly the same time the Nation is experiencing a shortage of teachers.

We say we are committed to education, yet in this bill we are profoundly uncommitted to educators.

I am also a co-sponsor of H.R. 594, a bill introduced in the 108th Congress that will eliminate the Government Pension Offset and windfall elimination provisions that target our teachers and other public servants by denying them the opportunity to retain their full Social Security benefits.

Mr. Speaker, I am deeply disappointed that this provision was included in an otherwise good bill because the rest of the bill is a good bill, and I compliment my friends.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I would ask the gentleman if he has any other speakers.

Mr. LINDER. Mr. Speaker, I have no further speakers.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it makes no sense to me to reduce the Social Security of a retiree simply because the spouse of that person happens to be a teacher or firefighter or police officer. These jobs are not high-paying jobs. Those who chose this path have done so because they want to make life better for all of us. And what do we do? We deprive them of a significant portion of their hard-earned retirement benefits just because one spouse works for a government entity instead of a private company. That is just wrong.

I urge a no vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will do two things.

First, it will strike Section 418, the portion of the bill that prevents certain public employees from receiving the full amount of their deceased spouse's Social Security survivor benefits, benefits to which they are otherwise entitled.

It will also add to the base bill. H.R. 743. the text of H.R. 594. the Social Security Fairness Act which will once and for all eliminate the pension offsets that so unfairly diminish all the retirement benefits of our valued public employees.

I want to point out that H.R. 594 is a broadly bipartisan bill and has the support of 285 co-sponsors. nearly two-thirds of the membership on the House.

Vote no on the previous question so we can help all of those who were unfairly penalized in their pension benefits simply because their spouse is a government employee and one works for the private sector.

Let us support those who go into the public service. Let us support our teachers, our policemen and our firemen. not penalize them.

Mr. Speaker. I ask unanimous consent that the text of the amendment in the nature of a substitute be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker. I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this rule and to vote against the previous question.

This is a more complex bill than we have heard in the last 40 minutes. This bill protects beneficiaries from representative payees who misuse benefits. It denies Social Security benefits to fugitive felons and probation parole violators. It deters program waste, fraud, and abuse on a much broader scale than that dealing just with the Texas schoolteachers. It helps individuals with disabilities gain access to representation and encourages disabled beneficiaries to return to work.

It improves and simplifies the SSI program, especially for members of the military and their families. It has bipartisan support and the support of key stakeholders and actually saves money; and, yes, it does close the loophole that enables some teachers in Georgia and Texas to contribute just a few dollars to Social Security to receive nearly $100,000 in additional lifetime spousal benefits.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to speak out against this egregious rule for the Social Security Protection Act of 2003. There is much good in the underlying bill. But there is one poison pill that will hurt our teachers and firefighters and police. Subjecting our teachers to the Government Pension Offset is a brutal blow to Texas teachers especially. 286 Members of this House have cosponsored H.R. 594 to repeal the GPO, because it is unfair. 286 Members, both Democrats and Republicans, from across the nation, want to get rid of the GPO. Texas teachers have been waiting for House leadership to hear the call of those 286 Members and bring up H.R. 594 for a vote on the floor. While those retired Texas teachers, widows and widowers, waited, they found a legal loophole that enabled them to get what is fair. Now, instead of doing what is right, House leadership wants to close the loophole.

This is the wrong way to go, and with one amendment we could get rid of this blow to Texas teachers. Or with the Democratic motion to recommit, that is the normal right of the minority party, we could have brought up H.R. 594, and fixed this problem the right way.

But the Rules Committee has issued an undemocratic rule that will not allow a vote on any amendments and that will not allow a motion to recommit. Obviously, they are afraid to hear the voices of our colleagues on this issue.

I am proud to stand with my Democratic colleagues from Texas, to fight for our teachers. I will vote against this rule and vote "no" on the underlying bill until the offending provision is taken out, or we fix the GPO once and for all.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 520

H.R. 743—SOCIAL SECURITY PROTECTION ACT

Amendment in nature of substitute:

Strike all after the resolved clause and insert:

Resolved, That upon adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, with Senate amendment thereto, and a motion to concur in the Senate amendment with the amendment specified in section 2 of this resolution shall be considered as pending without intervention of any point of order. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways a d Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for the division of the question.

SEC. 2. The amendment referred to in section 1 is as follows:

In the matter proposed to be inserted by the Senate amendment, strike section 418 and add a new title at the end consisting of the text of H.R. 594.

Mr. LINDER. Mr. Speaker. I yield back the balance of my time. and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker. I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 9 of rule XX. the Chair will reduce to 5 minutes the minimum time for electronic voting. if ordered, on the question of adoption of the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226. nays 197, not voting 9. as follows:

[Roll No. 22]

YEAS—226

Abercrombie
Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—197

Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman

Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

DeGette
Doggett
Filner
Honda
Kucinich
Meek (FL)
Rahall
Watson
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1407

Messrs. PALLONE, CARDOZA, LIPINSKI, MORAN of Virginia, SKELTON, Ms. MAJETTE and Mrs. McCARTHY of New York changed their vote from "yea" to "nay."

Mr. CALVERT changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, I was unavoidably detained for rollcall vote 22 due to a family emergency. Had I been present, I would have voted "no" on the previous question.

The SPEAKER pro tempore (Mr. QUINN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE TO HAVE UNTIL 5 P.M. WEDNESDAY, FEBRUARY 18, 2004, TO FILE REPORTS TO ACCOMPANY H.R. 3551, H.R. 3752, H.R. 1292 AND H. CON. RES. 189

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that the Committee on Science may have until February 18, 2004, at 5 p.m. to file the following late reports: H.R. 3551, Surface Transportation Research and Development Act of 2004; H.R. 3752, The Commercial Space Launch Amendments Act of 2004; H.R. 1292, Remote Sensing Applications Act of 2003; and H. Con. Res. 189, Celebrating the 50th Anniversary of the International Geophysical Year (IGY) and Supporting an International Geophysical Year-2 (IGY-2) in 2007–2008.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Mr. Speaker, pursuant to House Resolution 520, I call up from the Speaker's table the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, with a Senate amendment thereto, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.
Sec. 102. Oversight of representative payees.
Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
Sec. 105. Liability of representative payees for misused benefits.
Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.
Sec. 107. Survey of use of payments by representative payees.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.
Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
Sec. 204. Requirements relating to offers to provide for a fee, a product or service available without charge from the Social Security Administration.
Sec. 205. Refusal to recognize certain individuals as claimant representatives.
Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.
Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
Sec. 209. Authority for judicial orders of restitution.
Sec. 210. Authority for cross-program recovery of benefit overpayments.
Sec. 211. Prohibition on payment of title II benefits to persons not authorized to work in the United States.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.
Sec. 302. Temporary extension of attorney fee payment system to title XVI claims.
Sec. 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives.
Sec. 304. GAO study regarding the fee payment process for claimant representatives.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.
Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.
Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.

Sec. 407. Reauthorization of appropriations for certain work incentives programs.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Sec. 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision.

Sec. 420. Post-1956 Military Wage Credits.

Sec. 420A. Elimination of disincentive to return-to-work for childhood disability beneficiaries.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

Sec. 422. Technical correction relating to retirement benefits of ministers.

Sec. 423. Technical corrections relating to domestic employment.

Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

Sec. 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001.

Subtitle D—Amendments Related to Title XVI

Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.

Sec. 431. Uniform 9-month resource exclusion periods.

Sec. 432. Elimination of certain restrictions on the application of the student earned income exclusion.

Sec. 433. Exception to retrospective monthly accounting for nonrecurring income.

Sec. 434. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.

Sec. 435. Treatment of education-related income and resources.

Sec. 436. Monthly treatment of uniformed service compensation.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).".

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph.".

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2).".

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

"(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection.".

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).".

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following:

"(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.".

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is *bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.".*

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

"(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

"(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(i) the number of such reviews;

"(ii) the results of such reviews;

"(iii) the number of cases in which the representative payee was changed and why;

"(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(v) the number of cases discovered in which there was a misuse of funds;

"(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

"(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(viii) such other information as the Commissioner deems appropriate.".

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

"(k) PERIODIC ONSITE REVIEW.—

"(1) IN GENERAL.—In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

"(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

"(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

"(2) REPORT.—Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(A) the number of such reviews;

"(B) the results of such reviews;

"(C) the number of cases in which the representative payee was changed and why;

"(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(E) the number of cases discovered in which there was a misuse of funds;

"(F) how any such cases of misuse of funds were dealt with by the Commissioner;

"(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(H) such other information as the Commissioner deems appropriate.".

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

"(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

"(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

"(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

"(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

"(I) the number of the reviews;

"(II) the results of such reviews;

"(III) the number of cases in which the representative payee was changed and why;

"(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(V) the number of cases discovered in which there was a misuse of funds;

"(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

"(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(VIII) such other information as the Commissioner deems appropriate.".

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

"(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

"(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and";

(2) in subparagraph (B), by adding at the end the following:

"(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code

of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 202(x)(1)(A)(iv),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties.";

(3) in subparagraph (C)(i)(II)—

(A) by striking "subparagraph (B)(i)(IV),," and inserting "subparagraph (B)(i)(VI)"; and

(B) by striking "section 1631(a)(2)(B)(ii)(IV)" and inserting "section 1631(a)(2)(B)(ii)(VI)"; and

(4) in subparagraph (C)(i)—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

"(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

"(V) such person is person described in section 202(x)(1)(A)(iv).".

(b) TITLE VIII AMENDMENTS.—*Section 807 of such Act (42 U.S.C. 1007) is amended—*

(1) in subsection (b)(2)—

(A) by striking "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

"(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(E) obtain information concerning whether such person is a person described in section 804(a)(2); and";

(2) in subsection (b), by adding at the end the following:

"(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(A) such person is described in section 804(a)(2),

"(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(C) the location or apprehension of such person is within the officer's official duties."; and

(3) in subsection (d)(1)—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

"(E) such person is a person described in section 804(a)(2).".

(c) TITLE XVI AMENDMENTS.—*Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—*

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

"(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and";

(2) in clause (iii)(II)—

(A) by striking "clause (ii)(IV)" and inserting "clause (ii)(VI)"; and

(B) by striking "section 205(j)(2)(B)(i)(IV)" and inserting "section 205(j)(2)(B)(i)(VI)";

(3) in clause (iii)—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

"(V) such person is a person described in section 1611(e)(4)(A)."; and

(4) by adding at the end the following:

"(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 1611(e)(4)(A),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties.".

(d) EFFECTIVE DATE.—*The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.*

(e) REPORT TO CONGRESS.—*The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.*

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—*Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—*

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Secretary" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner".

(b) TITLE XVI AMENDMENTS.—*Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—*

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Commissioner" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner".

(c) EFFECTIVE DATE.—*The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.*

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—*Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—*

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking "paragraph (9)" and inserting "paragraph (10)";

(3) in paragraph (6)(A)(ii), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(4) by inserting after paragraph (6) the following:

"(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.".

(b) Title VIII Amendment.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

"(l) Liability for Misused Amounts.—

"(1) In General.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(2) Limitation.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.".

(c) Title XVI Amendments.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking "section 205(j)(9)" and inserting "section 205(j)(10)"; and

(2) by striking subparagraph (H) and inserting the following:

"(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

"(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.".

(d) Effective Date.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) Title II Amendments.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.".

(b) Title VIII Amendments.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.".

(c) Title XVI Amendment.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.".

(d) Effective Date.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) In General.—Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

"(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to $8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

"(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.".

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) In General.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8) is amended by adding at the end the following:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.".

(b) Effective Date.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) Treatment of Withholding of Material Facts.—

(1) Civil Penalties.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking "who" in the first sentence and inserting "who—";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to," and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,";

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) Administrative Procedure for Imposing Penalties.—Section 1129A(a) of such Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking "who" the first place it appears and inserting "who—"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,".

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section,".

(c) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking "and representations" and inserting ", representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

"(v) is violating a condition of probation or parole imposed under Federal or State law.";

(5) by adding at the end of paragraph (1)(B) the following:

"(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

"(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

"(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

"(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

"(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

"(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related."; and

(6) in paragraph (3), by adding at the end the following:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties.".

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(4)";

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed"; and

(D) by adding at the end the following:

"(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

"(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

"(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

"(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

"(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

"(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related."; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

"(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

(c) CONFORMING AMENDMENT.—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE, A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b–10) is amended—

(1) in subsection (a), by adding at the end the following:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer—

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.".

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than $3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.".

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

(1) in subparagraph (A), by inserting "'Centers for Medicare & Medicaid Services'," after "'Health Care Financing Administration',", by striking "or 'Medicaid'," and inserting "'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan'," and by inserting "'CMS'," after "'HCFA',";

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services,".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:

"(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

"(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

"(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

"(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(2) by inserting after subsection (a) the following:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

"(A) Any individual who suffers a financial loss as a result of the defendant's violation of subsection (a).

"(B) The Commissioner of Social Security, to the extent that the defendant's violation of subsection (a) results in—

"(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

"(ii) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 205(j).

"(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

"(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual."; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 1011) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COURT ORDER FOR RESTITUTION.—

"(1) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

"(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

"(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the Individual's representative payee appointed pursuant to section 807(i).

"(2) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

"(3) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4) RECEIPT OF RESTITUTION PAYMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(B) PAYMENT TO THE INDIVIDUAL.—In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual.".

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

"(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

"(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 1631(a)(2).

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual."; and

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking "(1) If a person" and all that follows through "(2)".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) IN GENERAL.—Section 1147 of the Social Security Act (42 U.S.C. 1320b–17) is amended to read as follows:

"CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS

"(a) IN GENERAL.—Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

"(b) LIMITATION APPLICABLE TO CURRENT BENEFITS.—

"(1) IN GENERAL.—In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due—

"(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

"(B) in the case of benefits under title XVI, by an amount greater than the lesser of—

"(i) the amount of the benefit payable to the person for that month; or

"(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

"(2) EXCEPTION.—Paragraph (1) shall not apply if—

"(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

"(B) the person so requests.

"(c) NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action—

"(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

"(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

"(d) INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.—Section 207 shall not apply to actions taken under the provisions of this section to decrease amounts payable under titles II and XVI.

"(e) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

"(1) The old-age, survivors, and disability insurance benefits program under title II.

"(2) The special benefits for certain World War II veterans program under title VIII.

"(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66).".

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

"(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.".

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended—

(A) in subsection (a)(1)—

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking "any payment" and all that follows through "under this title" and inserting "any payment under this title"; and

(iii) by striking "; or" and inserting a period;

(B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by adding at the end the following:

"(e) CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.—For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.".

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b–18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "excluding any other" and inserting "excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding"; and

(ii) by striking "50 percent of"; and

(B) by striking paragraph (6) and inserting the following:

"(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.".

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.—Section 214 (42 U.S.C. 414) is amended—

(1) in subsection (a), by inserting before the period at the end the following: ", and who satisfies the criterion specified in subsection (c)";

(2) in subsection (b), by inserting before the period at the end the following: ", and who satisfies the criterion specified in subsection (c)"; and

(3) by adding at the end the following:

"(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—

"(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

"(2) at the time any such quarters of coverage are earned—

"(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

"(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

"(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.".

(b) DISABILITY BENEFITS.—Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

"(C) if not a United States citizen or national—

"(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

"(ii) at the time any quarters of coverage are earned—

"(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

"(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

"(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to benefit applications based on social security account numbers issued on or after January 1, 2004.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) In General.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting ", except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences" after "subparagraph (B)"; and

(2) by adding at the end the following: "In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.".

(b) Effective Date.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) In General.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "section 206(a)" and inserting "section 206";

(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(C) by striking "paragraph (2) thereof" and inserting "such section";

(2) in subparagraph (A)(i)—

(A) by striking "in subparagraphs (A)(ii)(I) and (C)(i)," and inserting "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)"; and

(B) by striking "and" at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

"(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

"(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

"(iv) by substituting, in subsection ;b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

"(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a))'."; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

"(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

"(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

"(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

"(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

"(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed $75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

"(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

"(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

"(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

"(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.".

(b) Conforming Amendments.—Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "subsection (g)"; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "subsection (g)"; and

(B) in the matter following clause (ii), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "State".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) Sunset.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

(a) In General.—The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) Standards for Inclusion in Demonstration Project.—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) Assessment of Fees.—

(1) In general.—The Commissioner may assess representatives reasonable fees to cover the

cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) DISPOSITION OF FEES.—Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) AUTHORIZATION OF APPROPRIATIONS.—The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(d) NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) REPORTS BY THE COMMISSIONER; TERMINATION.—

(1) INTERIM REPORTS.—On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) TERMINATION DATE AND FINAL REPORT.—The termination date of the demonstration project under this section is the date which is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) CONSULTATION REQUIRED.—The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) REPORT.—Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study and evaluation conducted pursuant to subsection (a).

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking "conducted under subsection (a)" and inserting "initiated under subsection (a) on or before December 17, 2005"; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: "The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005.".

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking "(42 U.S.C. 401 et seq.)." and inserting "(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act.".

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.".

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

"(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b–21(g)(2)) is amended to read as follows:

"(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.".

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b–19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

"An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1921).

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) GAO REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19) that—

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b–19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.

(a) BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.—Section 1149(d) of the Social Security Act (42 U.S.C. 1320b–20(d)) is amended by striking "2004" and inserting "2009".

(b) PROTECTION AND ADVOCACY.—Section 1150(h) of the Social Security Act (42 U.S.C. 1320b–21(h)) is amended by striking "2004" and inserting "2009".

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking "and a transcript" and inserting "and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—

(1) in paragraph (1), by striking "section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act" and inserting "section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act";

(2) in paragraph (2), by striking "section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)" and inserting "section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act";

(3) in paragraph (3), by striking "paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)" and inserting "paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)"; and

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking "241(a)" and inserting "237(a)".

(b) TECHNICAL CORRECTIONS.—

(1) TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking "deportation" each place it appears and inserting "removal";

(B) by striking "deported" each place it appears and inserting "removed"; and

(C) in the heading, by striking "Deportation" and inserting "Removal".

(2) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting "or the Secretary of Homeland Security" after "the Attorney General" each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by—

(A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.—The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "she was married";

(4) by inserting "(1)" after "(c)"; and

(5) by adding at the end the following:

"(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving wife,

"(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

"(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior wife continued to remain institutionalized up to the time of her death, and

"(E) the individual married the surviving wife within 60 days after the prior wife's death.".

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "he was married";

(4) by inserting "(1)" after "(g)"; and

(5) by adding at the end the following:

"(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving husband,

"(B) the prior husband was institutionalized during the individual's marriage to the prior

husband due to mental incompetence or similar incapacity,

"(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior husband continued to remain institutionalized up to the time of his death, and

"(E) the individual married the surviving husband within 60 days after the prior husband's death.".

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting "Kentucky, Louisiana," after "Illinois,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

"(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) IN GENERAL.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

"(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as determined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

"(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

"(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(b) CONFORMING AMENDMENTS.—

(1) WIFE'S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking "subsection (q) and paragraph (4) of this subsection" and inserting "subsections (k)(5) and (q)"; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND'S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking "subsection (q) and paragraph (2) of this subsection" and inserting "subsections (k)(5) and (q)".

(3) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking "subsection (q), paragraph (7) of this subsection," and inserting "subsection (k)(5), subsection (q),"; and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) WIDOWER'S INSURANCE BENEFITS.—

(A) IN GENERAL.—Section 202(f) of the Social Security Act (42 U.S.C. 402(f)) is amended—

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking "subsection (q), paragraph (2) of this subsection," and inserting "subsection (k)(5), subsection (q),".

(B) CONFORMING AMENDMENTS.—

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by striking "paragraph (6)" and "paragraph (5)" (in clauses (i) and (ii)) and inserting "paragraph (5)" and "paragraph (4)", respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking "or (f)(4)" each place it appears and inserting "or (f)(3)".

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking "or (f)(3)" and inserting "or (f)(2)".

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking "or (f)(4)" and inserting "or (f)(3)".

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking "and 202(f)(5)" and inserting "and 202(f)(4)".

(5) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking "Except as provided in paragraph (4) of this subsection, such" and inserting "Such"; and

(B) by striking paragraph (4).

(c) EFFECTIVE DATE AND TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted "employment" as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.

(a) Inclusion of Noncovered Employees as Eligible Individuals Entitled to Social Security Account Statements.—Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b–13(a)(3)) is amended—

(1) by striking "who" after "an individual" and inserting "who" before "has" in each of subparagraphs (A) and (B);

(2) by inserting "(i) who" after "(C)"; and

(3) by inserting before the period the following: ", or (ii) with respect to whom the Commissioner has information that the pattern of wages or self-employment income indicate a likelihood of noncovered employment".

(b) Explanation in Social Security Account Statements of Possible Effects of Periodic Benefits Under State and Local Retirement Systems on Social Security Benefits.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual's monthly retirement, survivor, and auxiliary benefits.".

(c) Truth in Retirement Disclosure to Governmental Employees of Effect of Noncovered Employment on Benefits Under Title II.—Section 1143 of the Social Security Act (42 U.S..C. 1320b–13) is amended further by adding at the end the following:

"Disclosure to Governmental Employees of
Effect of Noncovered Employment

"(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute 'employment' as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual's employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

"(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality.".

(d) Effective Dates.—The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

(a) Payment to the Social Security Trust Funds in Satisfaction of Outstanding Obligations.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

"(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

"(1) $624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) $105,379,671 to the Federal Disability Insurance Trust Fund; and

"(3) $173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001.".

(b) Conforming Amendments.—

(1) Repeal of authority for annual appropriations and related adjustments to compensate the social security trust fund for military wage credits.—Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking "(a)"; and

(B) by striking subsection (b).

(2) Amendment to reflect the termination of wage credits effective after calendar year 2001 by section 8134 of public law 107–117.—Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting "and before 2002" after "1977".

SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.

(a) In General.—Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting "(i)" after "began"; and

(2) by adding after "such disability," the following: "or (ii) after the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity,".

(b) Effective Date.—The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) In General.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting ", but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) Effective Date.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) Amendment to Internal Revenue Code.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) Amendment to Social Security Act.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

(c) Conforming Amendment.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer".

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) Correction of Citation Respecting the Tax Deduction Relating to Health Insurance Costs of Self-Employed Individuals.—Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

(b) Elimination of Reference to Obsolete 20-Day Agricultural Work Test.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) Social Security Act Amendment.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;".

(b) Internal Revenue Code of 1986 Amendment.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and".

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001.

(a) Quorum Rules.—Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking "entire Board of Trustees" and inserting "Trustees then holding office".

(b) Powers of the Board of Trustees.—Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

"(4) Powers of the board of trustees.—The Board of Trustees shall—

"(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

"(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

"(C) adopt bylaws and other rules to govern its operations;

"(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

"(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

"(F) pay administrative expenses of the Trust from the assets of the Trust; and

"(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.".

(c) State and Local Taxes.—Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

"(6) State and local taxes.—The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust.".

(d) Funding.—Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) Transfers.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended—

(1) by inserting "or the Railroad Retirement Account" after "National Railroad Retirement Investment Trust" the second place it appears;

(2) by inserting "or the Railroad Retirement Board" after "National Railroad Retirement Investment Trust" the third place it appears;

(3) by inserting "(either directly or through a commingled account consisting only of such obligations)" after "United States" the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: "or to purchase such additional obligations".

(f) Clerical Amendments.—Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(1) in subparagraph (B), by striking "trustee's" each place it appears and inserting "Trustee's";

(2) in subparagraph (C), by striking "trustee" and "trustees" each place it appears and inserting "Trustee" and "Trustees", respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking "trustee" and inserting "Trustee".

Subtitle D—Amendments Related to Title XVI

SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVIDEND INCOME.

(a) Infrequent or Irregular Income.—Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows—

"(3) in any calendar quarter, the first—

"(A) $60 of unearned income, and

"(B) $30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;".

(b) Interest or Dividend Income.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (21), by striking "and" at the end;

(2) in paragraph (22), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(23) interest or dividend income from resources—

"(A) not excluded under section 1613(a), or

"(B) excluded pursuant to Federal law other than section 1613(a).".

(c) Effective Date.—The amendments made by this section shall be effective with respect to benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) Underpayments of Benefits.—Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended—

(1) by striking "6" and inserting "9"; and

(2) by striking "(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)".

(b) Advanceable Tax Credits.—Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

"(11) for the 9-month period beginning after the month in which received—

"(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

"(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);".

(c) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) In General.—Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking "a child who" and inserting "under the age of 22 and".

(b) Effective Date.—The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NONRECURRING INCOME.

(a) In General.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

"(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

"(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be nonrecurring income.".

(b) Deletion of Obsolete Material.—Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

"(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.".

(c) Effective Date.—The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) In General.—Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended—

(1) by inserting "and" after "citizen of the United States,"; and

(2) by striking ", and who," and all that follows and inserting a period.

(b) Effective Date.—The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) Exclusion From Income of Gifts Provided for Tuition and Other Education-Related Fees.—Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking "or fellowship received for use in paying" and inserting "fellowship, or gift (or portion of a gift) used to pay".

(b) Exclusion From Resources for 9 Months of Grants, Scholarships, Fellowships, or Gifts Provided for Tuition and Other Education-Related Fees.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended—

(1) in paragraph (13), by striking "and" at the end;

(2) in paragraph (14), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.".

(c) Effective Date.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 436. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) Treatment of Pay as Received When Earned.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

"(10) For purposes of this subsection, remuneration for service performed as a member of a *uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title.".*

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

MOTION OFFERED BY MR. SHAW

Mr. SHAW. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SHAW moves that the House concur in the Senate amendment to H.R. 743.

The SPEAKER pro tempore. Pursuant to House Resolution 520, the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House the Social Security Protection Act of 2003, bipartisan legislation that fights fraud and abuse in the Social Security programs.

In April, the House overwhelmingly passed this bipartisan bill by a vote of 396 to 28. In December, the Senate passed an amended version of the Protection Act unanimously. They did this by unanimous consent. Today, we have an opportunity to pass this essential legislation so that it be sent to the President and made law.

Workers, retirees, individuals with disabilities, survivors and their families have paid for and deserve better protection under Social Security and the enhanced vigilance against waste, fraud and abuse this bill provides.

First, this bill protects nearly 7 million beneficiaries who cannot manage their own affairs and rely on representative payees appointed by the Social Security Administration. It does this by raising payee standards, increasing oversight, and imposing stricter penalties on those who would mismanage the benefits entrusted to their care.

Second, this bill denies Social Security benefits to fugitive felons and probation/parole violators.

Third, it provides tools to further safeguard Social Security programs, including new civil monetary penalties for those who withhold information to get benefits and improving collection of overpaid benefits.

Fourth, this legislation closes a loophole in the law that has allowed an isolated group of public employees to receive full Social Security spouse and widow benefits that no other identical working spouse in America receives even when both pay into the Social Security program.

Finally, the bill helps people with disabilities by giving greater access to qualified representatives when applying for benefits, by improving work incentive programs, and by expanding eligibility for the Work Opportunity Tax Credit to encourage more employers to hire individuals with disabilities.

And, accompanying all of this, the taxpayers will save $800 million over the next 10 years.

I thank Senators GRASSLEY and BAUCUS of the Senate Finance Committee who offered to work with the Committee on Ways and Means and, of course, the gentleman from California (Mr. MATSUI) as we have done this on a bipartisan basis as they developed their amendments to the House-passed bill.

This amendment made a number of enhancements to the bill.

First, it increased overpayment collection by authorized recovery across Social Security and Supplemental Social Security Income program lines.

It provides for a 5-year nationwide demonstration project providing direct fee withholding for qualified nonattorneys who help individuals through the complex disability application process.

It provides additional time for the Social Security Administration to test initiatives to help individuals with disabilities return to work as well as extended funding for services that help individuals with disabilities return to work and keep working.

It provides for the ability to restart disability benefits based on their parent's work if an individual disabled in childhood tries to work but must later stop.

Lastly, enhancement and simplification of the Supplemental Security Income program, especially for members of the military and their families.

This bipartisan legislation has support of many organizations because it does what is right for the Social Security program, the people who pay into it and the people who benefit. It was developed in cooperation with the Social Security Administration and the Social Security Inspector General. It is also supported by AARP, Citizens Against Government Waste, the National Conference of State Social Security Administrators, the Consortium for Citizens with Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, and the National Organization of Social Security Claimants' Representatives.

☐ 1415

This bill probably will not make the front page of your newspaper on kitchen tables tomorrow morning. That is unfortunate, as Social Security is one of our Nation's most important programs and constitutes our government's largest expense, consuming approximately one-quarter of our Federal budget and growing. It deserves our Nation's attention.

Protecting the most vulnerable beneficiaries and stopping Social Security from hemorrhaging precious dollars through fraud and benefit misuse is important and serves as a shining example of what Members of Congress can achieve for the American people when we work together.

I strongly urge my colleagues to vote "yes" and give workers and beneficiaries the protections that they deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Today, we have before us the Social Security Protection Act. This legislation was developed over several years in conjunction with the Social Security Administration, its Inspector General, beneficiary representatives and others. The bill reflects a preconference agreement negotiated with the other body on a bipartisan basis and is supported by the Consortium for Seniors With Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, the National Organization of Social Security Claimants' Representatives and others.

I would like to take a few moments to highlight several items in this bill. The first deals with representative payees. Nearly 8 million Social Security and SSI beneficiaries who are unable to manage their own benefits have representative payees, including children, the mentally impaired and the very frail elderly. Most payees work hard to ensure that the benefits are spent to meet the beneficiary's needs. However, in some instances SSA's screening process for determining who should serve as a payee has failed to prevent the misuse of these benefits. This legislation gives SSA the tools it needs to reissue benefits that are misused. It provides for penalties for those who would take advantage of some of our most vulnerable citizens. It also strengthens Social Security's oversight of these payees.

Second, the bill helps individuals with disabilities gain greater access to legal representation when filing for benefits. Social Security disability insurance beneficiaries already have this access, and the bill extends it to SSI claimants, as well, so they can get the needed help and ensure that their applications are fully considered.

Finally, and very importantly, the bill prohibits paying Social Security benefits to fugitive felons and to those who have violated probation or parole. It is my strong belief that we should not be supporting fugitives who are fleeing the law, and this bill will help bring them to justice.

Now, I would like to mention one provision in the bill that has generated some controversy. This is the provision that would modify an exemption to the government pension offset, or known as GPO, that is being used by some workers but is not available to all. My colleagues from Texas have discussed this specific provision in more detail during the debate on the rule and will discuss it further on this bill, but the larger issue here itself is the GPO. Across the country, people who have worked hard all their lives are unexpectedly faced with the loss of Social Security benefits that they had been counting on because of the GPO. The GPO, which was created in the 1970s and phased in during the 1980s, was designed to provide roughly equal treatment between people who work under Social Security and pay into the system and those who do not. It was designed to end a disparity between couples where in one couple, both members paid into the Social Security system and in another when one spouse paid into the system and the other spouse paid into a State retirement system. Unfortunately, we now know that the GPO often produces unfair results. It is a rough tool that clearly needs adjustments.

Let me illustrate my point. Research shows that a widow needs 80 percent of the income needed to support a couple. Because of the GPO, the couple's income from Social Security can drop to zero when the husband dies. On average, the reduction caused by the GPO is $421 per month, which cuts the average widow's benefit in half, jeopardizing her ability to keep up with fixed costs of housing, health care and others that still exist after the death of her spouse.

We tried to address some of these problems with the GPO during the committee markup last year, but we were rejected on party-line votes. We were also denied the opportunity to address the larger GPO problem in the Rules Committee when the bill came before the House last April. Finally today, my good friend from Texas (Mr. FROST) attempted to bring forward for debate a bill that would fully repeal the GPO, and he was denied that opportunity.

The will to solve the problem with the GPO is clearly an issue of priorities. My Democratic colleagues and I have been prevented from bringing this issue before the Congress over and over again, while my friends on the other side of the aisle have continued to push policies that benefit the wealthy at the expense of this important issue.

For example, the GPO affects 400,000 hardworking Americans every year and eliminating it would cost $31 billion over 10 years. Not $800 billion, not $1 trillion, but it would cost $31 billion over 10 years. In contrast, the 200,000 households that make more than $1 million each year will see $90 billion in tax cuts over that same period. That is half as many people being benefited at three times the cost. There are other examples of misplaced priorities. Congress could and should close corporate tax shelters and prevent companies from incorporating offshore. That would save $30 billion over a 10-year period and that amount would actually take care of dealing with the 10-year period of eliminating the GPO completely.

This is an issue that should not go unaddressed any longer, and I hope that the Congress will make it a priority for consideration this year. While I am disappointed that we are not addressing this important issue today, there are many other provisions in this bill that I mentioned that will strengthen the Social Security system, and I intend to support this bill; but it is my hope that we do address the issue of the government pension offset because it is creating a great deal of consternation and damage to many people who obviously lose their spouse. I support the legislation, but I just hope that we can take some action on the GPO in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in strong support of the Social Security Program Protection Act. This bill contains important provisions to better protect disabled Americans, prevent fraud and abuse in Social Security programs, and help disabled beneficiaries return to work.

Over the years, the Committee on Ways and Means, on which I serve, has taken a number of steps to better protect Social Security recipients and other taxpayers. The bill we are considering today will make an important contribution to those continuing efforts.

I commend the gentleman from Florida (Mr. SHAW) for his leadership and persistence on this legislation over the course of several Congresses. I particularly want to thank him for including provisions that will help bring criminals to justice, rather than subsidizing their flight, by preventing convicted fugitive felons and parole or probation violators from getting Social Security checks. These provisions build on my previous legislation that now has successfully blocked prisoners and fugitive felons from getting illegally millions of dollars in supplemental security income checks.

Please join me in supporting this legislation.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise today on behalf of the teachers in the State of Texas in strong opposition to this legislation.

H.R. 743 turns a 1-day loophole, which was a minor inconvenience, into a 5-year career deterrent. My office is flooded with letters from justifiably concerned teachers that do not want to be forced out of the classroom even one day earlier than when they are ready.

Mr. Speaker, I would like to know if the supporters of this bill are aware of the teaching shortage crippling our education system. Clearly they are not or they would not support the legislation before us today. They would not force teachers in Texas and Georgia to choose between retirement benefits and a career educating our children. If my colleagues were aware of these critical shortages, they would have surely stripped this provision from the legislation when they had an opportunity to do so almost a year ago. If they were aware of the growing teacher-student ratios in public schools, they would definitely honor our teachers with the retirement benefits they deserve by repealing the WEP and GPO. It could easily be done by passing H.R. 594. This bill, with 285 bipartisan cosponsors, would end this inequity not only for Texas teachers but for government employees throughout the country.

In 2002, 376,000 public servants had their Social Security spousal benefits affected by the GPO. Forty percent of these were widows and widowers, and 73 percent were women. These are hard-working people who are relying on full spousal benefits to live comfortably in their retirement. Many learn of the GPO when it is too late to change their retirement plans.

Yesterday, my office had the pleasure of speaking with Mrs. Carolyn Martin, a school librarian at Gregory-Portland High School in the coastal bend of Texas. Mrs. Martin was understandably concerned about her own future, but much more focused on the future of a teacher at her school who recently lost her husband over the holidays. This teacher has two children in college and, if H.R. 743 passes, will not be able to collect her widow's benefits under Social Security if she wants to stay in the classroom.

Mrs. Martin characterized the issue best. She said, "Social Security is the difference between a minimal standard of living and a dog-food diet in retirement." She was outraged, as am I, and again I quote, that "millionaires can collect Social Security in this country but not Texas teachers."

Mr. Speaker, I implore my colleagues to consider the consequences of this vote today. Vote against H.R. 743.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

I would like to point out at this time that even under this bill, the offset is only $2 for every $3 of pension received, whereas those of us who are going to depend on Social Security, those that depend on Social Security, the offset is a dollar for dollar. So the teachers that people are talking about and public employees that this might affect, they are still getting a much better deal than people who have paid into Social Security.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, this is a very important bill, and I rise in strong support of its passage; but I want to take just a few minutes to speak to a particular provision in this bill and the unfortunately contentious debate that surrounds it.

There is a lot of misinformation out there about the government pension offset provision, and I want to make sure everyone understands what we are talking about today. Under Social Security, spouses of covered workers who do not work outside the home themselves are entitled to spousal benefits. But if both spouses work, their spousal benefits are reduced, or offset, one dollar for every dollar of Social Security benefits that they themselves earn. This is true for every single couple in America that is covered by Social Security.

In Texas, many of our school districts have opted out of the Social Security system, instead using the Texas teachers retirement system, so that those district teachers and staff pay into the TRS, not Social Security. As a matter of fairness, the law says that if you pay into a different retirement system, like TRS, then your Social Security spousal benefits are offset by the benefits that you accrue in the other system. This is only fair, and it has been the law for a generation.

Unfortunately, a loophole exists in that law that says even if you work your entire career in the teacher retirement system and then work for just one day in another school district that uses Social Security, you are suddenly entitled to full spousal benefits under Social Security, as if you only worked one day in your entire life.

That is simply unfair, Mr. Speaker.

The offset law is in place to protect the spirit of Social Security, and the loophole violates that spirit.

□ 1430

Opponents of this provision are correct, though, when they say Texas teachers have been targeted for unfair treatment. They have been targeted by their unions, Mr. Speaker, who have spread misinformation about the spousal benefit loophole. Not only has that misinformation been spread about this debate, but it is poisoning the retirement planning of deliberately misinformed Texas teachers.

In recent months some of our offices have gotten calls from single teachers who have been led to believe by their unions that they could qualify for the spousal benefit loophole when they have never even been married. That is the outrage, Mr. Speaker. Not this bipartisan effort to protect the Social Security system from waste, fraud, and abuse. Teachers in Texas and around the country will be just as protected by this bill as everyone else, which is the whole point of the Social Security system in the first place.

We are doing the right thing, and I urge my colleagues to vote yes.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the State of Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, even though I hate to disagree with another Texan, particularly the majority leader, but let me tell the Members the real story. It is not the unions that are the problem. Congress made in 1983 Social Security participation by some local governments voluntary, school districts. In Texas, very few school districts participate in Social Security because they have a teacher retirement system. Some do. But the problem we need to address in this legislation that we are not and it makes it worse is that we have a widow's benefit under Social Security.

I do not care if they have never paid into Social Security at all. They receive a widow's benefit if they were married to someone for more than 10 years. And we have cases in Texas that educators, not just teachers, custodial staff, lunchroom staff, administrators, maybe even superintendents, the highest paid, but it covers so many people that they may work under that system their whole life. They are career educators, and yet they are married to someone who pays into Social Security for over 10 years, maybe 30 or 40 years, and when their spouse passes away, that person may be receiving teacher retirement then.

All of a sudden, they say, I should get my spousal benefit because I am a widow. Tough luck. That spouse they may have been married with for 30 years, they receive very little, in fact, almost nothing under their Social Security benefits.

That is what is wrong with the current law. That is why Texans innovatively have found a way, okay, we will go work a day. That is a loophole. Let me tell my colleagues I have watched lots of loopholes pass through this House in my six terms, but I am glad for one time maybe teachers are benefiting from it.

But that is why we need to reform the Government Pension Offset, and that is why I wish the committee would deal with it. But, in all honesty, this is making a bad situation worse, because we will have Texan teachers who have committed their lives to our public schoolchildren and they will be retiring before this bill is effective if they have their magic number of years plus age, and they will retire because they will not want to lose their spousal benefits.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

I tell the gentleman from Texas that I know he feels passionate about this and I can agree with his motivation with regard to this, but the simple fact arises that there is an offset for those where we have a spouse and a worker both paying into Social Security. We simply bring them pretty close down to where some people who are paying into Social Security and work every single day and pay under the Social Security program, and still we give the people he is talking about a better deal than the people who have really labored under Social Security only.

Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I rise on behalf of the 99 percent of the seniors in America who do not have a special loophole. I rise on behalf of the 99 percent of the widows in America who do not have a special loophole.

What we are discussing today is a situation where a very select few in America, sort of a second class, a higher class of citizens in America, get to keep a lot of Social Security, where their next-door neighbor who has paid into Social Security all their life get to keep much less.

What we are talking about here is a special loophole. The way it works today is that most of us pay into Social Security. My wife pays into Social Security. The husband pays into Social Security. But there are some who work for local governments or who are teachers like in Texas where they do not contribute to Social Security at work. They have a substitute, in this case a teacher retirement system. That is where their payroll taxes go. And very few of them have found a loophole in the law from 25 years ago that allows them to escape the formula that everyone else in America is applied to and receive much more in benefits than we will ever dream of receiving.

Here is the way the loophole works. In Texas, a teacher works their whole life, but they do not contribute to Social Security. Under this loophole, if they will take their last day and go to another school district and pay that school district to work for them, think about it, they pay $500 so they can work one day at minimum wage for a school district. And, in return for working that one day at minimum wage, contributing about $3 into Social Security, they receive on average $93,000 of Social Security retirement that no one else in America gets, literally no one else in America gets, the teacher in New York does not get, the nurse in Iowa does not get. The cleaning lady in our offices up here does not get this.

Let us compare how it works in real life so we can all see how it affects us and just what this loophole means. Take a look at the average Social Security recipient in America. The husband is getting about $1,000 a month for

Social Security; the wife's monthly retirement is $700. For most of us, almost everyone who pays into Social Security, when that husband dies and the widow has her benefits, for 99 percent of America her benefits are going to be $1,000 a month, using this example, which, by the way, is exactly the average for Americans. For those who are in government pensions, the ones who do not pay into Social Security, they receive more. Those widows receive $1,233 more. They keep more of Social Security, having not paid into it, than those who have paid their whole life into it. That is the way the formula works.

But under the loophole we are closing today, it is even more outrageous. If we leave this loophole open, the teacher who only worked one day in Social Security will receive $1,700 in monthly benefits, far greater than the widow who worked her whole life in Social Security. Amazingly, the loophole permits a spouse who only contributed to Social Security for one day to receive so much more than the widow who worked her whole life in Social Security, her whole life, and who receives a pittance of what this loophole provides for 1/100 of 1 percent of all Americans.

We cannot have two classes of families in America, those who have loopholes for Social Security and those who do not. This loophole is unfair to working families. It drains hundreds of millions of dollars from the Social Security Trust Fund, which is why senior groups say close this loophole now. And it deserves to be closed.

Let me make a final point here. Under this loophole in Texas today, we have great teachers. We have wonderful teachers. My sister-in-law is one. We are here because of our teachers. But teachers are inherently fair, I think, like the rest of Americans; and if we look at loophole today, this college professor who worked one day in Social Security receives a ton of the money, but the cleaning lady in our offices receives a small fraction of it. If we leave the loophole open, the school superintendent who makes $200,000 a year keeps a ton of Social Security. The checkout lady at the grocery store who has worked her whole life and still working now, she gets a pittance of it. The teacher in Texas gets a ton of money. The teacher in Iowa and Ohio and New York and California gets a pittance.

Those who want to keep this loophole open want to create two classes in America. It is inherently unfair to do that. It is right to close this loophole. It is wrong to have two classes of families in America. It is time to make Social Security fair.

Mr. LAMPSON. Mr. Speaker, will the gentleman yield?

Mr. BRADY of Texas. I yield to the gentleman from Texas.

Mr. LAMPSON. Mr. Speaker, one quick, simple question. Who earns the benefits that the teacher's spouse, who ultimately goes off and takes advantage of that loophole, who earns the benefits he or she is trying to get?

Mr. BRADY of Texas. The husband.

Mr. LAMPSON. The spouse earns them. Those are earned dollars: right or not?

Mr. BRADY of Texas. Yes.

Mr. LAMPSON. They are earned dollars?

Mr. BRADY of Texas. Yes.

Mr. LAMPSON. Mr. Speaker, so what we are going to say is we will dilute what was earned by that family. Yes or no?

Mr. BRADY of Texas. No.

Mr. LAMPSON. Explain.

Mr. BRADY of Texas. Mr. Speaker, because in America when both spouses pay into Social Security, the formula, the way it works, is that if their husband passes away, which normally happens first, she keeps all of her Social Security. Then she keeps all of his minus hers. That is the formula. For those in government pensions, like teachers, it is almost the exact same formula. They keep their retirement plus their husband's minus only ⅔.

So I appreciate this is an issue dear to the gentleman from Texas's (Mr. LAMPSON) heart, but under the formula today, that teacher, that government worker already keeps more of their spouse's Social Security than the rest of America. And if we keep the loophole open, they gain nearly twice as much as the family that worked exactly the same hours, paid exactly the same money in, and whose husband died exactly at the same time. We are creating those two classes of families in America, and that is what we are trying to stop.

Mr. LAMPSON. But all paid in by the husband and spouse?

Mr. BRADY of Texas. Mr. Speaker, the husband paid in in one; the husband and wife paid in in both; and the husband and wife, the widow who paid her whole life, she gets less. Two classes of citizens in America. And nowhere do I know in America can one work one day, contribute $3, and take home $93,000 in their pocketbook that the widow next door who worked her whole life will never, ever see. It is time to close this loophole.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from the State of Maryland (Mr. CARDIN), member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I thank the gentleman from California (Mr. MATSUI) for yielding me this time.

Let me concur in the comments that the gentleman from California (Mr. MATSUI) made earlier where I think he gave a very good explanation, the Government Pension Offset and the issues concerning it and then what is in this bill generally, which have very good things to help shore up a system that is very important to millions of Americans, our Social Security system.

I listened to debate about the Government Pension Offset and the problems in Texas, and I think the point that many of us are trying to raise is that there may be a problem in what is happening in Texas, but why are we not reforming the Government Pension Offset? The distinguished gentleman from Florida (Mr. SHAW) has a bill in to reform that. The gentleman from Louisiana (Mr. JEFFERSON) has a bill in to deal with it.

It is an issue that cries out for reform because we are not treating particularly our lower-wage workers appropriately with the Government Pension Offset. I think we have all acknowledged that this is an issue that we need to take up. This was an excellent opportunity for us to correct it, and we will lose that opportunity.

In regards to the underlying bill itself, I compliment the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) and Commissioner Barnhart and our colleagues on the other side of the Capitol for working together to develop a bipartisan bill to strengthen Social Security, particularly as it relates to individuals who have disabilities who are collecting Social Security, "representative payees."

We know, we have reports, of people who are not able to manage their own money. We know that in 2,400 cases over $12 million dollars has been lost, and this bill will help clean that up, and that is important for us to deal with that.

We also know, in regards to the Ticket to Work law and the Work Incentives program that helped disabled individuals, that we are strengthening those programs. We are helping claimants who are applying for SSI to get the funds that they need.

So there are important provisions in this bill that have been worked out by Democrats and Republicans working together. That is the way we should work. It is a good bill. But we should have taken care of the Government Pension Offset, and we have not done that in this bill

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

In just a brief response to the gentleman from Maryland, he correctly described my intentions, but the bill has not yet been prepared. As soon as we get some figures back, I intend to work closely with the gentleman from California (Mr. MATSUI) and other members on our Committee on Ways and Means to make this a bipartisan effort on the Government Pension Offset, where it is still very much a work in progress, and we want to be sure that we can get it right. If it can be bipartisan, I think the gentleman from California (Mr. MATSUI) and I have both learned that we can accomplish a lot more by working together than working separately.

Mr. Speaker, I reserve the balance of my time.

□ 1445

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member and the chairman, and I thank my good friend from Texas as well. I will try to speak quickly. Many of us are managing a number of activities, and committees are going on as we speak.

I just quickly want to say that although we appreciate the work of this bill, we have to rename it. It is called the "Forced Work Bill."

I think what is going on on this floor is a lot of smoke and mirrors. There are good points to this bill. Someone got up on the floor and said you are asking the widows and others to do things and to get benefits that others are not. That is absolutely incorrect. If we had supported the Frost motion to fix this problem by stripping section 418, which would penalize firefighters, police officers and teachers, we would not be standing here saying vote "no" on this bill.

What this bill is doing is those who are in an independent pension system are now forbidden from getting their spousal benefit. It is the benefit that their spouse is owed. It is not that they are getting any monies that are not owed them; it is that they are prohibited from getting those monies because they are not in the Social Security system. If they are not in the Social Security system, they are forbidden from getting the money.

All we are asking to do is support teachers, police officers, firefighters and other public servants. The GPO affects many individuals, but it especially is harmful to these public servants. And we are not snatching anything from someone who has gotten this benefit. We are trying to get what is ours. The only reason we cannot get it if we happen to be a teacher, policeman or firefighter is because we are not in the Social Security system.

So this is a lot of smoke and mirrors; and if I have to stand with anyone, I am going to stand with the hardworking teachers, firefighters and police officers, who are merely trying to get what is theirs. If we do not remedy this problem, then you force those who have worked all of their lives and are due for retirement to work another 5 years in order to get equity for something that is owed to them.

I wish our colleagues would tell the truth and stand for teachers, firefighters and police officers, like the rest of us.

Mr. Speaker, I am saddened to have to come to the floor today to speak out yet again against H.R. 743, The Social Security Protection Act of 2003. There is much good in this bill. If the Majority Leadership would take out the small error that will hurt our teachers and firefighters and police, this bill could be in front of the President soon. That would be a great service.

Social Security represents a covenant between the U.S. Federal Government and the American people. It is a promise that if a person works hard, and contributes into this investment program, that when it comes time for them to retire—their government will ensure that a fair benefit is there for them. It seems that too often, criminals take advantage of the trust between the Social Security Administration and the seniors and disabled Americans it serves. They misuse Social Security benefits. Such activity is worse than just stealing, because it threatens the confidence that the American people have in their government. That confidence is the foundation of our democracy.

So last Congress, I joined with every voting Member of this House in support of the The Social Security Act of 2002. It was an excellent piece of bipartisan legislation, which would have made great strides towards cutting down on the abuse of the Social Security system. Most of the major provisions of the that bill are reflected in the bill before us today, and I still support them. The bills would both protect Social Security recipients by mandating reissue of funds when their payments are misused. Representative payees who misuse a person's benefits would be forced to reimburse those funds, plus would be subject to fines of up to $5,000 if they knowingly provided false or misleading information.

The bills would allow the Commissioner to withhold benefits from fugitive felons, and persons fleeing prosecution. The bills also provide for numerous improvements to the present system, which would reduce fraud and abuse of the program. Obviously there is a lot of good in the last bill and in this bill as well.

The last bill passed unanimously in the House in the 107th Congress, and similar legislation cleared the Senate. But unfortunately this important legislation got hung up at the end of 2002. With such support and progress, this should have been an easy piece of work to get through this year, and a score for the American taxpayers. Instead, a wrench has been thrown into the works, through the addition of a small section that has provoked a deluge of phone calls into my office from, it seems like, every schoolteacher in my district.

The Texas branch of the American Federation of Teachers describes Section 418 as "poison for Texas school employees." That section relates to the Government Pension Offset. At present, if an individual receives a government pension based on work that was not covered by Social Security, his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds the government pension. This provision of current law is called the Government Pension Offset (GPO). However, under the "last day rule," an individual is exempt from the GPO if he or she works in a job covered by Social Security on the last day of employment.

Many school districts offer teachers non-Social Security government pensions, so until now many teachers have been forced to take advantage of the "last day" loophole. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits. This is a ridiculous system, and the appropriate way to fix it would have been to repeal the GPO. In fact, I have co-sponsored H.R. 594 with my colleague from California, BUCK MCKEON, and 285 others to do just that.

Instead, the bill before us today closes the loophole by forcing teachers to work for the last five years of their careers in an appropriate job. That may force many teachers to retire early from teaching. I am usually all for getting rid of loopholes, but now is no time to be "sticking-it" to teachers—just as we are trying to leave no child behind, just as we have a shortage of qualified teachers in many areas. This could drive many people away from careers in teaching.

For example, I received one call from a woman in my District who was a teacher earlier in her life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose $360 per month in retirement benefits—over $4000 per year.

Why should she risk it? If H.R. 743 passes today, it won't be only she that loses. It will be our nation's children who lose—an experienced, intelligent teacher.

The GPO issue needs to be addressed, but not today. Right now, we are giving money to criminals who are beating our system and undermining confidence in the future of Social Security and the government as a whole. We need to protect Social Security, and we need to do it soon. But I will wait until we can do it without attacking our teachers, and penalizing our children.

I am proud to stand with my Democratic colleagues from Texas, to fight for our teachers. I will vote "no" on H.R. 743 unless the offending provision is taken out, and urge my colleagues to do the same.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would have to correct the previous speaker when she says they do not get any of their survivor benefits and advise her that, yes, under this bill, the teachers that she is referring to get one-third of the survivor benefits, even after the offset, whereas if you have a similar situation where a teacher teaching where there is not this loophole and pays into the Social Security system, generally in that same example they get zero. So I just want to be sure the record is correct on that.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me just quickly say I appreciate the attempt to correct some portions of this bill, but that is not enough.

Again, let me emphasize the one-third. What I am suggesting is that the only reason these individuals are penalized is because they are in a parallel system; they are not in the Social Security system, which in fact helps to relieve the Social Security system from the burden of more people being in it.

I would only say, do you not think if you worked a full-term and you are owed these benefits through your spouse that you deserve the full benefits and not one-third? Why penalize firefighters, police officers, and teachers? I will support these Texas public servants having full benefits.

Mr. SHAW. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY) a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I would like to make two points. This bill does not address firefighters or police officers or teachers, and not even all the teachers in Texas. It applies to 1/100 of 1 percent of all Americans who have a special loophole.

The point my good friend from Houston was making is absolutely wrong. They do not receive less money because they do not pay into Social Security; they actually get more money than the widows and the families who have spent their whole life paying into Social Security. They already get this. Under this loophole, they would get, for $3 of work, 1 day, they receive $93,000 on average in retirement; and our widows in hospitals and widows that clean our offices and widows, like my mom, will never see that money.

This is about not creating two classes of citizens in America, those with a special loophole and those without.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to make an observation. I would not have so many problems with this were it not for the fact that there are many other loopholes that have actually been passed through this House over the last few years.

For example, if a corporation in the U.S. goes to Bermuda to avoid U.S. taxes, we tried time and time again to close that loophole. But the other side of the aisle, in fact the gentleman who just spoke, denies the ability for us to even bring such a bill to the floor.

I guess that is where the frustration lies, is when we close loopholes, we pick on the people that are firefighters and teachers; but we let large corporations who avoid U.S. taxes go from that.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from the State of Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this is a complex issue and one that touches an awful lot of us in different kinds of ways. While I certainly support the efforts that this committee has made in developing this bill, and I know how important the bill is, I am still going to vote against it and will oppose it and ask my colleagues to do so.

There are some 50,000 teachers across the State of Texas who will indeed be adversely affected by this legislation. The bill includes provisions which I consider to be catastrophic for Texas teachers. Provisions in the legislation would, in effect, reduce the amount of combined benefits that Texas teachers could depend upon after retirement.

There are many Texas teachers who have worked and paid into Social Security in other jobs. My wife and my daughter are two who have done just that. They have moved, and they have paid into the teacher retirement system now. Susan has paid into the Social Security system for many years in other jobs that she held before she decided to teach. Because of her involvement in the teacher retirement system and because she has paid into her pension fund, she will be adversely affected by the government pension offset. Those are benefits that I earned because of my payment into Social Security.

Teachers do not make a great deal of money in the State of Texas, and in most other places as well; and it is hard to entice them to stay in the classroom. This legislation is going to have broad implications for those teachers and will most likely force many of them to leave this profession early, most likely, from our public schools. What impetus does an experienced teacher have to stay in the classroom and continue teaching, if the government is in effect going to significantly reduce his or her retirement payment potential after this year?

This bill fails to address a larger issue for public servants in this country. The government pension offset unfairly penalizes teachers and many other government workers, the employees who mostly pay into a public pension plan. How can we sit by idly while our public service employees are being penalized for serving their communities? Where is our loyalty to the first responders that so many of my colleagues have praised on this floor? When push comes to shove, are we willing to allow the firefighters and police officers in our hometowns to suffer?

The government pension offset is a deterrent to public service across this Nation; and if we are to attract the best and the brightest into public service, such as our teachers, such as my wife, Susan, and my daughter Stephanie, fire fighters and police officers, we must repeal this unfair provision. This is money that hardworking American citizens have earned and are indeed entitled to.

I truly wish, and I intended to make the point the gentleman from California (Mr. MATSUI) made a minute ago, I wish we would work as hard in repealing the loophole that has allowed corporations to avoid the payment of $40 billion in taxes each year by moving their corporations offshore.

I urge my colleagues to consider a "no" vote on this bill, as I am going to vote against H.R. 743. Our public servants deserve our support.

Mr. SHAW. Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, again I thank our ranking member on our Subcommittee on Social Security and also the chairman of the Subcommittee on Social Security. I know we have a difference of opinion on this issue; and I guess it is frustrating, because with what is happening with our general budget, this year, this Congress and this government will take $155 billion and borrow it from the Social Security trust fund, and what is it paying for? A lot of folks will say it is paying for the war in Iraq. No, it is also paying for tax cuts that this House passed on two different occasions. But by this bill today, we are going to take away these same Social Security trust funds that are for these widows and people who paid into Social Security.

Again, let me explain to my colleagues, these are people who may never have paid into Social Security. If they did, they are subject to government pension offset, like everyone. But these people never paid in. They were educators or firefighters or police officers in a system that was not part of Social Security, but they paid into their own pension fund; and if their spouses die and they have been married for less than 10 years, we will not pay them their spousal benefit.

I do not know how much harder this Congress can get. When we talk about giving tax cuts to everybody in the world, and we let companies move their headquarters overseas as a sham, and yet we are going to remove the Social Security benefits from a widowed educator, and typically 80 percent of them are women, and her only problem was that she taught school or worked in the cafeteria or helped clean up schools. Because their husband was a Social Security beneficiary, he paid into Social Security, maybe for their whole work life, and so you remove it.

It is just frustrating that this bill is going to make a bad system even worse. That is why I rise in opposition to H.R. 743 and urge my colleagues to join in voting against it.

In many ways, 743 is a good bill, and I know there are some good parts in it, and I heard my colleagues on both sides. It would help stem fraud and abuse in the Social Security system. Well, I support that. I agree that fugitive felons should not collect Social

Security benefits. And I support a number of other provisions. But, in all honesty, if we have a fugitive felon getting Social Security benefits, why are they still a fugitive?

Unfortunately, this has been wrapped up in an explosive issue that has caused serious harm to educators who are widowed by someone who has paid into Social Security.

We are all familiar with the unfair government pension offset; 285 Members of this House have cosponsored legislation to reform the GPO. This provision of current law keeps public employees from collecting full spousal benefits if they receive a pension based on State, local, or Federal Government employment not covered by Social Security. This provision is unfair and targets government workers at the Federal, State, and local levels. Again, 285 of us think it ought to be reformed.

The GPO is a problem for many public servants, but it is especially bad for women. Eighty percent of the Texas school teachers and retirees are women, sixty percent of that group are married, and almost all of them are eligible for Medicare through their husbands; but none of them are eligible for their spousal benefit because of the GPO under this bill.

After a lifetime of being underpaid as teachers, they depend on their Social Security widow's benefit to make up for their retirement, but the GPO takes that benefit away. That is why, again, the repeal of H.R. 594 is so popular.

The bill by our colleagues, the gentleman from California (Mr. McKEON) and the gentleman from California (Mr. BERMAN), have, again, garnered 285 bipartisan cosponsors. We had an opportunity to address this in H.R. 743; but instead of fixing the GPO, this bill makes it harder for Texas teachers to collect the full spousal benefit. Again, 285 members agree the GPO is unfair and should be repealed. We should not penalize Texas teachers for figuring out a way to do what this Congress will not do.

I urge my colleagues to stand for public servants everywhere and vote against H.R. 743.

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Mr. MATSUI. Mr. Speaker, may I inquire as to how much time I have remaining.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from California (Mr. MATSUI) has 7½ minutes remaining; the gentleman from Florida (Mr. SHAW) has 12½ minutes remaining.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. TURNER), the ranking member of the Committee on Homeland Security.

Mr. TURNER of Texas. Mr. Speaker, it does not happen very often on the floor of this House where a bill comes forward that has many good provisions in it, but there is one provision that is so damaging and so harmful and so unfair that it causes us to oppose an otherwise good bill. But as my colleagues have heard over and over again today in this debate, public school teachers in places like my State of Texas and other government employees feel very strongly that the government pension offset is wrong, that it must be corrected, the law must be changed; and this bill provided an opportunity to correct that injustice.

I know from personal experience how deeply this issue is felt by public school teachers. It was a couple of years ago in my office that I had a lady come to see me, and I really did not know why it was she really wanted to come see me, but my staff had said this lady really wants to talk to you, she needs to see you. So I said, well, let her come on, I would be glad to visit with her. I had no idea what it would be about.

She came and she began to tell me a story that quickly turned to tears in her eyes when she told me about how her husband had passed away just a few months before. After his death, she learned that she would not be able to collect any of the survivor benefits that she believed, rightfully, her husband had earned by a lifetime of contributions to the Social Security system. She explained to me that the law apparently said that because she was a public school teacher, an honorable profession, that somehow the law said that she could not qualify for survivor benefits that her husband had contributed for years to ensure that she would get. She told me, she said, if I had done anything else, if I had just worked in a private company, they tell me that I could get the survivor benefit; but because I am a teacher and receiving a benefit from the teacher retirement system, that I am disqualified. Her tears turned to anger as she said to me, this is wrong. And as I have learned over the years since, teachers all across my State of Texas feel very strongly about the unfairness of this provision of the Social Security law.

So I think with an overwhelming majority of this House having signed on to a bill to eliminate this offset, that we should have, in good conscience, taken the opportunity in this legislation to have corrected that unfair provision of the Social Security law.

I recognize that there are some who have logical arguments as to why this should not be changed, but I will tell my colleagues that after listening to this widow with tears in her eyes, I became convinced that she had the better side of the argument. Oh, I know it is going to have a cost to the Social Security trust fund to provide this benefit to all of these public school teachers who have had spouses who have passed away before them, but the reality is that getting it fixed is the right thing to do.

I would urge my colleagues today to take what will be perhaps somewhat of a difficult step and join with those of us who have stood on this floor arguing about this point for this entire hour of debate and vote against a bill that is otherwise a good bill, to give us the opportunity to correct what we believe, and many, many public employees believe, is a very unfair provision of the Social Security law.

I want to commend the gentleman from Florida for his leadership on Social Security. I know that he differs with us on this issue, but I hope that the Members who have joined on in supporting the McKeon bill to correct this problem will also join with us today to vote against this bill so that once and for all we can do what is right for our teachers and for our public employees.

Mr. MATSUI. Mr. Speaker, I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in looking at what is right, it is right to protect beneficiaries from representative payees who would misuse these benefits. We all agree on that, whether you are from Texas, Georgia, California, or New York. It is right to deny Social Security benefits to fugitive felons and probation parole violators. We can all agree on that. It is right for this Congress to pass a bill that deters waste, fraud, and abuse. That is in this bill, and that is the right thing to do. It helps individuals with disabilities gain access to representation, and it encourages disabled beneficiaries to return to work. That is the right thing to do.

Now we get to the hard question: Is it right to close a loophole that enables some teachers in Georgia and Texas to contribute just a few dollars to Social Security to receive nearly $100,000 in additional lifetime spousal benefits? I strongly believe this loophole should be closed.

Let me give an example which I think would be very helpful to the Members in deciding how they are going to vote on this issue. Any worker, corporate, executive, otherwise, or school teacher who pays into both Social Security and a retirement plan will receive both benefits based upon their work. However, no worker will receive a full spouse or widower benefit; those benefits are reduced or eliminated dollar for dollar by the earned Social Security benefit. Public employees who contribute to a public employee pension plan instead of Social Security actually face a lower, a lower offset under this bill of their spouse or widow benefits than workers who paid into Social Security their whole career. And that is only $2 for every $3. So these people who did not pay into Social Security are getting a better deal than people who paid into Social Security their whole working lives.

Also, this bill has bipartisan support and the support of key stakeholders, and it does save us money. This same identical bill was passed, almost identical bill, was passed by the House by a vote of 396 to 28. It passed. And then it passed by unanimous consent in the Senate with some minor changes, which is the reason we are back here today.

If we were to look at the arguments that have been made today as to what is fair and what is not fair and apply those same arguments as to spousal benefits, surviving spouse benefits to people who have paid into Social Security all their working life, it would cost the Social Security Administration $1 trillion and would bankrupt the system. This is what we are facing: basic fairness. I say, apply the law as this bill outlines it. It is fair. It is the right thing to do. I urge passage of the bill.

Mr. STARK. Mr. Speaker, today I rise in support of the Social Security Program Protection Act.

This legislation makes a strong Social Security program even stronger for the millions of Americans who rely on its benefits for stability through old age, disability or loss of a loved one. And this bill will help to protect the promise of economic security for future generations—a promise we must keep.

I strongly support the protections this legislation provides for some of the most vulnerable recipients of Social Security. Today, many beneficiaries are unable to manage their own benefits so a representative payee is often appointed to do so on their behalf. While this is undoubtedly necessary, too many seniors and people with disabilities have fallen victim to fraud and abuse.

This bill makes dramatic improvements to the representative payee system to help protect beneficiaries. It does so by initiating strict oversight of representative payees and expanding the ability of the Social Security Administration to repay benefits that have been misused or stolen. For many, this puts real financial security back in Social Security.

Despite the strengths of this bill, I am disappointed, however, that Republicans refused to accept an amendment I offered to this bill in the Ways and Means Committee to reduce the Government Pension Offset penalty. This penalty unfairly reduces or even eliminates Social Security benefits for millions of teachers, firefighters, police officers and others who serve the public.

I urge my colleagues to vote for the Social Security Program Protection Act to extend the promise of retirement security for every American, today and tomorrow.

Mr. PAUL. Mr. Speaker, I intend to vote for H.R. 743, the Social Security Protection Act, because it contains an important provision that was not included in previous versions of this bill. This provision takes a first step toward ensuring that non-citizens who are unauthorized to work in the United States do not receive Social Security benefits. Giving Social Security benefits to illegal immigrants is a slap in the faces of Americans who pay their entire working lives into the Social Security system and now face the possibility that there will be nothing left when it is their turn to retire. This is why, at the beginning of the 108th Congress, I introduced legislation, the Social Security for American Citizens Only Act (H.R. 489), which ensures no non-citizen can receive Social Security benefits. Therefore, I am pleased to see Congress beginning at last to address this issue.

However, I wish to make clear my continued opposition to a provision in the bill that removes the only means by which many widowed Texas public school teachers can receive the same personal Social Security benefits, as does every other American. As I am sure my colleagues are aware, widowed public school employees in Texas, like public employees throughout the nation, have their spousal Social Security benefits reduced if they receive a government pension. The Government Pension Offset even applies if the public employee in question worked all the quarters necessary to qualify for full Social Security benefits either before or after working in the public school system.

The Government Pension Offset punishes people for teaching in public schools. However, current law provides widowed Texas public school teachers a means of collecting a full Social Security spousal benefits. Unfortunately, this bill takes that option away from Texas teachers. I have twice voted against H.R. 743 because of my strong opposition to the provision removing the only way Texas teachers can avoid the Government Pension Offset.

Instead of repealing the only means Texas teachers have of avoiding the Government Pension Offset, Congress should pass H.R. 594, the Social Security Fairness Act that repeals both the Government Pension Offset and the Windfall Elimination Provision, another provision that denies public employees full Social Security benefits.

Congress should also be encouraging good people to enter the education profession by passing my Teacher Tax Cut Act (H.R. 613) that provides every teacher with a $1,000 tax credit, as well as my Professional Educators Tax Credit Act (H.R. 614), which provides a $1,000 tax credit to counselors, librarians, and all school personnel.

In conclusion, Mr. Speaker, I will support H.R. 743 because it restricts the ability of illegal immigrants to raid the Social Security Trust Fund. However, I remain opposed to the provision that punishes teachers by denying them Social Security benefits for which they would be eligible if they were not teachers. Instead of punishing teachers, Congress should be enacting pro-teacher legislation, such as the Social Security Fairness Act and the Teacher Tax Cut Act.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 743, the Social Security Protection Act. This bill will protect the integrity of the Social Security program for the nearly eight million Social Security and Supplemental Security Income (SSI) beneficiaries who are unable to manage their own financial affairs and must have a "representative payee" designated to receive and manage their benefits on their behalf.

I would, however, like to take this opportunity to discuss an important Social Security issue that this bill fails to address, the Government Pension Offset (GPO). This unjust, arcane law prevents government retirees from collecting a government pension and the Social Security benefits entitled to them through their spouse's history of employment.

The GPO current affects 335,000 people, a number that is growing by 15,000 each year. The people hit hardest by the GPO are State and municipal workers. Public employees like educators, police officers, and firefighters should not suffer a penalty for dedicating their lives to public service.

Take, for example, a teacher who has worked for 30 years and with her husband has managed to raise a family. After her husband passes away, the law prevents her from receiving most, if not all, of the Social Security benefits that her husband earned and rightfully belong to her. She would lose the benefits simply because she worked for the government making a modest salary.

Mr. Speaker, Congressman BUCK MCKEON has introduced H.R. 594, which would address the Government Pension Offset issue. Even though the bill currently has 285 cosponsors, the House leadership has failed to bring it up for a vote.

Mr. Speaker, I have heard countless people say that teachers, police officers and firefighters deserve to be paid better for their public service. Fixing the GPO is our chance to say thanks to these selfless individuals whose work has helped make this country what it is today. I ask my colleagues on both sides of the aisle to urge the leadership to bring this issue to the floor during this session of Congress.

Mr. REYES. Mr. Speaker, I rise in strong opposition to H.R. 743, the Social Security Protection Act. I support provisions in the bill to better protect Social Security beneficiaries from fraud. However, I cannot support the legislation because it would also seriously harm the retirement of teachers, firefighters, police officers, and other State and local government workers in my congressional district of El Paso, Texas by subjecting them to the government pension offset.

Some public employees in my State have found a way to protect their retirement benefits from the unfair government pension offset, which targets public servants by refusing them their full spousal benefits under Social Security. The bill before us today would block these employees from protecting their benefits, subjecting them to the government pension offset and denying them the spousal benefits they rightfully deserve.

Among those hardest hit by this legislation will be women, and particularly widows, who very often rely on spousal benefits to make ends meet in their retirement. Many are not aware of the government pension offset, and will only learn of it as they prepare for retirement, when it is too late to make alternative plans.

We need to do more to support those who have dedicated their working lives to serving the public, rather than undermining their opportunity for a secure retirement with this bill. Therefore, I have cosponsored H.R. 594, the Social Security Fairness Act, which would allow all public employees to collect full spousal benefits.

Mr. Speaker, I urge my colleagues to show their support for teachers, and all of our hard-working public servants, by opposing this terribly unfair bill.

Mr. DELAHUNT. Mr. Speaker, I rise today to highlight the inexplicable failure of the U.S. Congress to address the inequities of the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP). For more than 20 years, the GPO and WEP have created enormous burdens for many public service retirees.

More than half of the Members of this House want change; no fewer than 285 of my colleagues have co-sponsored bipartisan legislation for outright repeal of the GPO and WEP. But the House leadership won't even allow debate on the question.

The legislation before this chamber today will help protect many vulnerable beneficiaries from fraud and contains many other important provisions. However, once again, the House missed a perfect opportunity to repeal both the GPO and WEP.

Both the GPO and WEP unfairly reduce Social Security benefits for retirees who otherwise qualify, simply because they at some point worked in jobs covered by another government pension. In particular, the GPO and WEP penalize those who had short or intermittent careers, or who blended private jobs with stints in public service.

Often, these are people already losing out in their overall earnings because they chose to make a meaningful contribution to society in roles that just don't pay well. Think of those in your community who teach your children, fight your fires and keep your streets safe. Chances are, you're thinking of people who are suffering the impact of the GPO or WEP.

Because most paid Social Security taxes somewhere along the way, these people planned for retirement fully anticipating both pension and Social Security benefits. But when these teachers, police officers, and firefighters retired, they discovered all or much of their expected Social Security benefits wiped out by the WEP or GPO. In the case of the WEP, the Social Security benefit is reduced by up to 60 percent. If the GPO is triggered, it reduces a retiree's spousal benefit by two-thirds.

A Barnstable teacher wrote to me about her circumstances:

> I am a recently divorced woman, age 56, who has worked in the school district for five years. Before taking this job I was an at-home mother. Although I get very minimal alimony (which I don't always receive) I face the grim reality of what I will live on when—and if—I can retire. Having paid the Social Security system for many years before having children, the GPO and WEP would not permit me to collect on what I paid into the system. I also understand that if my ex-husband were to die, the amount I would be able to collect from his Social Security would also be cut.

Countless heart-wrenching personal stories dramatically illustrate the impact of these unfair benefit reductions. In my home state of Massachusetts, over 18,000 retirees are being penalized by the WEP. When it comes to the GPO, almost 15,000 are affected—and over a third are widows or widowers.

Consider this letter I received from a widow in Hull, MA:

> I am being punished because I worked for the Town for the past 23 years. My husband passed away after only receiving Social Security disability for six months. He worked 40 years toward his Social Security. Many people do not know about this penalty and find out when they go to collect their Social Security that they cannot receive what they totally deserve . . .

From a Marshfield, MA teacher:

> If my husband should pre-decease me, I am not eligible for his Social Security and would suffer a serious financial burden. I stayed at home to raise four children, while my husband worked six days a week and long hours and contributed the maximum to Social Security. I reentered the workforce late in life (to help pay for college tuitions) and made the mistake of getting employment with our local municipality.

From a 10-year employee of the town of Duxbury, MA:

> As I have been a part-time employee, my pension will be quite small, about $300 a month. I worked many years under Social Security with full and part-time jobs. As my Social Security would be reduced from $600 to $400 it does not leave much to live on, never mind paying for medical insurance.

From a Sagamore Beach widow:

> I recently had two more friends die after waiting since 1983 to receive help on the Government Pension Offset issue. If Congress waits much longer, they won't have many of us left to help.

It is particularly heartbreaking that retired women comprise over 70 percent of those penalized by the GPO reduction of spousal benefits. Many sacrificed to stay home and raise children in the 1940s, 1950s and 1960s—then went to work later in life. In retirement, they are hit especially hard. Not only did they face the challenges of a workplace that paid them far less than their male counterparts; now they face similarly diminished opportunities to enjoy their senior years. Many are widows with meager pensions, who now face drastically reduced financial support with the death of a spouse—and must also contend with reduced spousal Social Security benefits.

During this 108th Congress, we had strong support for bills that would have modified or repealed the WEP and GPO. We had significant bipartisan endorsement and literally hundreds of senior organizations calling for action.

In May of last year, we heard compelling testimony about the impact of these provisions in the House Ways and Means Social Security Subcommittee hearing. Chuck Canterbury, National President of the Fraternal Order of Police described why police officers in particular are penalized by the WEP:

> Owing to the physical demands of the job, a law enforcement officer is likely to retire between the ages of 45 and 60. After 20 or 25 years on the job, many law enforcement officers are likely to begin second careers and hold jobs that do pay into the Social Security system. Even more officers are likely to "moonlight," that is, hold second or even third jobs throughout their law enforcement career in order to augment their income. This creates an unjust situation that too many of our members find themselves in: they are entitled to a State or local retirement benefit because they worked 20 or more years keeping their streets and neighborhoods safe, and also working at a job or jobs in which they paid into Social Security, entitling them to that benefit as well. However, because of the WEP, if their second career resulted in less than twenty (20) years of substantial earnings, upon reaching the age they are eligible to collect Social Security, they will discover that they lose sixty percent (60%) of the benefit for which they were taxed! Actuarially speaking, I doubt many officers will live long enough to "break even"—that is collect the money they paid into the system, let alone receive any "windfall."

Even if the personal circumstances of today's public sector retirees fail to move you, consider the fact that it gets harder every day to recruit and retain people for public service jobs. Compared with the private sector, public services jobs offer significantly less pay and benefits. Personal satisfaction, while a powerful motivator, begins to fade when you realize you won't be able to put food on the table during retirement. We'll never attract the best possible candidates to public service unless we remove the stark disincentives characterized by the WEP and GPO.

Today this Congress failed to address the needs of almost one million former government employees who have already lost retirement dollars due to the GPO and WEP. Millions more face losses in the future. These are people we need, in every community, doing jobs that often keep us safe and secure in an era of unparalleled uncertainty.

Mr. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate having expired, pursuant to House Resolution 520, the previous question is ordered.

The question is on the motion offered by the gentleman from Florida (Mr. SHAW).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GREEN of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Without objection, further proceedings on this motion will be postponed.

There was no objection.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the Senate amendment to H.R. 743.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3783) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The Clerk read as follows:

H.R. 3783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Extension Act of 2004".

SEC. 2. ADVANCES.

(a) In General.—Section 2(a) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 104 note; 117 Stat. 1110) is amended by inserting "and the Surface Transportation Extension Act of 2004" after "as amended by this Act".

(b) Programmatic Distributions.—

(1) Administration of funds.—Section 2(b)(3) of such Act (117 Stat. 1110) is amended by striking "the amendment made under subsection (d)" and inserting "section 1101(c) of the Transportation Equity Act for the 21st Century".

(2) Special rules for minimum guarantee.—Section 2(b)(4) of such Act is amended by striking "$1,166,666,667" and inserting $2,100,000,000.

(3) Extension of off-system bridge set-aside.—Section 144(g)(3) of title 23, United States Code, is amended by striking "February 29" inserting "June 30".

(c) Authorization of Contract Authority.—Section 1101(c)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1111) is amended by striking "$13,483,458,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$24,270,225,000 for the period of October 1, 2003, through June 30, 2004".

(d) Limitation on Obligations.—Section 2(e) of the Surface Transportation Extension Act of 2003 (117 Stat. 1111) is amended to read as follows:

"(e) Limitation on Obligations.—

"(1) Distribution of obligation authority.—Subject to paragraph (2), for the period of October 1, 2003, through June 30, 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading '(LIMITATION ON OBLIGATIONS)' under the heading 'FEDERAL-AID HIGHWAYS' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108-199) in accordance with section 110 of such Act; except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), 110(a)(5), and 110(g) of such Act shall equal the greater of—

"(A) the funding authorized for such program, project, or activity in this Act and the Surface Transportation Extension Act of 2004 (including any amendments made by this Act and such Act); or

"(B) $\frac{9}{12}$ of the funding provided for or limitation set on such program, project, or activity in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.

"(2) Limitation on total amount of authority distributed.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2003, through June 30, 2004, shall not exceed $25,232,250,000; except that this limitation shall not apply to $479,000,000 in obligations for minimum guarantee for such period.

"(3) Time period for obligations of funds.—A State shall not obligate after June 30, 2004, any funds for any Federal-aid highway program project made available by this Act and the Surface Transportation Extension Act of 2004 (including any amendments made by this Act and such Act), until the date of enactment of a law reauthorizing the Federal-aid highway program.

"(4) Treatment of obligations.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2004 for the purposes of the matter under the heading '(LIMITATION ON OBLIGATIONS)' under the heading 'FEDERAL-AID HIGHWAYS' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.".

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

Section 3 of the Surface Transportation Extension Act of 2003 (117 Stat. 1112–1113) is amended by adding at the end the following:

"(e) Prohibition of Transfers.—Notwithstanding any other provision of this section, no funds may be transferred after February 29, 2004, by a State under subsection (a)—

"(1) from amounts apportioned to the State for the congestion mitigation and air quality improvement program; and

"(2) from amounts apportioned to the State for the surface transportation program and that are subject to any of paragraphs (1), (2), and (3)(A)(i) of section 133(d) of title 23, United States Code.".

SEC. 4. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2003 (117 Stat. 1113) is amended by striking "$187,500,000" and inserting "$337,500,000".

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) Authorization of Appropriations Under Title I of TEA21.—

(1) Federal lands highways.—

(A) Indian reservation roads.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 117 Stat. 1113) is amended—

(i) in the first sentence by striking "$114,583,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$206,250,000 for the period of October 1, 2003, through June 30, 2004"; and

(ii) in the second sentence by striking "$5,416,667" and inserting "$9,750,000".

(B) Public lands highways.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking "$102,500,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$184,500,000 for the period of October 1, 2003, through June 30, 2004".

(C) Park roads and parkways.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking "$68,750,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$123,750,000 for the period of October 1, 2003, through June 30, 2004".

(D) Refuge roads.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking "$8,333,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$15,000,000 for the period of October 1, 2003, through June 30, 2004".

(2) National corridor planning and development and coordinated border infrastructure programs.—Section 1101(a)(9) of such Act (112 Stat. 112; 117 Stat. 1114) is amended by striking "$58,333,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$105,000,000 for the period of October 1, 2003, through June 30, 2004".

(3) Construction of ferry boats and ferry terminal facilities.—

(A) In general.—Section 1101(a)(10) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking "$15,833,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$28,500,000 for the period of October 1, 2003, through June 30, 2004".

(B) Set aside for Alaska, New Jersey, and Washington.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2003 (117 Stat. 1114) is amended—

(i) in clause (i) by striking "$4,166,667" and inserting "$7,500,000";

(ii) in clause (ii) by striking "$2,083,333" and inserting "$3,750,000"; and

(iii) in clause (iii) by striking "$2,083,333" and inserting "$3,750,000".

(4) National scenic byways program.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 117 Stat. 1114) is amended by striking "$11,458,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$20,625,000 for the period of October 1, 2003, through June 30, 2004".

(5) Value pricing pilot program.—Section 1101(a)(12) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking "$4,583,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$8,250,000 for the period of October 1, 2003, through June 30, 2004".

(6) Highway use tax evasion projects.—Section 1101(a)(14) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking "$2,083,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$3,750,000 for the period of October 1, 2003, through June 30, 2004".

(7) Commonwealth of Puerto Rico highway program.—Section 1101(a)(15) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking "$45,833,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$82,500,000 for the period of October 1, 2003, through June 30, 2004".

(8) Safety grants.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 117 Stat. 1114) is amended by striking "$208,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$375,000 for the period of October 1, 2003, through June 30, 2004".

(9) Transportation and community and system preservation pilot program.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 117 Stat. 1114) is amended by striking "$10,416,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$18,750,000 for the period of October 1, 2003, through June 30, 2004".

(10) Transportation infrastructure finance and innovation.—Section 188 of title 23, United States Code, is amended—

(A) by striking subsection (a)(1)(F) and inserting the following:

“(F) $105,000,000 for the period of October 1, 2003, through June 30, 2004.”;

(B) in subsection (a)(2) by striking “$833,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$1,500,000 for the period of October 1, 2003, through June 30, 2004”; and

(C) in the item relating to fiscal year 2004 in table contained in subsection (c) by striking “$1,083,333,333” and inserting “$1,950,000,000”.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 117 Stat. 1115) is amended by striking “$43,750,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$78,750,000 for the period of October 1, 2003, through June 30, 2004”.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 117 Stat. 1115) is amended by striking “$22,916,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$41,250,000 for the period of October 1, 2003, through June 30, 2004”.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking “$8,750,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$15,750,000 for the period of October 1, 2003, through June 30, 2004”.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking “$12,916,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$23,250,000 for the period of October 1, 2003, through June 30, 2004”.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking “$47,916,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$86,250,000 for the period of October 1, 2003, through June 30, 2004”.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 117 Stat. 1116) is amended by striking “$51,666,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$93,000,000 for the period of October 1, 2003, through June 30, 2004”.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 117 Stat. 1116) is amended by striking “$11,250,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$20,250,000 for the period of October 1, 2003, through June 30, 2004”.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1116) is amended by striking “$100,000,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$180,000,000 for the period of October 1, 2003, through June 30, 2004”.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1116) is amended by striking “$15,166,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$27,300,000 for the period of October 1, 2003, through June 30, 2004”.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (117 Stat. 1116) is amended by striking “$7,833,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$14,100,000 for the period of October 1, 2003, through June 30, 2004”.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (117 Stat. 1117) is amended by striking “$208,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$375,000 for the period of October 1, 2003, through June 30, 2004”.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (117 Stat. 1117) is amended—

(1) by striking “$41,666,667” and inserting “$75,000,000”; and

(2) by striking “February 29” and inserting “June 30”.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (117 Stat. 1117) is amended—

(1) by striking “$41,666,667” and inserting “$75,000,000”; and

(2) by striking “February 29” and inserting “June 30”.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (117 Stat. 1117) is amended by striking “$312,500 for the period of October 1, 2003, through February 29, 2004” and inserting “$562,500 for the period of October 1, 2003, through June 30, 2004”.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (117 Stat. 1118) is amended—

(1) by striking “$2,187,500” and inserting “$3,937,500”;

(2) by striking “$104,167” and inserting “$187,500”; and

(3) by striking “February 29” each place it appears and inserting “June 30”.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (117 Stat. 1118) is amended—

(1) in paragraph (1) by striking “$4,166,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$7,500,000 for the period of October 1, 2003, through June 30, 2004”; and

(2) in paragraph (2) by striking “$4,166,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$7,500,000 for the period of October 1, 2003, through June 30, 2004”.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2003 (117 Stat. 1118) is amended—

(1) by inserting “and section 5 of the Surface Transportation Extension Act of 2004” after “this section” the first place it appears; and

(2) by inserting “or the amendment made by section 5(a)(1) of such Act” before the period at the end.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (117 Stat. 1119) is amended—

(1) by inserting “and section 5 of the Surface Transportation Extension Act of 2004” after “but for this section”;

(2) by striking “both”;

(3) by striking “and by this section” and inserting “, by this section, and by section 5 of such Act”; and

(4) by inserting “and by section 5 of such Act” before the period at the end.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (117 Stat. 1119) is amended by inserting “and section 5 of the Surface Transportation Extension Act of 2004” after “this section”.

SEC. 6. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking “$46,666,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$84,000,000 for the period of October 1, 2003, through June 30, 2004”.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking “$50,000,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$90,000,000 for the period of October 1, 2003, through June 30, 2004”.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 117 Stat. 1119) is amended by striking “, and $68,750,000 for the period of October 1, 2003, through February 29, 2004” and inserting “, and $123,019,875 for the period of October 1, 2003, through June 30, 2004”.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 117 Stat. 1119) is amended by striking “$30,000,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$53,681,400 for the period of October 1, 2003, through June 30, 2004”.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by striking “$8,333,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$14,911,500 for the period of October 1, 2003, through June 30, 2004”.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by striking “$16,666,667 for the period of October 1, 2003, through February 29, 2004” and inserting “$29,823,000 for the period of October 1, 2003, through June 30, 2004”.

(f) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of such Act (112 Stat. 338; 117 Stat. 1120) is amended by striking “$833,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$2,684,070 for the period of October 1, 2003, through June 30, 2004”.

SEC. 7. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1120) is amended by striking “$71,487,500 for the period of October 1, 2003, through February 29, 2004” and inserting “$131,811,967 for the period October 1, 2003 through June 30, 2004”.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a)(7) of title 49, United States Code, is amended to read as follows:

“(7) Not more than $126,519,126 for the period of October 1, 2003, through June 30, 2004.”.

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER'S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a)(5) of such title is amended to read as follows:

“(5) $14,972,678 for the period of October 1, 2003 through June 30, 2004.”.

(2) EMERGENCY CDL GRANTS.—Section 7(c) of the Surface Transportation Extension Act of 2003 (117 Stat. 1121) is amended—

(A) by striking “February 29,” and inserting “June 30,”; and

(B) by striking “$416,667” and inserting “$748,634”.

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act is amended—

(1) by striking “$416,667” and inserting “$748,634”; and

(2) by striking “February 29” and inserting “June 30”.

SEC. 8. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) Allocating Amounts.—Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "February 29" and inserting "June 30";

(2) in paragraph (2)(B)(iii)—

(A) by striking "FEBRUARY 29" in the clause heading and inserting "JUNE 30";

(B) by striking "$4,333,333" and inserting "$7,753,980";

(C) by striking "February 29" and inserting "June 30";

(3) in paragraph (3)(B) by striking "(and $1,250,000 shall be available for the period October 1, 2003, through February 29, 2004)" and inserting "(and $2,236,725 shall be available for the period October 1, 2003, through June 30, 2004)"; and

(4) in paragraph (3)(C) by striking "(and $20,833,334 shall be available for the period October 1, 2003, through February 29, 2004)" and inserting "(and $37,278,750 shall be available for the period October 1, 2003, through June 30, 2004)".

(b) Apportionment of Appropriations for Fixed Guideway Modernization.—The heading for paragraph (1) of section 8(b) of the Surface Transportation Extension of 2003 (117 Stat. 1121) is amended by striking "FEBRUARY 29" and inserting "JUNE 30".

(c) Formula Grants Authorizations.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29" and inserting "JUNE 30"; and

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

"(vi) $2,289,809,940 for the period of October 1, 2003, through June 30, 2004.";

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

"(vi) $572,452,485 for the period of October 1, 2003, through June 30, 2004."; and

(4) in paragraph (2)(C) by striking "February 29" and inserting "June 30".

(d) Allocation of Formula Grant Funds for October 1, 2003, Through June 30, 2004.—Section 8(d) of the Surface Transportation Extension of 2003 (117 Stat. 1122) is amended—

(1) in the subsection heading by striking "FEBRUARY 29" and inserting "JUNE 30";

(2) in the matter preceding paragraph (1) by striking "February 29" and inserting "June 30";

(3) in paragraph (1) by striking "$2,020,813" and inserting "$3,616,001";

(4) in paragraph (1) by striking "$20,833,334" and inserting "$37,278,750".

(e) Capital Program Authorizations.—Section 5338(b) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29" and inserting "JUNE 30";

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

"(vi) $1,871,393,250 for the period of October 1, 2003, through June 30, 2004."; and

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

"(vi) $467,848,313 for the period of October 1, 2003, through June 30, 2004.".

(f) Planning Authorizations and Allocations.—Section 5338(c) of such title is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29" and inserting "JUNE 30";

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

"(vi) $43,690,695 for the period of October 1, 2003, through June 30, 2004."; and

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

"(vi) $10,736,280 for the period of October 1, 2003, through June 30, 2004.".

(g) Research Authorizations.—Section 5338(d) of such title is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29" and inserting "JUNE 30";

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

"(vi) $31,463,265 for the period of October 1, 2003, through June 30, 2004.";

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

"(vi) $8,052,210 for the period of October 1, 2003, through June 30, 2004."; and

(4) in paragraph (2)(C) by striking "February 29" and inserting "June 30".

(h) Allocation of Research Funds for October 1, 2003, Through February 29, 2004.—Section 8(h) of the Surface Transportation Extension Act of 2003 (117 Stat. 1123)—

(1) in the matter preceding paragraph (1) by striking "February 29" and inserting "June 30";

(2) in paragraph (1) by striking "$2,187,500" and inserting "$3,914,269";

(3) in paragraph (2) by striking "$3,437,500" and inserting "$6,150,994";

(4) in paragraph (3)—

(A) by striking "$1,666,667" and inserting "$2,982,300"; and

(B) by striking "$416,667" and inserting "$745,575".

(i) University Transportation Research Authorizations.—Section 5338(e) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29" and inserting "JUNE 30";

(2) in paragraph (2)(A) by striking "$2,020,833 for the period of October 1, 2003, through February 29, 2004" and inserting "$3,578,760 for the period of October 1, 2003, through June 30, 2004"; and

(3) in paragraph (2)(B) by striking "$505,833 for the period of October 1, 2003, through February 29, 2004" and inserting "$894,690 for the period of October 1, 2003, through June 30, 2004" ; and

(4) in each of clauses (i) and (iii) of paragraph (2)(C) by striking "February 29" and inserting "June 30".

(j) Allocation of University Transportation Research Funds.—

(1) In general.—Section 8(j)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1124) is amended—

(A) in the matter preceding subparagraph (A) by striking "February 29" and inserting "June 30";

(B) in subparagraph (A) by striking "$833,333" and inserting "$1,491,150"; and

(C) in subparagraph (B) by striking "$833,333" and inserting "1,491,150".

(2) Conforming amendment.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 857) is amended by striking "February 29" and inserting "June 30".

(k) Administration Authorizations.—Section 5338(f) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29" and inserting "JUNE 30";

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

"(vi) $45,032,730 for the period of October 1, 2003, through June 30, 2004."; and

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

"(vi) $11,258,183 for the period of October 1, 2003, through June 30, 2004.".

(l) Job Access and Reverse Commute Program.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391–392; 117 Stat. 1124) is amended—

(1) in paragraph (1)(A) by striking clause (vi) and inserting the following:

"(vi) $74,557,500 for the period of October 1, 2003, through June 30, 2004.";

(2) in paragraph (1)(B) by striking clause (vi) and inserting the following:

"(vi) $18,639,375 for the period of October 1, 2003, through June 30, 2004."; and

(3) in paragraph (2) by striking "February 29, 2004, $4,166,667" and inserting "June 30, 2004, $7,455,750 shall be used for such projects".

(m) Rural Transportation Accessibility Incentive Program.—Section 3038(g) of such Act (49 U.S.C. 5310 note; 112 Stat. 393; 117 Stat. 1125) is amended—

(1) in paragraph (1) by striking subparagraph (F) and inserting the following:

"(F) $3,914,269 for the period of October 1, 2003, through June 30, 2004."; and

(2) in paragraph (2) by striking "(and $708,333 shall be available for the period of October 1, 2003, through February 29, 2004)" and inserting "(and $1,267,478 shall be available for the period of October 1, 2003, through June 30, 2004)".

(n) Urbanized Area Formula Grants.—Section 5307(b) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29" and inserting "JUNE 30"; and

(2) in paragraph (2)(A) by striking "February 29" and inserting "June 30".

(o) Obligation Ceiling.—Section 3040(6) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 117 Stat. 1125) is amended to read as follows:

"(6) $5,449,407,675 for the period of October 1, 2003, through June 30, 2004.".

(p) Fuel Cell Bus and Bus Facilities Program.—Section 3015(b) of such Act (112 Stat. 361; 117 Stat. 1125) is amended by striking "February 29, 2004, $2,020,833)" and inserting "June 30, 2004, $3,616,039)".

(q) Advanced Technology Pilot Project.—Section 3015(c)(2) of such Act (49 U.S.C. 322 note; 112 Stat. 361; 117 Stat. 1125) is amended—

(1) by striking "February 29" and inserting "June 30"; and

(2) by striking "and $2,083,333" and inserting "and $3,727,875 ".

(r) Projects for New Fixed Guideway Systems and Extensions to Existing Systems.—Subsections (a), (b), and (c)(1) of section 3030 of such Act (112 Stat. 373–381; 117 Stat. 1125) are each amended by striking "February 29" and inserting "June 30".

(s) New Jersey Urban Core Project.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 112 Stat. 379) are each amended by striking "February 29" and inserting "June 30".

(t) Treatment of Funds.—Section 8(t) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 101 note; 117 Stat. 1126) is amended by inserting "and by section 8 of the Surface Transportation Extension Act of 2004" before "shall be treated".

(u) Local Share.—Section 3011(a) of the Transportation Equity Act for the 21st Century (112 Stat. 357) is amended by inserting "and for the period of October 1, 2003, through June 30, 2004" after "2003".

SEC. 9. SPORT FISHING AND BOATING SAFETY.

(a) Funding for National Outreach and Communications Program.—Section 4(c)(6)of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)(6)) is amended to read as follows:

"(6) $7,500,000 for the period of October 1, 2003, through June 30, 2004;".

(b) Clean Vessel Act Funding.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

"(4) First 9 months of fiscal year 2004.—For the period of October 1, 2003, through June 30, 2004, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $61,500,000 , reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $7,500,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(B) $6,000,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.".

(c) Boat Safety Funds.—Section 13106(c) of title 46, United States Code, is amended—

(1) by striking "$2,083,333" and inserting "$3,750,000"; and

(2) by striking "$833,333" and inserting "$1,500,000".

SEC. 10. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) Highway Trust Fund.—

(1) In general.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "July 1, 2004",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004.", and

(E) in the matter after subparagraph (G), as added by this paragraph, by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(2) Mass transit account.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "July 1, 2004",

(B) in subparagraph (C), by striking "or" at the end of such subparagraph,

(C) in subparagraph (D), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (D) the following new subparagraph:

"(E) the Surface Transportation Extension Act of 2004.", and

(E) in the matter after subparagraph (E), as added by this paragraph, by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(3) Exception to limitation on transfers.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking "March 1, 2004" and inserting "July 1, 2004".

(b) Aquatic Resources Trust Fund.—

(1) Sport fish restoration account.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Surface Transportation Extension Act of 2004".

(2) Boat safety account.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "March 1, 2004" and inserting "July 1, 2004", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(3) Exception to limitation on transfers.—Paragraph (2) of section 9504(d) of such Code is amended by striking "March 1, 2004" and inserting "July 1, 2004".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) Temporary Rule Regarding Adjustments.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on June 30, 2004, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Illinois (Mr. LIPINSKI) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3783, the legislation now under consideration by the House, will continue for an additional 4 months the highway construction, highway safety, transit, motor carrier, and surface transportation research programs. These programs will be continued under current-law program structure and conditions.

This bill is necessary in order to give the House Committee on Transportation and Infrastructure and our colleagues in the Senate time to complete a multi-year surface transportation bill.

Mr. Speaker, H.R. 3783 provides for over $31 billion in new funding authority, which reflects 9 months' work or nine-twelfths of the budget authority and associated outlays in the year 2004 budget resolution that Congress passed last year.

As my colleagues may know, Mr. Speaker, I have introduced H.R. 3550 with the gentleman from Minnesota (Mr. OBERSTAR), the Transportation Equity Act: A Legacy For Users, or TEA–LU. TEA–LU will begin to meet the needs and begin to improve our aging and deteriorating transportation infrastructure.

TEA–LU will address and resolve the funding inequity issue between the donor and donee States, create new jobs, and stimulate the economy. Unfortunately, the overall funding for transportation has not been resolved entirely; and, therefore, we must pass this 4-month extension.

Even though TEA–LU has been introduced, there are many issues remaining for this House to resolve. As I mentioned earlier, identifying the appropriate resources to support funding levels over the next 6 years is the primary challenge. If TEA–LU is reduced to the level of the Senate bill, many worthy projects and programs will be reduced or quite possibly eliminated from the bill.

In the interim, this 4-month extension is a must-pass bill. If we do not pass this bill and send it to the President before February 29, four Department of Transportation agencies will close their doors and furlough their employees: the Federal Highway Administration, the Federal Transit Administration, National Highway Traffic Safety Administration, and the Federal Motor Carrier Safety Administration.

If we do not pass this extension, new highway projects will be shelved, States will not be reimbursed the Federal share of the projects, safety grants will not be provided to the States, transit construction will be halted, and Federal enforcement of our motor carrier safety regulations on the highways and at the borders will suffer.

It is crucial that H.R. 3783 be passed by both the House and the Senate and delivered to the Senate before February 29. Our economy cannot withstand the shutdown of the national surface transportation programs.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3783, the Surface Transportation Extension Act of 2004.

This bill would extend surface transportation funding for an additional 4 months, from March 2004 through June 2004. TEA–21 expired on September 30, 2003. Current funds are flowing because we passed a 5-month extension last year. The Surface Transportation Extension Act of 2003 extended our highway and transit programs through February 29. That is only a short 2 weeks away. That is why we need to once again pass another extension to avoid disruption of Federal surface transportation programs. If we do not pass an extension by February 29, current law would essentially cut off highway and transit funding as of March 1. That would result in devastating impacts to every single State in the Union.

Mr. Speaker, H.R. 3783 would extend the current programs and authorize a total of $32 billion in continued funding through June 2004. This bill would authorize $26.4 billion for highway programs, $5.4 billion for transit programs, and $499 million for motor carrier safety and highway safety programs. We need to pass this bill because it will keep our Nation moving.

□ 1515

However, I believe the real debate today is not just about the need for this extension, because we all know we need to pass it and sign it into law. The real debate today is about the need to pass a multi-year authorization bill at a robust funding level that will adequately address our surface transportation needs. The real debate today is why the administration is shortsighted and shortchanging the great American middle class.

Last year, the administration's $247 billion SAFETEA proposal was too little too late. Even with the revised funding level of $256 billion, it is still too little and too late. Most recent figures showed the U.S. unemployment rate is at 5.6 percent. Millions of Americans are still unemployed. They are struggling to put food on their kitchen tables. With our sluggish national economy and millions of Americans out of work, we need something much more than the administration's SAFETEA proposal.

What this Nation needs is a robust public works funding package, and SAFETEA just is not it. What we need is H.R. 3550, the Transportation Equity Act, A Legacy for Users. Under the leadership of the gentleman from Alaska (Mr. YOUNG), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Minnesota (Mr. OBERSTAR), this proposal on the House Committee on Transportation and Infrastructure would authorize $375 billion over 6 years.

Some have criticized that our proposed surface transportation funding will bust the budget and worsen the Federal deficit. Let us be clear about this, nothing could be further from the truth.

Ronald Wilson Reagan knew that fact. In 1982, he said that the highway program will not increase the Federal deficit because the Highway Trust Fund is off budget and because it is funded through user fees. It is a pay-as-you-go system that is deficit neutral.

In addition, I believe, just as Ronald Wilson Reagan believed when he asked Congress to raise the highway user fee by five cents, that highway user fees are simply good tax policy.

Let us pass the extension now because we need to do it. But, most importantly, let us pass a robust multi-year transportation funding bill because we ought to do it. Just as George Herbert Walker Bush said when he signed ISTEA into law back in December of 1991, this bill really is about one thing. It is all about jobs, jobs, jobs.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. PETRI), the chairman of the Subcommittee on Highways, Transit and Pipelines of the Committee on Transportation and Infrastructure.

Mr. PETRI. Mr. Speaker, I rise in support of the bill H.R. 3783, the Surface Transportation Extension Act of 2004.

Although a lot of work has been done on the reauthorization bill, there are challenges remaining, including identifying the needed resources to support funding levels over the next 6 years and addressing the concerns of donor States who want to get a better return on their contribution to the Highway Trust Fund.

This short-term extension is a must-pass bill and so, frankly, is the six-year reauthorization at some point. This is not, as some try to characterize it, pork. This is needed investment in our Nation's productive infrastructure.

If we fail to invest in our Nation's productive infrastructure, we will become less competitive as an economy, we will have a less productive economy, higher prices in the stores, less safe driving on our highways. It is estimated that one out of three deaths on our highways, some 40,000 a year, could be prevented if we had well-maintained, well-designed, modern transportation infrastructure.

This is an investment which, if we fail to make, we are going to pay anyway. The fact is we are not going to save any money by underinvesting in our transportation infrastructure as a country. We will pay in terms of blowing gas out of people's tailpipes, in terms of delay, in terms of inefficiencies in our economy or we can invest and have something to show for it: a first-rate transportation system linking our country together, making us competitive as an economy.

Today, we worry a lot in America about the growing economic competition we face from across the Pacific in China. Let me tell you what China is doing. They are taking a leaf out of our book. Back 60 years ago, Dwight Eisenhower, who knew something about war and about competitiveness and about our country, he stood back, put a cap as best he could on defense spending and pulled the lid full speed ahead on investing in our productive domestic transportation infrastructure. We built the interstate highway system.

What did the Soviet Union do? No roads to speak of. They relied on their railroads. Forty years later, who had the better investment strategy? We had something to save for. We were more competitive as a country, and they collapsed.

What is happening today in the world? We are talking and debating about whether we are going to maintain our commitment to a first-rate infrastructure, grow it to accommodate growth in our economy, grow it to accommodate on the public sector side the tremendous investment the private sector has made in communication and computer technology, to manage data, which at the end of the day squeeze inventory out of the system, go to just-in-time delivery, wonderful things that make us much more productive. But if the goods cannot be moved efficiently, none of that pays off the way it otherwise can.

What is China planning to do today? They are planning over the next 15 years to replicate our interstate transportation system, four-lane highways linking that continent. They are planning on doing in 15 years what it took us 60 years to do. If we fail to meet this challenge, where will we be? What will we have to show for all this supposed savings that we make as a country by underinvesting in our infrastructure? We will leave our children and our grandchildren disarmed in the face of that challenge.

So I ask my colleagues to put aside the rhetoric, recognize that there are different kinds of spending in this world. Everyone says their spending is investment. This is real investment. You have got something to show for it. We will leave a legacy to our children and our grandchildren that we can be proud of and that they can benefit from. This is must-pass legislation, and we are going to have to pay for it if we are going to want to get something for it.

I urge my colleagues to support the passage of the continuing resolution before us today. It is vitally important that this bill be passed by both the House and the Senate and delivered to the President before February 29. Our economy cannot withstand the shutdown of the national surface transportation programs, and it cannot withstand a kind of gnawing away and erosion of our commitment in this area otherwise, either. If we do that, we will regret it in years to come.

Mr. LIPINSKI. Mr. Speaker, I want to compliment the gentleman from Wisconsin (Mr. PETRI) on those excellent remarks of his.

Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the distinguished gentleman from Illinois (Mr. LIPINSKI) for yielding me time.

Mr. Speaker, I want to thank the three gentlemen who have preceded me in speaking, because what they have done is herculean. They have worked together in a bipartisan manner to try to get a bill for this House. I thought they were being wonderfully ambitious to try to get it this month; and I think this House should be very grateful to them because they are having to contend with something that is very, very difficult.

There are three different figures here, Mr. Speaker. Our committee wants $375 billion, the Senate has come forward with $318 billion, and the administration has come forward with $256 billion. And these three gentlemen are trying to find some way to thread this needle and get us all through it. I want to thank them for it.

I do want to say that you would think that this was taxpayers' money. When you think about these different figures, the average person would not believe that this money is in trust to be spent on exactly what we are here on the floor getting an extension for, on mass transportation, on roads, on infrastructure. What we have got is a seminal decision waiting for us.

The best case for going full way with the House bill, of course, is the failure of the recovery to generate any jobs. We cannot go on this way without having to pay a price for it.

The difference in the figures bothers me. The gentleman from the other body, Mr. INHOFE, has indicated that if the full figure that our committee wants is not forthcoming, and I am here using his words, cutting the costs would cause more problems than it would solve because the committee's allocation of funds among the States would be in jeopardy.

This money does not go flinging all around. It goes to States desperately in need of it now, particularly given the huge funding problems the States are having across the board. He is talking about a figure that is less than our figure of $318 million, that the problem would go to the formula itself. So everybody would look to get a lot less money than they need if we cannot agree upon a formula that in fact uses the trust fund for what people paid at the pump to have it used for.

We would not be in this situation if we had passed the $50 billion bill where we came forward last year with $50 billion paid for bill, ready to go, projects in every Members' districts ready to go, sitting on the table, cannot go for lack of funds. That bill never made it to the floor. What jobs are flowing are flowing only anemically, left over from the old transportation bills.

I do not have any doubt that this bill will pass. I have come to the floor to speak about the bill that the gentlemen have been working on, a bill we must have, a bill that is adequately funded, a bill that will use the Highway Trust Fund for the purposes we have collected those funds for.

We must go forward, not backwards. If you need a reason besides the state of your own economy and your own State, think about drugs, think about jobs and the failure of our economy to recover.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I thank the chairman of our committee for yielding me time.

I support this extension; and I recognize that, by supporting this extension, by the time this extension expires under the able leadership of the gentleman from Alaska (Mr. YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) and the gentleman from Wisconsin (Mr. PETRI), we will have a bill produced in the House that will be worthy of our support.

There is a great American in Cleveland, Ohio, today speaking in support of the highway bill. It is the Secretary of the Department of Transportation, the former chairman of our committee, Norm Mineta, who I have nothing but respect for.

The problem is, he is supporting the wrong bill. He is supporting a bill that proposes to spend over 6 years about $258 billion that does not come close to meeting the needs of America's infrastructure.

The chairman and I were in our Republican conference today, and the transportation bill was the subject of some discussion. I have to tell you that if you are looking, not to be partisan, but if you are looking for Republican principles when it comes to highway spending, you can go to Abraham Lincoln, you can go to Dwight Eisenhower, you can go to Richard Nixon, you can go to Ronald Reagan, you can go to George H.W. Bush. All of those presidents recognized that you need to have a strong infrastructure in this country, you need to have a strong infrastructure bill, that the return on infrastructure spending is about six to one back to the government, produces hundreds of thousands, millions of jobs over the six-year life of the bill; and this President should have a bill, too.

I hope that those who are sort of trying to do transportation on the cheap and maybe have the ear of the President at the moment recognize that if you want to draw a line in the sand on spending, this is the wrong beach to draw that line on. If we are going to stay competitive with our folks around the world in Asia and in Europe, we need to make this serious investment in our Nation's infrastructure.

I just had, at the invitation of the gentleman from Alaska (Mr. YOUNG), the opportunity to be in Iraq. There is some discussion in this Chamber about whether or not we should have approved $18 billion for the reconstruction of Iraq. I happen to think it was money well spent. But I will say that if we can spend money building roads in Baghdad, and Tikrit and Um Qasr, we should be able to spend money in this country building roads in Anchorage and up in Duluth and in Portland and in Chicago and in Washington, D.C., and in Cleveland, Ohio.

So I hope that when this bill comes to the floor it is closer to the $375 billion than it is the $258 billion that our good friend and former chairman, Secretary Mineta, is talking about in Cleveland, Ohio, today.

Mr. LIPINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

□ 1530

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding the time and for his excellent management of the bill and the splendid work the gentleman from Illinois has invested over these many months on the bill, and our chairman of the full committee, the gentleman from Alaska, who has spearheaded the drive for the right policy for America. The gentleman from Ohio said a moment ago this is an investment in America; it is an investment in jobs at home.

The gentleman from Wisconsin talked about China's investment in highways. That is just a pittance of what China is investing: $200 billion to double the capacity of their existing waterway ports; $100 billion to modernize their airports, build six new airports, modernize 35 existing airports, build regional airports, to move goods and people more efficiently and effectively and to compete in the globalized marketplace.

Japan, 10 years ago, launched a $1 trillion infrastructure investment program to upgrade the Shinkansen high-speed rail that carries 256 million passengers a year at speeds of nearly 200 miles an hour; upgrade their ports; build a new airport in the ocean as they have already done, extend that; and improve their existing international airport in Tokyo. Why are they doing that? Because they want to compete in the global marketplace more effectively, more efficiently; and every investment they make is a disadvantage to us if we do not keep up, if we do not make our infrastructure investments at home to keep America productive.

Time is running out. I said that 7 years ago. I was on this floor saying time is running out on us. We need to extend this bill, but we need to pass this bill. This was then BESTEA in 1997, and we did, we extended; but we did get a bill passed.

So last fall we were here for the expiration of TEA–21; and I said in this well on this floor, I am afraid we will be back here on this floor once again pleading for another extension of time to keep transportation programs from once again expiring. I do not want to be back on this floor saying again what I said 6 years ago, time is running out, end of quote; but here we are, once again, not because we cannot get a bill accomplished in this committee.

I want it said on the record. We have had a very, how shall I say, competitive negotiation in committee, competing ideas, competing thoughts, competing policies; but we have worked them out. We have the major policy issues agreed upon largely, a few things yet to be done; and we will get those done in the historic bipartisan spirit of this committee and practice of this committee.

What we cannot get done is the funding side. We cannot do that alone. We need the executive branch to participate with us. We need the Committee on Ways and Means to participate, and they will if they are released. Free the Committee on Ways and Means. Let them go ahead. I think the gentleman from California (Mr. THOMAS) will agree with us that we need a robust bill.

What we cannot have is a reverse option. We started off with $375 billion. Do I hear $350 billion? Do I hear 325? Do I hear 318? Do I hear 311? Do I hear 300? Auctions are supposed to go the other way. We are going in the wrong way, not for lack of effort by our chairman, by members of the committee on both sides.

The gentleman from Alaska (Chairman YOUNG) has stuck his neck out and said it time and again. He has led the way. He has told the White House what we need to do. He has told his Republican conference what we need to do. He has told every user group in America what we need to do. He sent us out on the road as missionaries advocating for a robust bill; and nowhere that I have been, nowhere the gentleman from Wisconsin (Chairman PETRI) has been, nowhere that the gentleman from Illinois (Ranking Member LIPINSKI) has been, nowhere the gentleman from Alaska (Chairman YOUNG) has been has anyone said we should not do five cents for America.

This investment in the highway trust fund is the best investment America makes. We have an anti-deficiency provision in the highway trust fund law that says you cannot run a deficit and never have in the nearly 50 years of the highway trust fund, never have, never will; and the users of the system understand that. That is why they are willing to pay the five cents.

Yesterday, OPEC announced that they are going to cut back on production of oil to drive the price of fuel up so that they can continue to generate profits in the face of an eroding American dollar. We are going to sit here and let them do that and say, oh, we cannot burden the American public with five cents? Thirty-six dollars per capita in America to get a better highway system, to get a better investment in transit.

If we were to pass this bill at $375 billion now and the President sign it into law in the next 2 months, we would have 475,000 people in the construction trades working in America by Labor Day, $60 billion of economic activity, putting America back to work. How can that be wrong? How can that be partisan? It is the best investment we can make in America. Get this country moving again, create the jobs. We did it under TEA–21, created 1.3 million jobs in construction trades. No one was sitting on the benches of America. Today we have 800,000 construction workers out of a job and can put half of them to work in the next four months if we pass our bill, our committee bill, and leave a legacy for the chairman, leave a legacy for America. That is what we have got to do, do the right thing for America, not sit around here and fritter away our future and be subject to globalization.

We have seen textiles move offshore. We have seen leather goods move offshore. We have seen steel production move offshore. We now even have call centers moving offshore. We are bringing people from India into universities, community colleges in Indiana, Ohio, Iowa to train them with speech therapists in a Midwest accent so they can go back to India and run call centers. That is actually happening.

Well, one thing they cannot build in China is the Alameda Corridor. They cannot build CREATE in Tokyo for Illinois, for Chicago. They cannot build Anchorage roadways in Taiwan. You build them in America. You create those jobs in America, right here. This is an American program. This is an investment for the future of this country. Why are we quibbling around with five cents? Get over it.

We could have 200 Democrats voting for that bill if we could get it on the House floor, and how can that be a liability for the President if we all stand together and do the right thing for America?

Right now, we are going to kick the can down the road a little bit and hope the people come to their senses, do the $375 billion bill so we do not have to be here another 3 months saying, well, sorry, we could not do it, folks; sorry, America, we could not put you back to work; sorry, we cannot do the right thing for this country, we will wait till next year.

Well, if that is what it comes to, we will wait till next year; but I want to do the right thing, want to do it now. We are going to join in partnership to get there. We have got to make the right investments. We have got to do the right thing. For the time being, the right thing is to pass this extension.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my good friend from Minnesota on his eloquent presentation. I want to thank the gentleman from Wisconsin (Mr. PETRI), the gentleman from Illinois (Mr. LIPINSKI), and the committee members and the staffs who have worked so hard on this legislation and the parent legislation.

There is not much I can add to what the gentleman from Minnesota (Mr. OBERSTAR) has said. Everybody knows where I am standing on this legislation; and by the way, the number 375 is not an artificial number. It is the number that came from the administration, what is needed to improve and maintain the existing highway system, when the interstate highway system becomes 50 years old, or will be 50 years old 3 years from now; and that is an old system.

This is the legislation that can solve the economic woes of this country, not just because of jobs but because transportation provides the resources for the prescription drugs, for Medicare, for education, for Social Security. All those things thrive on our economy, and our economy cannot provide the basis for those systems without transportation.

Truck traffic alone will increase 90 percent over what it is now in the next 15 years. Car traffic, the mileage being used will increase a huge amount over the next 15 years. The most expensive thing we can do today is not the five cents, not the two cents, not even using the funds out of the general fund for the trust fund, but to do nothing. To do nothing is the most expensive cost to the American people. The most expensive cost to the American people is to do nothing.

I can assure my good friends that I am working and my colleagues are working, and we are going to try to achieve the goal we seek; but I will not support a bill that goes so far below the needs. My administration is wrong in this, and I have told them that. I think most of my colleagues have read my letter to the President. They are dead wrong. Because if we do not do this, the legacy we leave behind will, in fact, I think be a legacy of incompetency.

I do not want to wear that label. The gentleman from Minnesota (Mr. OBERSTAR) and myself and the gentleman from Illinois (Mr. LIPINSKI) and the gentleman from Wisconsin (Mr. PETRI) and the staffs and everybody, we are trying to do something that is right for this great Nation, a legacy for users, a need, jobs for America. That is the parent bill, H.R. 3550; and I hope we continue this discussion but reach a solution in the very near future.

The legislation we are addressing today is mandatory because if we do not do it, not only will the agency be shut down, but the States will not issue contracts for the upcoming building session; and so I urge full support for this legislation.

I will ask for a vote. I want my colleagues all to know that, because I think it is important we are on the record of where we stand as a body about building for the future of our great Nation in transportation.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, could the Chair inform me how much time I have left.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Illinois (Mr. LIPINSKI) has 4 minutes remaining. The gentleman from Alaska (Mr. YOUNG) has 7½ minutes remaining.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am honored to join with my colleagues today on what is the most important economic, environmental, and public safety issue that we will be facing.

I for one was a little bit startled when we had the President refer to this transportation bill as an entitlement program. With all due respect, this is not an entitlement, except to the point that I think, as referenced by our committee chair, the American public is entitled to have infrastructure investment.

I find it striking that we can have conservative icons like Grover Norquist, Paul Weyrich, we have the Chamber of Commerce, along with environmentalists, with unions, with development interests, with Realtors, all coming together with one of the broadest coalitions we have seen. All understand that this transportation funding is a user fee. To keep pace with inflation is an important national goal that was endorsed by no less a conservative icon than President Reagan. We are attempting to move forward in this fashion. It does not have to be this hard.

I would hope that our membership across the aisles will support our leadership on this committee who have taken a principled and strong stand to fund needs, as the gentleman from Alaska (Chairman YOUNG) mentioned, that were identified by a study from the administration itself. It is not a hard sell to the American public. Eighty percent of the public feels that our highway and transit network are important to our economy. Sixty-nine percent of the public support increasing our Federal transportation investment, even if it means raising the gas tax.

TEA-21 has provided money for roads, for bridges, for virtually every metropolitan area. It has helped with air quality. It has helped with transportation enhancements, transit freight movement, bicycles. Communities large and small have used all of these provisions. Now is the time for all of us to step forward.

I am sorry we are not debating the 6-year reauthorization, but I hope that we will be using the next 4 months to actually do our job of legislating and passing a bipartisan bill that funds these needs, balances transportation, places a premium on environmental protection, and maintains local flexibility and control of decisionmaking.

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Mr. YOUNG of Alaska. Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield 1 minute 25 seconds to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I rise in support of the Surface Transportation Extension Act of 2004. Although we have made progress on the full reauthorization bill, we still have miles to go before we finish. However, I believe passing the full reauthorization as close as possible to the $375 billion figure supported by many Members of this body will be one of our most significant accomplishments of this Congress.

The challenges we are working to meet through passage of this bill are very significant to the people of our Nation, especially during these difficult economic times. These challenges are central to the lives of working families like those in my district as well as those around the country.

Transportation is about more than concrete, asphalt and steel. It is about people and about providing them with the opportunity to lead safer, healthier and more fulfilling lives.

The much-needed investment in our steadily deteriorating infrastructure would provide a proverbial shot in the arm for the economy, while helping to improve America's prosperity and quality of life. Our country's economic strength, our ability to improve productivity, and our capacity to create jobs are all dependent upon expanded investment in transportation infrastructure. The 6-year reauthorization will have a lasting impact on all three of these areas.

This extension will provide funding for 4 months. In those 4 months, we have a lot of work to do. I hope the Bush administration will see the wisdom of passing a full 6-year reauthorization at a number far above the proposed $256 billion figure. So far, they have missed the mark.

Mr. LIPINSKI. Mr. Speaker, I yield 35 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the temporary extension of the Transportation legislation for $375 billion and to say that these types of transportation projects actually create jobs.

However, I go on record to say several things.

First, this is an engine that makes a difference for the 21st century. I hope we can work with local communities and our local agencies, like the Texas Department of Transportation to insure that they do more to enlist the input of citizens to make sure these projects are neighborhood friendly and supported.

In addition, we really must address the crisis of drunk driving on our freeways. Houston has recently had several deaths due to drunk driving. I hope to work with the chairman and the ranking member and the ranking member of the subcommittee to ensure that we have safe highways and freeways by addressing the question in the final bill. We should have full funding and an extension of the surface highway and transportation bill because it equates to jobs for America.

Mr. Speaker, I rise in support of this bill, H.R. 3783, the Surface Transportation Extension Act of 2004. This four-month extension of the "Transportation Equity Act for the 21st Century (TEA–21; PL 105–178)" that was set to expire in 18 days is a very important legislative measure to the safety of our highways.

Under H.R. 3783, $224 million will be awarded for the National Highway Traffic Safety Administration for various grant programs. Similarly, $255 million will go to the Federal Motor Carrier Safety Administration for grants to enforce safety regulations and inspections along the Mexican border.

If this bill is not extended by February 29, 2004, the consequences will be grave for the safety of our motorists as well as for the construction workers who await the beginning of contracts of employment. This 4-month extension of TEA–21 will preserve the basic structure of our Federal surface transportation programs, which have proven to be extremely beneficial for our citizens' mobility and our national economy over the last 6 years.

The guaranteed funding, the program structure, and the balanced approach to transportation planning found in TEA–21 ,amount to positive growth and increased safety for the country. Transit has experienced the highest percentage of ridership growth among all modes of surface transportation, growing over 28 percent between 1993 and 2001. Therefore, I look forward to this legislation's preservation of the structure and programs of TEA–21 for the next 4 months.

The transportation needs of this Nation are significant, as more and more communities find themselves confronting the problems of traffic congestion and delay. According to the Texas Transportation Institute, in the year 2000, Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the Nation of $67.5 billion in lost time and wasted fuel. As these figures show, congestion has a real economic cost to this Nation, in addition to the psychological and social costs of spending hours each day sitting in traffic.

With respect to highway safety, we need these funds to address the horrible problem of drunk driving. The National Highway Traffic Safety Administration grant programs will ensure that new drivers get the safety education that is so critical when the risk is so high. In Houston during the year 2000, there were a total of 48,025 motor vehicle accidents. There were 219 fatal accidents and 243 killed in accidents. Also in that year, there were 33,370 accidents that caused injuries and 60,105 were injured.

Furthermore, on January 27, 2004, three fatal accidents occurred in Houston.

First, a pickup truck ran into a parked 18-wheeler when it tried ducking into a service land to get ahead of another car. The passenger died in the crash and the driver was listed in poor condition.

Another accident at Jones Road and FM1960 in Houston occurred when a man's car jumped the curb, hit a car then rear-ended a big rig. Authorities said the driver was speeding when the accident happened near the parking lot of a Krogers grocery store.

Moreover, a 15-year-old Pasadena girl was killed in a drunk driving accident. In that instance, police said that the driver of the car she was in lost control and flipped over in southeast Houston. The driver was arrested for DUI and manslaughter charges are pending.

Therefore, for reasons related to the safety of our drivers, the safety of the narrow roads and to the availability of jobs, among other reasons, I urge my colleagues to pass H.R. 3738.

Mr. Speaker, for the above reasons, I support this legislation, and I urge my colleagues to join me.

Mr. DINGELL. Mr. Speaker, I rise today to call on the President and House Leadership to come together with Chairman YOUNG and Ranking Member OBERSTAR and complete a robust and comprehensive transportation bill that addresses the economic needs of our country. A little less than five months ago, I, along with a majority of the House, voted for an extension. I did so reluctantly then, and will do so again today. But, we cannot continue down this path of short-term extensions.

Short-term extensions shortchange our economy, leaving state and local governments in a difficult situation when planning and assessing highway and transit projects. In fact, these short-term extensions result in an estimated $2.1 billion in project delays and the loss of more than 90,000 jobs. As I said last time, we cannot continue to operate the government through continuing resolution. To do so not only puts our infrastructure in jeopardy, but the well being of our nation. I would hope that those opposing Chairman YOUNG and Ranking Member OBERSTAR's efforts realize that they are hindering our economy at a time when we need to get things moving again.

Mr. Speaker, nearly 3 million private-sector jobs have been lost since January 2001. We should be doing everything in our power to help get this economy back on track. A good robust transportation policy is a good place to start. For every $1 billion invested in federal highway and transit spending, 47,000 jobs are created. These are good paying jobs. Jobs that provide money to families to put food on the table and clothe their children.

Yet, the President remarked a robust bill is somehow an entitlement program. It seems to me that he should take a second look at the bill that was proposed and reconsider his position. 1.7 million jobs would be a good start in trying to make up for the losses we have experienced in the last 3 years.

In Michigan, a good robust transportation bill would help our state begin an economic recovery due to the heavy loss of manufacturing jobs. It also would ensure that Michigan receives its fair share of transportation dollars. Michigan and other states need action on this bill soon. To prolong this process after this extension will have undesirable consequences on our economy.

I support my Transportation and Infrastructure Chairman and Ranking Member in their goals for our nation. They understand the investment we can put into our great nation through a robust bill. I stand by ready to help in any way I can.

Mr. YOUNG of Alaska. Mr. Speaker, this extension is an important piece of legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3783.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3783.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2003

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 523) to make technical corrections to laws relating to Native Americans, and for other purposes.

The Clerk read as follows:

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Mississippi Band of Choctaw Indians.
Sec. 108. Rehabilitation of Celilo Indian Village.

Subtitle B—Other Provisions Relating to Native Americans

Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Pueblo of Acoma; land and mineral consolidation.
Sec. 124. Quinault Indian Nation; water feasibility study.
Sec. 125. Santee Sioux Tribe; study and report.
Sec. 126. Shakopee Mdewakanton Sioux Community.
Sec. 127. Agua Caliente Band of Cahuilla Indians.
Sec. 128. Saginaw Chippewa Tribal College.
Sec. 129. Ute Indian Tribe; oil shale reserve.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106-511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "2000" and inserting "2004"; and

(B) in paragraph (2), by striking "2001 and 2002" and inserting "2005 and 2006"; and

(2) in subsection (b), by striking "2002" and inserting "2007.".

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93-531 (commonly known as the "Navajo-Hopi Land Settlement Act of 1974") (25 U.S.C. 640d-24(a)(8)) is amended by striking "annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000" and inserting "for each of fiscal years 2003 through 2008".

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1931 (25 U.S.C. 476), is amended by adding at the end the following:

"(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act

"(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

"(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).".

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: ", and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust".

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102-358 (106 Stat. 960) is amended—

(1) by striking "implement the settlement" and inserting the following: "implement—

"(1) the settlement;";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

"(A) on October 22, 2001, by the Army Corps of Engineers;

"(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

"(C) on November 8, 2001, by the Secretary of the Interior.".

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking "2005" and inserting "2008";

(2) in subsection (b), by striking "2002" and inserting "2005"; and

(3) in subsection (c), by striking "2001" and inserting "2004".

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106-228 (114 Stat. 462) is amended by striking "report entitled" and all that follows through "is hereby declared" and inserting the following: "report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106-228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared".

SEC. 108. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100-581 (102 Stat. 2944) is amended by inserting "and Celilo Village" after "existing sites".

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) In General.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the "Band")—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) Land.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) Gaming.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) Definition of Bidding or Royalty Credit.—The term "bidding or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) Authority.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107-138 (116 Stat. 6).

(c) Use of Bidding and Royalty Credits.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 124. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) In General.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) Public Availability of Results.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 125. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) Study.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) Cooperative Agreement.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) Report.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 126. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) In General.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the "Community") may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) No Effect on Trust Land.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 127. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) In General.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land that the Secretary of the Interior agrees is to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) Covenants.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 128. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

"(22) Saginaw Chippewa Tribal College.".

SEC. 129. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

"(3) With respect to the land conveyed to the Tribe under subsection (b)—

"(A) the land shall not be subject to any Federal restriction on alienation; and

"(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.".

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) Agreement.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) Boundary line.—The term "boundary line" means the boundary line established under section 204(a).

(3) Governors.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) Pueblos.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) Trust land.—The term "trust land" means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) In General.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) In General.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) Survey.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) Legal Descriptions.—

(1) Publication.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) Technical corrections.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) Effect.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) In General.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) Applicable Law.—

(1) In general.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) Pueblo lands act.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) Use of Trust Land.—

(1) In general.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) Criteria.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) Limitation.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the "Tribe") in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 523, the Native American Technical Corrections Act of 2003, makes over 20 changes to current law to assist Indian tribes with matters that may seem relatively small to some of us but are quite important to individual tribes across this country.

I am pleased we are able to bring this legislation to the floor today. Tribal leaders from various regions have flown to Washington, D.C., for meetings, conferences and interaction with their congressional representatives.

The continual input from tribes and their willingness to work directly with the Congress as sovereign entities on a government-to-government basis brings us to our debate and vote on S. 523.

Specifically, the legislation will make technical corrections to laws relating to Native Americans, including the extension of expiring authorizations, amendments to statutes relating to particular Indian tribes, and modifications to certain Native American programs. It makes these beneficial changes in areas relating to tribal sovereignty and culture and will encourage economic development.

To illustrate the importance of this bill, let me offer an example of how one of the provisions will offer urgent assistance to a tribe that suffered the consequences of the recent wildfires in California. The Barona Band of Mission Indians was devastated by catastrophic wildfires last year. Section 121 of this bill places a certain amount of land in trust in order to facilitate the construction of a pipeline that will deliver water from the San Vincente Reservoir to the tribe's reservation. This pipeline is badly needed for fire suppression that may threaten the reservation in the future.

Numerous tribes will be able to move forward on projects that will help to strengthen their tribal government and better illuminate their history and culture. This includes reauthorization of sections of the Bosque Redondo Memorial Act, which memorializes lands on which members of the Navaho Nation were forcibly marched by the U.S. Army beginning in 1863 after they were forced to leave their traditional homes in northeastern Arizona and northwestern New Mexico. S. 523 improves the implementation of this Act.

There are many other provisions too numerous to mention here, and I am proud that the House can deliver this package to the President for his signature. This legislation represents a step in the right direction for Indian country, and I appreciate the bipartisan work of the ranking member, the gentleman from West Virginia (Mr. RAHALL), in bringing us to this point today. I look forward to continuing to work together on various initiatives as they relate to American Indians and Alaskan Natives.

Finally, I would also like to point out that S. 523, as amended, was passed in the Senate by unanimous consent on July 30, 2003. I hope we can now act in the same bipartisan fashion. I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL), for their hard work on this bill. I am pleased to rise in support of Senate 523, the Native American Technical Corrections Act of 2003.

This bipartisan legislation, which reflects the work product of a number of Members, contains a variety of provisions that would benefit Indian tribes and Alaskan Natives. One provision of the bill extends the authorization through 2008 for the Four Corners Interpretive Center. This Center focuses on Native American culture through a cooperative agreement between the area's Indian tribes and my State of New Mexico as well as Colorado, Utah and Arizona.

Another provision of the bill clarifies the authority of the Secretary of Interior to issue bidding or royalty credits as a form of payment to acquire land and subsurface rights on the Acoma Indian Reservation for that tribe. This will permit the Pueblo to gain more control over lands within its reservation. This is related to legislation that the former Member from New Mexico, Joe Skeen, was involved with in the last session.

In addition, this bill authorizes the transfer of surplus lands from the Bureau of Land Management to the Pueblo of Santa Clara and the Pueblo of San Ildefonso to be used for traditional purposes only. Some Members may recall we passed similar legislation just last year. In an effort to get the other provisions of this bill signed into law without having to return to the other body, we have agreed to allow this provision pertaining to San Ildefonso and Santa Clara to remain in the bill knowing that it will not impede the transfer already under way.

In short, this bill makes minor changes to several laws by extending authorizations, clarifying congressional intent, and generally addressing some needs of various Indian tribes.

From the distribution of judgment funds to the Quinault Indian Nation in Washington State to the reauthorization of the Navaho-Hopi Land Settlement Act, passage of this legislation is important to each Indian tribe named in the bill.

Furthermore, this legislation is noncontroversial, and I urge Members to support S. 523.

Mr. Speaker, I reserve the balance of my time.

Mr. POMBO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I thank the chairman, the gentleman from California (Mr. POMBO), for his great work in putting together this bill, particularly for a guy who represents the district where the Barona tribe have had major problems with water. They have had substantial water problems for the last several years. The tribe and the residents of the Old Barona Road have been working together to try to bring this pipeline up from the San Vincente reservoir, up over the saddle that separates the Barona Valley from the reservoir, and provide water in that area. It is expected that the rural residents of the Old Barona Road and the tribe will work together to make sure that there is a connection there off that main pipeline so that everyone can partake of this secure water supply that is not dependent on the well water level in that particular valley.

I thank the chairman, and ask him if that is his intent with this legislation.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, I thank the gentleman for his statement and his continued involvement as this legislation has moved forward.

Obviously, the growth that we have experienced in California, coupled with the recent wildfires, have pointed out to a greater extent the need for this pipeline to be put in.

I agree that it is important that the Barona Band of Mission Indians continue to work with the local communities to address everyone's concerns. I did have an opportunity to tour the site of the proposed pipeline that was going to go in, as well as the neighbors and the issues that they have, and I will continue to work with Barona and make sure that everyone's concerns are addressed.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. This is great legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would just like to congratulate Senator Ben Nighthorse Campbell on this legislation and all of the staff members that worked on it, and especially Marie Howard.

Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I urge my colleagues to support the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the Senate bill, S. 523.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

☐ 1600

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, proceedings will resume on the motion to concur and on the motion to suspend the rules previously postponed.

Votes will be taken in the following order:

Motion to concur in Senate amendment to H.R. 743, by the yeas and nays; and

H.R. 3783, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

SOCIAL SECURITY PROTECTION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question on the motion to concur in the Senate amendment to the bill, H.R. 743, offered by the gentleman from Florida (Mr. SHAW) on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion to concur in the Senate amendment.

The vote was taken by electronic device, and there were—yeas 402, nays 19, not voting 11, as follows:

[Roll No. 23]

YEAS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Graves
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)

Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—19

Bell
Burgess
Carter
Edwards
Frost
Gonzalez
Green (TX)
Hall
Hinojosa
Jackson-Lee (TX)
Johnson, E. B.
Lampson
Neugebauer
Ortiz
Owens
Reyes
Rodriguez
Sandlin
Stenholm

NOT VOTING—11

DeGette
Diaz-Balart, M.
Doggett
Granger
Honda
Kucinich
Murtha
Rahall
Solis
Turner (TX)
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1623

Messrs. HINOJOSA, SANDLIN, and BELL changed their vote from "yea" to "nay."

Mr. INSLEE changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 23 on H.R. 743, the Social Security Protection Act, I was unavoidably detained. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the next vote will be conducted as a 5-minute vote.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3783.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3783, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 11, as follows:

[Roll No. 24]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
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Frank (MA)
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Frelinghuysen
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Gordon
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Green (TX)
Green (WI)
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Hyde
Inslee
Isakson
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Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
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Lipinski
LoBiondo
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Lowey
Lucas (KY)
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Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
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Northup
Norwood
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Ortiz
Osborne
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Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
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Portman
Price (NC)
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Putnam
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Radanovich
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
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Sherwood
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Simmons
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Smith (MI)
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Strickland
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Sullivan
Sweeney
Tancredo
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Taylor (MS)
Taylor (NC)
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Thompson (CA)
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Tierney
Toomey
Towns
Turner (OH)

Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

DeGette
Diaz-Balart, M.
Doggett
Honda
Kucinich
Linder
Murtha
Rahall
Renzi
Solis
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1632

So (two thirds having voted in the favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 24 on H.R. 3783, I was unavoidably detained. Had I been present, I would have voted "yea."

☐ 1633

COMMENDING LOUISIANA STATE UNIVERSITY TIGERS FOR WINNING 2003 BOWL CHAMPIONSHIP SERIES NATIONAL CHAMPIONSHIP GAME AND COMMENDING SOUTHERN UNIVERSITY JAGUARS FOOTBALL TEAM FOR WINNING 2003 SBN BLACK COLLEGE NATIONAL FOOTBALL CHAMPIONSHIP

Mr. BAKER. Mr. Speaker, I ask unanimous consent that it be in order at any time for the majority leader or his designee to call up House Resolution 496; the resolution be considered as read; and the previous question be considered as ordered on the resolution to final adoption without intervening motion except (1) one hour of debate and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BAKER. Mr. Speaker, pursuant to the previous order of the House, and as the designee of the majority leader, I call up the resolution (H. Res. 496) commending the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game, and commending the Southern University Jaguars football team for winning the 2003 SBN Black College National Football championship, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 496 is as follows:

H. RES. 496

Whereas the Louisiana State University Tigers football team won the 2003 Bowl Championship Series national championship game, defeating Oklahoma University by a score of 21–14 in the Nokia Sugar Bowl at the Louisiana Superdome in New Orleans, Louisiana, on January 4, 2004;

Whereas the Louisiana State University football team won the Southeastern Conference Championship, defeating the University of Georgia by a score of 34–13 in the Southeastern Conference Championship game at the Georgia Dome in Atlanta, Georgia, on December 6, 2003;

Whereas the Louisiana State University football team won 13 games during the 2003 season, more games than in any other season in Louisiana State University history;

Whereas the Louisiana State University football team won 5 games against nationally ranked opponents during the 2003 season;

Whereas the Louisiana State University football team set 8 school records during the 2003 season;

Whereas in 2003 the Louisiana State University football team was first in the Nation in total defense, allowing only 252 yards per game, and scoring defense, allowing only 1 team to score more than 20 points in any game during the season;

Whereas Louisiana State University football head coach Nick Saban was named the National Coach of the Year by the Associated Press and the Football Writers Association of America;

Whereas 4 players—Chad Lavalais, Corey Webster, Skyler Green, and Stephen Peterman—were named first-team All-Americans;

Whereas offensive tackle Rodney Reed was named a National Scholar-Athlete by the National Football Foundation and was named first-team Academic All-American;

Whereas quarterback Matt Mauck threw 28 touchdown passes during the 2003 season, a Louisiana State University single season record, and was named second-team Academic All-American;

Whereas running back Justin Vincent was named most valuable player of the Southeastern Conference Championship game and the Nokia Sugar Bowl;

Whereas the Southern University Jaguars were named the 2003 SBN Black College National Football Champions;

Whereas on December 13, 2003, in front of 31,617 fans in Birmingham, Alabama, the Southern University football team defeated Alabama State University by a score of 20–9 to win the Southwestern Athletic Conference Championship game and Southern University's 19th Southwestern Athletic Conference title;

Whereas the Southern University football team beat Grambling State University by a score of 44–41 to win the 2003 State Farm Bayou Classic and a trip to the Southwestern Athletic Conference Championship game;

Whereas the Southern University football team finished the 2003 football season with a 12–1 record;

Whereas the Southern University Jaguars' football head coach, Pete Richardson, earned his 5th conference title in his 11th year of coaching at Southern University;

Whereas Southern University coach Pete Richardson was named Coach of the Year by the Southwestern Athletic Conference;

Whereas Southern University quarterback Quincy Richard led the most effective offense in Black college football this year and was named Offensive Player of the Year by the Southwestern Athletic Conference;

Whereas 4 Southern University football players have been named to the 2003 SBN Black College All-American Team, including quarterback Quincy Richard, offensive linemen Arnold Sims and Miniya Smith, and defensive back Lenny Williams;

Whereas the Southern University football team was the most efficient and dominant football team in the Southwestern Athletic Conference in the 2003 season; and

Whereas over 1,000,000 devoted fans attended the top 30 Black college football games in the 2003 season: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the Louisiana State University football team during the 2003 football season;

(3) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Louisiana State University for appropriate display and distribution to the coaches and members of the 2003 Louisiana State University football team;

(4) commends the Southern University Jaguars football team for winning the 2003 SBN Black College National Championship;

(5) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the Southern University football team during the 2003 football season; and

(6) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Southern University for appropriate display and distribution to the coaches and members of the 2003 Southern University football team.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana (Mr. BAKER) is recognized for 1 hour.

Mr. BAKER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Louisiana (Mr. JOHN), for purposes of debate only.

GENERAL LEAVE

Mr. BAKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 496.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today with a particular note of pride to speak on behalf of two fine athletic achievements from institutions both domiciled within the great city of Baton Rouge.

It began last fall when LSU set eight school records during the 2003 season. They won 13 games during that season, more games than in any other season in Louisiana State University history.

They won the Southeastern Conference championship, defeating the University of Georgia by a score of 34 to 13 in the Southeastern Conference championship game at the Georgia Dome in Atlanta on December 6, 2003. This was followed by a terrific game and a victory in the 2003 Bowl Championship Series for the national championship, defeating Oklahoma University by a score of 21 to 14 in the Nokia Sugar Bowl on January 4, 2004.

Let me say a word about the excellent Oklahoma team and the manner in which their athletes competed. There was no giving up until the final whistle blew. It was a terrific game to watch.

But I want to express great appreciation to the young men of the LSU football team for their commitment to excellence and their hard work in pursuit of this championship. As a result of this effort, they were first in the Nation in total defense, allowing only 252 yards per game, and scoring defense, allowing only one team in a game to score more than 20 points. As a result of this outstanding effort, Coach Nick Saban was named the National Coach of the Year by the Associated Press and the Football Writers Association of America, and Chad Lavalais, Corey Webster, Skyler Green and Stephen Peterman were all named first-team All-Americans.

At the same time, as amazing as this accomplishment was for any athletic program, located just across the city is the great Southern University, also within the Sixth Congressional District of Louisiana.

They ended their football season, finishing with a 12 and 1 record, defeating Grambling State University in an exciting game, 44 to 41, to win the 2003 State Farm Bayou Classic and the right to go to the Southwestern Athletic Conference championship game.

On December 13, 2003, in front of 31,617 fans in Birmingham, Alabama, the Southern University team defeated Alabama State by a score of 20 to 9 to win the Southwestern Athletic Conference championship game and Southern University's 19th Southwestern Athletic Conference title, consequently were named the 2003 SBN Black College National Football Champions.

This is an extraordinary occurrence, when two programs of such excellence achieve national prominence and bring home the national championship.

Although there has been some discussion about the manner in which this championship was arrived at, I would be quick to point out that this resolution is the first such resolution to be considered on the House floor, and appropriately so, because I believe, without doubt, LSU and Southern University are first in the Nation in football excellence.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me thank my good friend and colleague from Baton Rouge, Louisiana, for introducing this resolution, and, of course, thank him for extending me the time.

I am very proud to stand up here today to congratulate two national championships from the same city. I think that is an accomplishment that we all in Louisiana, and certainly the Congressman from Baton Rouge, should be very proud of.

As the gentleman mentioned, on January 4, down in the Louisiana Superdome in the Sugar Bowl, which was the BCS national championship, the LSU Fighting Tigers, my alma mater, defeated the Oklahoma Sooners in the Bowl Championship Series national title. The Tigers did the State proud by bringing home the first national championship in 45 years, Mr. Speaker; and I think that is a proud accomplishment.

However, LSU, as the gentleman from Louisiana (Mr. BAKER) has mentioned, is not the only collegiate football team to excel this year. The Southern University Jaguars gave the fans throughout the country something to cheer about when they were recognized in the Sheraton Poll as the 2004 Historical Black College National Championship, completing the dual national championships from two universities from the same town.

The Southern Jaguars completed an impressive 12 and 1 season, including a very exciting football game in the Superdome in the Bayou Classic and also the Southwest Athletic Conference title championship game.

Mr. Speaker, but this was more than just about two football games. I am very proud to stand up here and congratulate the athletic programs of both universities, but this was also an opportunity to showcase the academic excellence of both of those universities. I am very proud of that.

LSU chancellor, Mark Emmert; Southern University chancellor, Ed Jackson; the LSU football coach, Nick Saban; the Southern football coach, Peter Richardson; all the students; the great fans from Louisiana should all be proud and join us in recognizing this wonderful accomplishment of the two national championships from my home State. I am very proud to stand here and congratulate them.

Mr. Speaker, I reserve the balance of my time.

Mr. BAKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Chairman TAUZIN).

Mr. TAUZIN. Mr. Speaker, this is a very important resolution, because it recognizes a most unusual event in our Nation's sports history, when two college teams in the same town, Baton Rouge, Louisiana, not a big metropolitan town like Los Angeles or New York or what have you, but a small southern capital city, when two universities in that town achieve the ranking of number one in the Nation, national championships, both the Black College National Championship with Southern and the NCAA championship with the LSU Tigers, that is a remarkable event.

I missed the LSU game, by the way. My friend from Crowley should know the fact I spent the night in Crowley Hospital in fact attending to a problem I was having that night and missed the game, and my wife had to tell me who won the next morning.

But I did watch the replay, and the gentleman is absolutely right, it was an amazing game. Unfortunately, I stayed there with my two tickets, knocked out for the evening, and did not see the game. But when I saw the replay, I realized how tough a game it was.

Oklahoma was a great team. The Oklahoma Sooners were supposed to be the "team of the century" as they began their season, stumbled with Kansas State, and again faced an incredibly improving LSU team under Nick Saban. Coach Richardson with the Southern team had an amazing run of great victories to a national championship as well. What an outstanding year Baton Rouge, Louisiana, had and our State of Louisiana had in these two national championships.

The most remarkable thing, of course, is the way these two coaches have brought these players along. If you watched the season of these two teams, you saw coaches really working with young men and bringing them along, both athletically and in many other ways, making great men of them as they proceeded through their schedule. When the end of the season came, they were all much better than when they started, both academically, athletically and in so many other ways.

I should also tell you one of my best friends in this world is a former Member, Bill Brewster. You should know that last Friday Bill Brewster went through open heart surgery here in Washington, D.C. He had five bypasses, and he is back at his desk today. He is doing great; he has recovered.

But I called him up when I knew he was going into that surgery, since he is from Oklahoma and he was a Congressman from Oklahoma, to offer him some LSU surgeons, since we had learned to cut up on Oklahoma pretty good in the stadium in New Orleans. He had a good laugh and said, "You are going to break my stitches. Don't do that, please."

The bottom line is we had a great year. The coaches and players at LSU, my son is an LSU senior right now, as you and I, all of us are LSU graduates, he is a senior now at LSU, and the thrill of those students, I know at LSU and Southern, to watch their team achieve such great heights is an inspiration for all those young people. They are going to be better students. They are going to be better people because they went through a great year, and they saw what hard work, determination and just gutting it out means in terms of winning a great victory the way the teams won those victories.

So, again, our great congratulations to the LSU Tigers and the Southern Jaguars, our great appreciation to the coaches and their staffs and the students and those folks who run those two great institutions, and our congratulations to the fans of our great State, who stuck with our teams through some hard times until this great year we experienced.

So, again, thank you for bringing this resolution forward, Richard, and again congratulations at Mardi Gras time to the State of Louisiana.

"Laissez les bon temps rouler," let the good times roll.

Mr. BAKER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Louisiana (Mr. McCRERY).

Mr. McCRERY. Mr. Speaker, I appreciate the gentleman bringing this resolution to the floor.

Mr. Speaker, I am a graduate of LSU Law School, so, of course, I am very proud of the LSU Tigers and their national championship this year. But I have to tell you not only LSU graduates are proud of the LSU Tigers. LSU is an institution in Louisiana that exceeds just the confines of the campus and the student body and the alumni. Everybody in Louisiana takes great pride in watching the LSU Tigers play, so, of course, the State is just very excited still about the national championship.

Southern University, the Jaguars, have a long history of great football teams, this year, of course, winning the national championship for Black Colleges. So Baton Rouge, as the gentleman from Louisiana (Mr. TAUZIN) pointed out, is the home of two national champions, and we all of us in Louisiana, north Louisiana and south Louisiana alike, are very proud of those two schools and our capital of Baton Rouge.

I took my two boys and my wife to the Sugar Bowl; and just to give you some idea of the excitement that was generated by LSU, my two boys, who are 10 and 8, I have never seen them get so excited about anything, whether it is Christmas morning or birthday presents. These guys were excited. Just throughout the stadium, people were excited about what was going on in our State and with our football team, the LSU Tigers.

□ 1645

So it was a great victory not only for LSU but for everybody who lives in Louisiana and who enjoys watching the LSU Tigers play football. The same thing I am sure for the alumni fans, children of graduates of Southern University. So, all in all, this year we just could not have asked for a better ending to the football season at both Southern and LSU.

So I thank the gentleman for bringing this resolution to the floor.

I commend the coaches of both schools and the players. I want to particularly point out Nick Saban's performance not only on the football field and not only on the sideline but before the cameras. In every interview leading up to the Sugar Bowl, I think Coach Saban was extremely gracious in his comments about the BCS and who might be the eventual champion, who should be and what game. He never, ever got cross-wise with the press. He never stuck his nose up and said LSU ought to be here or there. He just said, look, we are just going to play the game and see what happens; and whatever game they tell us to go to and play, that is where we will go and play. I thought he exhibited a great deal of character and class in that whole time period leading up to the game.

So congratulations to Coach Saban for a fine performance on the field and off the field.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

I have the gentleman from New Orleans, Louisiana, (Mr. JEFFERSON) who is on his way to also join in this celebration of two national championships.

Of course, I am very proud of being not only an alumnus of that great institution but also for being present at the game. It was an incredible game. It was a defensive game. Of course, Coach Saban always said, and borrowed a line from many famous coaches, that defense wins national championships. Of course, the 21-to-14 score at the end of the game I think reiterated the fact that the defense indeed did win this national championship.

I am actually looking forward to the 2004 season with the BCS to ending up very similar to this year, but the only difference is it will happen in Miami and not New Orleans.

Mr. Speaker, I reserve the balance of my time.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

I wish to read into the RECORD additional commendations that are certainly appropriate. I recognize that Coach Saban was named the Associated Press Coach of the Year. I would like to also recognize the Southern University Coach, Pete Richardson, who was named Coach of the Year by the Southwestern Athletic Conference, as well as having young men named to the SBN Black College All American Team, including quarterback Quincy Richard, offensive linemen Arnold Sims and Miniya Smith, and defensive back Lenny Williams. So the achievements and recognition coming to both universities, their football leadership, and the members of the team have been extraordinary.

It is with great pleasure that I participate in this discussion this afternoon and note, as I did a few moments ago to the gentleman from Louisiana, that this is also the first resolution to be considered in the House on this matter. Although there appeared to be controversy, I do not consider it so. There was merely discussion about the efficacy of Louisiana State University being named number one as a result of some expressed concerns about the BCS. Those concerns only became apparent when the calculations turned out the way they did at the end of the day. Many people were quite happy to abide by the BCS scientific analysis as long as LSU remained in third position.

So I just wanted to enter into the RECORD that once again, with the consideration of this resolution, LSU is moving forward in first place through the legislative process.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

As the gentleman mentioned, I happen to be, I guess notwithstanding anything else, a big fan of the BCS. I believe that it is a system that is maybe far from perfect, but I am very supportive of the theory of what it is all about. It puts to strength the schedule and also puts the games, who you play, and not just how many points you score. And I think that, in the end, it was very close. It was in the decimal points.

But I also want to congratulate the University of Southern California, who had a very excellent season and ended on a very positive note. But the BCS, I think we will hear lots of controversy about it, but I think it worked. I think it was something that is far from perfect, as I mentioned before, but it is something that is needed in college football, and we are moving towards that.

Mr. BAKER. Mr. Speaker, will the gentleman yield?

Mr. JOHN. I yield to the gentleman from Louisiana.

Mr. BAKER. Mr. Speaker, I would like to point out that when we start a political campaign as hopeful candidates to be elected to Congress, we set up a standard of rules, we conduct the campaign, and we finalize the campaign based on those pre-determined sets of rules. Rarely do we get engaged in a discussion about changing the rules during the course of the campaign.

I think, although I had some differences myself with the way the BCS calculations were to ultimately be determined, once the BCS was put in place, win or lose, we had to abide by those rules until that season was over.

Now next season may bring us new opportunities to talk about perhaps playoff opportunities. Some were interested in seeing a playoff game between LSU and USC. I would personally have enjoyed that to a great extent.

Mr. JOHN. Mr. Speaker, reclaiming my time, it is also just interesting to note that all of the conferences across the NCAA signed off on those rules before the season started, so we must play by those rules.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Orleans (Mr. JEFFERSON), my friend and colleague.

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for yielding me this time.

I hope the Nation can appreciate this bipartisan effort here that is being made to bring to the attention of those who are still unconvinced that LSU is the undisputed national champion of college football. I hear no objection to that on this floor from any of my colleagues, because it is a fact.

I am very proud that this event that established LSU as the undisputed national champion was held in my home district in New Orleans in the Super Dome. It was a rousing crowd and a wonderful event; and, of course, the right team won.

I am also here to say for Southern University how proud we are of that university. That is a school to which I went some 35 years ago now, from which I graduated before law school and which I hold very close to my heart. Southern University has won the National Black College Championship Award for this year. So two schools from Louisiana, both from Baton Rouge, from the biggest district have distinguished themselves and therefore brought honor on our State and I believe for our entire Nation.

We ought to be very proud of them. They not only distinguish themselves in football, as my colleagues know. They have wonderful records of accomplishments in academia, which is their major function. They graduate as athletes, and they do a wonderful job all the way around.

So Louisiana is in the spotlight tonight for something that is very, very good. All of us are proud of them, Republicans and Democrats across this country. We are proud of our schools and proud of what they stand for and proud of the tradition that they represent, the best of competition in college football. This year that competition being rewarded in the fact that both of them are undisputed national champions in their respective fields of operation.

Mr. JOHN. Mr. Speaker, I have no more speakers, and I yield back the balance of my time.

Mr. BAKER. Mr. Speaker, I am proud to offer this resolution for consideration by the House. I look forward to its final adoption and, more importantly, next season.

Mr. VITTER. Mr. Speaker, I rise to today to congratulate the Louisiana State University Fighting Tigers football team for winning the 2003 National Championship and the Southern University Jaguars for being named the 2003 SBN Black College Football championship. Both of these schools brought great excitement to the people of Louisiana, including myself, and undoubtedly deserving champions.

As I watched the game in the Superdome I knew I was watching something special, a part of history that folks in Louisiana would be proud of for a long time. LSU defensively dominated Oklahoma on its way to a 21–14 victory over the heavily favored Sooners to bring the national title back to Baton Rouge for first time since the "Chinese Bandits" secured it in 1958. Led by coach of the year Nick Saban, the Tigers won a school record 12 games this year and their 9th Southeastern Conference Championship beating arch rivals Ole Miss, Auburn, Alabama, and Arkansas by a combined score of 130–48.

The Tigers got outstanding performances from several players during the season. True Freshman Justin Vincent was named the most valuable player of the Southeastern Conference Championship game against Georgia, where he rushed for 201 yards and the Sugar Bowl where he ran for 117 yards with 1 touchdown.

LSU's defense led by first team all-American Chad Lavlais ranked number 1 in the Nation this season in scoring defense allowing only an average of 11 points per game and only yielding more that 20 points in 1 game. The defense was the difference in the National Championship game as Defensive End Marcus Spears intercepted a Jason White pass and ran it back for what turned out to be the go ahead touchdown.

But this is not the only title that now resides in Louisiana. The Southern University Jaguars defeated Alabama State University 20–9 to win their 19th Southwestern Athletic Conference title and become the SBN Black College Football National Champions.

Under the guidance of Pete Richardson, this year's Southwestern Conference coach of the year, the Jaguars earned their 5th conference title in Coach Richarson's 11 year tenure and defeated Grambling State University in a 44–41 shootout to win the annual Bayou Classic held in the New Orleans Superdome.

Southern Quarterback Quincy Richard was named the Offensive Player of the year and was named to the SBN Black College All American Team, along with offensive lineman Arnold Sims, Miniya Smith, and defensive back Lenny Williams.

It is an honor to congratulate both these teams on a memorable and historic season that will forever bring great pride to each University and the people to Louisiana.

Mr. BAKER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GOOD NEWS AND BAD NEWS FOR AMTRAK

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, I rise this afternoon with some good news and bad news for Amtrak. I congratulate Amtrak for having the highest ridership ever experienced in the Nation's intercity passenger rail service in its 32-year history. In my region of the Pacific Northwest, we have seen ridership increase 520 percent since the inception just 10 years ago of service between Eugene and Seattle and on to Vancouver, BC. It has had massive improvements in its infrastructure; very, very exciting.

The bad news is that, despite all of this progress with Amtrak, we have a proposal from the administration that would break it apart, it would privatize it, it would lease out its assets and abandon some of its routes, which would jeopardize the very existence of this important transportation mode. It would place heavy financial burdens on the States to fund what is essentially a national system, the only country in the world that has abandoned its commitment to rail passenger service.

I sincerely hope, Mr. Speaker, that this Chamber will once again rise to the support of a strong intercity rail passenger system, support Amtrak, support the new leadership there under President David Gunn, and provide a service that the American public desperately wants.

LIABILITY REFORM MEANS HUGE SAVINGS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, we have heard a lot of discussion in the past couple of days about the Medicare bill that we passed at daybreak on November 22 of this past year, and a lot of that discussion has centered around the fact of was that prescription drug benefit $400 billion over 10 years or was it $500 billion over 10 years.

The fact of the matter remains, whether it is $40 billion or $50 billion a year over the next 10 years, Mr. Speaker, there is an equal amount of money that could be saved right now, this year, in the Medicare program if we would simply pass the liability reform that this House took up over a year ago.

Mr. Speaker, in my home State of Texas, we recently passed a constitutional amendment to allow the same type of caps on noneconomic damages in medical liability suits; and we have seen medical liability insurance prices fall in our State. But, more importantly, the cost of defensive medicine is estimated by a study out of Stanford

University to be $50 billion a year. That is the same amount of money that the prescription drug benefit will cost at the higher estimate from Health and Human Services.

Mr. Speaker, if Texas has passed a law we might say, why do we think the Nation needs a law? Just because of that reason: because of the cost to the Medicare system. Mr. Speaker, we could generate that savings tomorrow if we could urge our colleagues in the other body to take up that bill.

GENERAL DAVID H. PETRAEUS JOINS RANKS OF AMERICA'S GREAT MILITARY LEADERS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, America has a long tradition of producing great generals; and Major General David Petraeus, the Commander of the 101st Airborne Division, has joined the ranks of America's great military leaders. Like his predecessors, Generals Washington, Patton, and Eisenhower, to name a few, he has spent a career defending our Nation and bringing freedom to people all over the world.

I have been to Iraq and I have seen General Petraeus' leadership firsthand, and the awards and distinctions that he has received in his career are not empty. The true meaning behind each of these commendations is crystal-clear when you meet the men, women, and children who would have lived a lifetime of terror under the old Iraq had the General of the 101st Airborne from Fort Campbell not helped lead Operation Iraqi Freedom. He is an example of why the American military is so great. He is a true leader.

Today, we join the newly-free people of Iraq to thank him for his dedication to our Nation and our belief that no people should be denied freedom.

□ 1700

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will recognize Members for Special Order speeches without prejudice to possible further legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WARMING OF THE EARTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, what I would like to do this evening is give the Members some ideas of a phenomenon that is occurring in the oceans that is clearly observed by the scientific community that is having an effect on the Earth's climate.

Ocean currents that flow throughout the entire world stabilize the heat balance on the planet so that the northern hemisphere does not get frigidly cold and many people that live in the southern hemisphere are not forced to move because of the increased heat.

To give some example of this, if you look in this area of Canada, you know that it is quite cold there. But if you go right across the Atlantic Ocean and visit England, you will know that the weather is quite moderate. In fact, the weather in England is often and most often is much more moderate than much further in latitude to the south and mid-Atlantic part of the United States.

If you look at the Scandinavian countries and their latitude, in Labrador you will see that their climate is more moderate than the climate we see on that latitude in North America. The reason for this is the ocean has currents that take warm from the equatorial regions to the northern regions that moderate their temperature. At the same time, when those warm waters reach the north, because they get colder and because of the salinity they drop to the ocean bottom and come to the south. As they gradually warm, they rise, because we know that warm air rises and colds air falls. Well, that is the same thing that happens with water.

Part of what I am trying to explain here is that there is a constant dispute about whether or not there is such a thing as global warming. Is the climate changing? Does human activity put more greenhouse gasses into the atmosphere to cause a warming in the atmosphere?

What I would like to do in just a brief minute here is to explain the fact that there is clear, unequivocal evidence that the ocean surface water is warming. As a result of that, there is more evaporation in the equatorial regions of the ocean. With more evaporation, that means there is more rain further north, and so the northern ocean is becoming more fresh.

Now what does that mean? What that means is, as the ocean current moves from the equatorial regions north in its current and it moves into the northern hemisphere, as the water becomes more fresh, it becomes less dense. That means it will sink a lot slower. As the water evaporates more, it leaves more saltwater in the southern hemisphere, less saltwater in the northern hemisphere.

There are two things that cause this ocean current to occur, fresh water and salinity. As the ocean water becomes more salty, it sinks up here; and when it sinks to the bottom, it returns down to the equatorial regions like we have here. When the ocean becomes saltier up here and more or less saltier, that water sinks.

Without becoming too complicated, the phenomenon is that the ocean currents are changing as a result of the increase in temperature of surface water. The increase in temperature of surface water is happening because, over the last 40 years, the warmth or the increase in temperatures in the atmosphere is moving up.

Now, whether or not you think there is more CO_2, more greenhouse gasses, is almost at this point beside the point, because the fact of the matter is here, over the last 40 years, temperatures on the planet have been increasing, thereby causing the temperatures of the surface of the ocean to increase. As a result of that increase in temperature of the ocean, we are actually redistributing fresh water and saltwater so we are having an effect on ocean current.

Saltwater, the density of salt, the amount of fresh water in its distribution of the ocean are fundamental to moving water from one place to another. As a result of that, as a result of the current moving in this way, the cycle of ocean current is slowing down; and when the cycle of currents slow down there is less warm water moving north and less cold water moving south. The result of that, this region of the United States receiving less warm water, this region of Europe is moving into an era when it is becoming colder. So that is a counterintuitive observation when you consider that the Earth is getting warmer.

ORDER OF BUSINESS

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SAFEGUARDING ASSETS FOR EMPLOYEES IN BANKRUPTCY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. GUTIERREZ) is recognized for 5 minutes.

Mr. GUTIERREZ. Mr. Speaker, today I rise to introduce the Safeguarding Assets for Employees in Bankruptcy Act, along with my colleagues, the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from Illinois (Mr. DAVIS), the gentleman from Illinois (Mr. LIPINSKI), the gentleman from Illinois (Mr. COSTELLO), the gentleman from Illinois (Mr. RUSH), the gentleman from Illinois (Mr. JACKSON), and the gentleman from Illinois (Mr. EMANUEL).

The SAFE in Bankruptcy language is designed to protect workers' claims when their employer files for bankruptcy.

My bill would create a priority for claims arising under the Worker Adjustment and Retraining Notification, or what is commonly known as the WARN Act. The WARN Act requires an employer to provide 60-days notice to workers before closing its doors. If a company fails to comply with the law and gives fewer than 60-days notice, workers are entitled to salary and benefits, according to the Federal legislation, for up to 60 days. My legislation provides a priority for those claims of 60 days in bankruptcy court.

When a company closes its doors and files for bankruptcy, the effects on the employees and the community are often devastating. A number of my constituents have lost their jobs at the Fannie May Candy Company in Chicago, which has closed its doors and filed for bankruptcy. These employees, many of whom had loyally served the company for decades, up to 37 years, were provided with only 10 days notice before they lost their jobs.

Too often, companies hope to duck their responsibilities of 60 days of pay under the WARN Act by filing for bankruptcy, assuming that the claims for the workers would be paid last and only if there is any money left to all the others owed in the estate. My legislation makes these claims a priority, ensuring that companies will think twice before ignoring their responsibilities to employees under Federal law.

In addition, my legislation provides a long overdue increase in the wage cap for employees from $4,000 to $20,000 and eliminates the lookback periods for these claims. The current lookback period limits the recovery of benefits to those earned within the last 90 days, which unfairly penalizes employees whose benefits have accrued over a longer period.

As in the case of Fannie May, the contract said for every year of employment they would get one week of severance pay. Well, we have employees that were there for 37 years, and they are getting nothing.

These small reforms are designed to soften the blow to employees who have had the rug pulled out from under them without warning. Unfortunately, in the current economy, this problem is not limited to my constituents but is occurring in every district.

I urge all of my colleagues to join me in supporting these needed reforms for the loyal workers of Fannie May and other hard-working employees across the country. I think it is important, Mr. Speaker, that when a company closes its doors and does not even follow Federal law under the WARN Act and gives them the 60 days, they simply walk into court and say, we filed bankruptcy, now we do not have to pay them the 60 days, that those employees that were owed 60 days are properly adjusted in bankruptcy court.

That is what my legislation wishes to do to honor the work of hard-working Americans.

With that, I will bring this up to the desk and introduce this legislation.

VIOLATION OF HUMAN RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor this afternoon to inform this body that, for the first time in the history of the United States, our country has been found guilty of a major human rights violation.

The Commission on Human Rights of the Organization of American States, a body in which we proudly participate, a body which we helped to finance, has made public its finding today after an 11-year investigation. I would like to quote what the Commission found.

"The commission concludes that the State," meaning the United States, "has failed to justify the denials of the petitioners of the effective representation in their Federal Government and, consequently, that the petitioners have been denied an effective right to participate in their government, directly or through freely chosen representatives and in general conditions of equality, contrary to Articles XX and II of the American Declaration" of rights of man.

The Commission was referring to the denial of voting representation in the Congress of the United States to the residents of the capital of the United States who are second per capita in the Federal income taxes they pay to support their government and who have fought and died in every war, fought and died, since the Revolutionary War, since the establishment of our government.

This ruling comes at a very important time in our history because we have not only declared that democracy and democratic principles must be universal, we have invaded another country. We are, as I speak, around the world proclaiming that each and every government must give full democracy, equal democracy to all the people of that government.

This government does not do that for the people of the District of Columbia, and an international body for the first time has so found. The international body, the Commission on Human Rights of the OAS, enjoys great prestige. We cannot say that this is not a body that does not enjoy our respect, and it is a body in which we have proudly participated.

The United States defended fully, and its defense was found wanting. We have every reason to desire the full confidence of the world. We need the world with us as we fight against terrorists bent on destroying us. We have lost much of that confidence because of the invasion of Iraq. We have rallied around our troops in Iraq and around our country because our country is at war. But our country now needs the world more than the world needs our country.

I cannot imagine anything that would go further to restore the waning confidence of the world in our leadership then for the Congress, for the administration to reach out and say to the people who live here, you are entitled to no fewer rights than any other American citizens.

Even as our country decided when I was a child going to segregated schools in the Nation's capital, no less that we could apply our own self-corrective and, indeed, integrate those schools and declare discriminatory practice off limits in our country, so we can take this last remaining scar on our democracy and wipe it from us. We simply must do it now.

The shame of having a violation of human rights declared upon us even as we have a long list of violators that we publish every year cannot be longstanding. This country has always stepped up to correct its own problems. This is a problem that stares in the face of the Congress of the United States every day that we open for business and meet because the 600,000 people who live here do not have a vote on this floor and have no senators who represent them.

☐ 1715

This country, our people would not stand for this anywhere in the world; and if I may say so, our people do not stand for it now. Polls show they do not even know it, that the American people think that the people who live in their Nation's capital have the same rights that they do. Shame on us that they do not.

I ask the Congress of the United States to, in fact, adhere to the decision of the Commission on Human Rights of the Organization of American States and grant full and equal voting rights in the Congress of the United States to the people of the District of Columbia.

ORDER OF BUSINESS

Mr. GINGREY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE NON-NEGOTIATION CLAUSE IN THE MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, we have heard since the passage of the Prescription Drug and Medicare Modernization Act that this law is a Republican giveaway to the pharmaceutical industry. Why, or maybe more importantly, who is telling American seniors this important legislation is bad for them but good for the drug companies? In this election year, it seems that some individuals are using disingenuous political rhetoric to scare our seniors.

Mr. Speaker, I would like to discuss one provision in the bill that is called out as the "drug company giveaway." There is a clause in the legislation that directly states, "Noninterference. In order to promote competition under this part and in carrying out this part, the Secretary may not interfere with the negotiations between drug manufacturers and pharmacies and prescription drug plan sponsors; and may not require a particular formulary or institute a price structure for the reimbursement of covered drugs under part D."

Simple enough, right? The government cannot interfere with negotiations between private entities and cannot set price controls. The marketplace, free enterprise, will set the price of prescription drugs and do a much better job of driving down prices than some government bureaucrat.

Mr. Speaker, this is not a new idea. This language has been used in the same context before by one of the prescription drug bill's biggest detractors. This may come as a surprise to many of my colleagues on both sides of the aisle, but it is probably an even bigger surprise to the American people who are listening to the rhetoric from the opponents of the Medicare Modernization and Prescription Drug Act.

Let me quote a section from a prescription drug bill introduced in the Senate by the minority leader, TOM DASCHLE. MR. DASCHLE's bill reads: "Noninterference. In administering the prescription drug benefit established under this part, the Secretary may not require a particular formulary or initiate a price structure for benefits: may not interfere in any way with negotiations between private entities and drug manufacturers or wholesalers; or otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities."

Democrats have been blasting the ban on negotiations as a giveaway to the drug industry. Yet their Senate minority leader included in his own bill a provision with the exact same effect as the non-negotiation provision found in H.R. 1. It seems to me that the minority leader and the Democrats are not being straight with America's seniors. On the one hand, the Senate minority leader says a non-negotiation clause is a Republican-led, taxpayer giveaway to the pharmaceutical industry; and on the other hand, he includes the very same provision in his own prescription drug bill. Plain as day, in black and white. It can be no clearer.

As a side note, Mr. Speaker, just in case my colleagues were wondering, the non-negotiation language also appeared in legislation introduced by the gentlewoman from California (Ms. ESHOO) and the gentleman from Texas (Mr. FROST), Democratic Representatives, in 2000, a bill by the gentleman from California (Mr. STARK) in 2000, which, by the way, 204 Democrats voted for as their floor alternative to H.R. 4680 in the previous Congress; and in the other body, Mr. Speaker, the noninterference or non-negotiation clause was used in legislation authored by Democratic Senator WYDEN in 2001 and again in the Jeffords-Breaux-Landrieu legislation in 2002.

A version of the noninterference language also appeared in the underlying Senate Medicare bill that passed the Senate June 27, 2003, by a bipartisan vote of 76 to 21. Thirty-five Democrats voted for it, a number of Senators, and I will not name their names, but a number of Democratic Senators all voted for that bill.

So why, Mr. Speaker, if this language has appeared so many times in legislation sponsored by both sides of the aisle, in both Chambers of Congress, do we continue to hear the negative rhetoric about such a great bill for our seniors? My guess, Mr. Speaker, it is just political posturing during an election year.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to refrain from improper references to the Senate.

EXCHANGE OF SPECIAL ORDER TIME

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from New Jersey (Mr. PALLONE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PRESCRIPTION DRUG BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, I did not come to the floor to speak about prescription drugs, but I cannot let what the gentleman before me in the well said. He voted to prevent the Federal Government, unlike any other industrial nation on Earth, any other developed country, negotiating with the pharmaceutical industry for lower drug prices, unlike the private insurance industry, that can negotiate lower prices.

He says market forces will do better. Well, that is funny. Maybe the pharmaceutical industry would have fought against market forces. They plain and simple want to continue to gouge American consumers. The Bush administration's working day and night on this.

The Australian Free Trade Agreement prohibits the reimportation of U.S.-manufactured, FDA-approved drugs from Australia if they are cheaper than sold in the United States. They are working day and night to get Canada to agree to raise the price of FDA-approved, U.S.-manufactured drugs exported and sold in Canada at a lower price. They want the price lifted for the reimportation to the United States, and he comes to give us this little joke here after he has voted to prevent the one most effective measure we could have taken to give seniors and everyone else in this country a better deal on prescription drugs than market forces would do better. Yeah, sure.

JOB CREATION IN AMERICA

Mr. DEFAZIO. Mr. Speaker, here is another thing that the Republicans have been talking a lot about. The President is concerned about jobs. Despite the worst job-loss record of any President since Herbert Hoover, he is really concerned. He has been appearing around the country with people and actually I kind of doubted him, but I found out yesterday in reading the Los Angeles Times that he does really care about jobs. The President really does care about creating jobs. The only problem is, he does not put any priority on where those jobs are created.

Here it is right here. Los Angeles Times, Bush supports shift of jobs overseas.

Whoa. Where is that coming from? Well, we have a few quotes to back it up. The administration's top economic adviser. "Outsourcing," i.e., moving American jobs overseas, "is just a new way of doing international trade. More things are tradeable than were tradeable in the past. And that's a good thing," says the President's own personally chosen senior economic adviser, Mr. Mankiw, chairman of the Council of Economic Advisors.

He goes on to say, "The market is the best determinant of where the jobs should be," and that is according to Bush and Mankiw, overseas, not in the United States of America because there is cheaper labor over there.

He says here, people are concerned, maybe we will outsource a few radiologists. What does that mean? That means the false promise that was heard for years, do not worry about the industrial jobs; they are obsolete. They say, I wonder how you are a great Nation if you do not make things. Let us accept their argument for a moment.

Then they said they would retrain American workers for those high-tech knowledge industry jobs. Radiology, that is a pretty educated job. We are going to export those. We are going to export a whole host of IT jobs. In fact, the prediction is we will export 3 million U.S. IT jobs over the next 10 years. This is the next huge hemorrhaging of U.S. jobs overseas, and what does the President think? He thinks it is a good thing because the labor is cheaper over there. It gives a better bottom line for the corporations.

What about the American workers? What are they going to do? Here are a couple of other quotes from Mr. Mankiw: "Shipping jobs to low-cost countries is the 'latest manifestation of the gains from trade.'" Shipping U.S. jobs overseas by the Bush administration is considered to be a gain from trade.

This is unbelievable, but at least they are finally being honest with us what they really believe, and they are now engaged in negotiating an expansion of NAFTA through the entire Central America, and they tell us this will be good for America. Why? Well, because the jobs would not have to travel quite as far from the United States. They would not have to go all the way to India or China. Maybe we can just export the jobs 1,000 miles down to South America so the owners of the corporations, the few managers that are left in the United States, can more easily get there to occasionally supervise their new workforce working down there in Chile or Argentina or someplace else.

That is their bottom line agenda here. They do not give a darn about American workers, American jobs, the industrial might of this country, the economic base of this country, the huge and growing trade deficit.

We are going to borrow more than $500 billion from overseas this year because of our trade deficit. That is not sustainable. The dollar is dropping like a rock, and the Bush administration says that is a good thing because our goods will become cheaper. Guess what. We do not make much in America anymore; and if Bush has his way, we will not make anything in America anymore.

LESSONS LEARNED FROM MY TRIP TO IRAQ AND AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, I rise today to offer my reflections on a trip I recently took with the gentlewoman from California (Ms. PELOSI), leader, and the gentleman from North Carolina (Mr. HAYES) to Iraq and Afghanistan. I think it is important to publicly discuss the situation in those countries because events there have implications for all of us here in our country, as well as for the future of our foreign policy.

We are less than 5 months from the planned transfer of sovereignty to a new Iraqi government. Yet it seems clear from talking to many groups in Iraq that the administration's proposed deadline for the transfer of power is unrealistic. Commanders we talked to indicated it would be logistically difficult, if not impossible, to conduct an election before July 1. There is no census. There are no registered voters. The likelihood of fraud would be great, and I think there is a strong likelihood that the United Nations representatives now in Iraq will reach the same conclusions. By the same token, Shia religious leaders in Iraq do not support the caucus system for choosing a new government that the administration has advocated.

Finally, I do not think we can transfer sovereignty to a new Iraqi government until the rules of engagement for our forces are agreed upon. We simply cannot afford to have restrictions on the ability of our forces to pursue terrorists and to protect themselves.

Simply put, we must handle the transition right, even if it means rethinking our original timeline. The outcome must be a government with legitimacy, a process that prevents civil war from erupting, and rules of engagement that leave our forces free to continue to fight against the insurgents.

A second related conclusion from my trip is that it is clear that whatever new government assumes power must not be seen as a puppet of the United States Government or it will lack legitimacy. One way to help build that legitimacy is to get NATO involved in helping to establish security and provide stability in Iraq, as they are already doing constructively in Afghanistan. NATO involvement will reinforce the perception that it is the international community, not just the United States, that wants a new representative government in Iraq to succeed. Bringing NATO troops to Iraq to supplement our forces will also likely reduce the number of American military casualties, something I know we are all concerned about.

My third conclusion about Iraq is that we are in a guerilla war there. It is not really terrorism because I do not think the attacks against Iraqi citizens and our forces are aimed just at terrorism. Their purpose is to prevent the installation of a new, stable regime and to expel our forces, a classic goal of guerrilla warfare.

□ 1730

I also want to mention Afghanistan. The simple truth is we are short-changing our effort to establish a viable Federal government and rebuild the country of Afghanistan. I understand that, on the face of it, Afghanistan is not as strategically as important as Iraq, but our efforts there are critical.

Mr. Bin Laden and other leaders of al Qaeda and the leadership of the former Taliban regime remain at large. In the near term, the United States must bring renewed attention to our offensive operations there to flush those forces out. Over the long term, we need to ensure that a terrorist harboring the regime never again gains hold. If we poured half as many people and resources into Afghanistan as we have into Iraq, I think that country would be well on the way to recovering from the 20-plus years of warfare that have plagued that country.

With few natural resources, little infrastructure, and a long history of tribalism, Afghanistan has a long way to go. I do not think we are making progress as fast as we need to in order for the Karzai government to survive in the long term. Simply put, we need to do more in Afghanistan.

My final observation concerns our great men and women in uniform. They are doing a fantastic job under the most trying circumstances. They are living under the most arduous of conditions, and are literally putting their lives on the line every day. They are superbly trained, superbly led, and they are the finest force the world and our country have ever seen. We owe them a deep debt of gratitude. As we go into this budget cycle, we owe it to them to provide them everything they need in order to succeed, in Iraq as well as Afghanistan.

TRUE COST OF WAR TO BE HIDDEN UNTIL AFTER ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. COOPER) is recognized for 5 minutes.

Mr. COOPER. Mr. Speaker, I addressed the House last night on the subject of President Bush's State of the Union message and compared his words on that evening in this Chamber just some 3 weeks ago in which he said he would present to us a budget which paid for the war, and let me read his words exactly. "In 2 weeks, I will send you a budget that funds the war."

Well, 2 weeks later, the President failed to do that. He failed to include any of the cost for the conflict in Iraq and Afghanistan in his budget. You might think that is just a conflict, maybe a miscommunication with speech writers. But yesterday on the Senate side in a very important hearing the service chiefs of the Marines, Army and Air Force all said that this funding gap, the possible failure of our forces in Afghanistan and Iraq to have the money that they need come this fall, could create serious consequences.

Let me read the article from today's New York Times. "In an unusual display of difference with the White House, the top officers of the Army, Marine Corps and Air Force all raised questions on Tuesday about how the Bush administration plans to pay for operations in Afghanistan and Iraq after the current financing runs out at the end of September.

"Appearing before the Senate Armed Services Committee, three of the four chiefs of the Armed Services expressed concerns about a financing gap, perhaps of 4 months, for the two missions, whose combined cost is about $5 billion a month.

"They were left out of President Bush's budget request for the 2005 fiscal year, with the administration saying it would make a supplementary request for up to $50 billion probably next January, after the elections this year.

"'I am concerned,' General Peter J. Schoomaker, the Army Chief of Staff, said in response to a question from Senator Jack Reed, Democrat of Rhode Island, 'on how we bridge between the end of this fiscal year and whenever we could get a supplemental in the next year.'

"General Michael W. Hagee, the Commandant of the Marine Corps, and General John P. Jumper, the Air Force Chief of Staff, agreed with General Schoomaker's concerns."

A little further down in the article, General Schoomaker stated, "We are all concerned about maintaining continuity of operations. We want to make sure that we minimize the bridge." He emphasized that the timing and mechanics of seeking a supplemental spending bill were up to the Defense Secretary Donald Rumsfeld and White House officials. He said that he was simply describing the possible consequences for the Army.

Mr. Speaker, America knows we are at war. We know that 120,000 of our men and women in uniform are in daily, constant danger in Iraq, and 10,000 more troops are at danger in Afghanistan. Yet none of the cost of this war is in the President's budget. The President has said that he will get a supplemental request to us after the election. That is probably not time enough, according to these top military officials.

Our men and women in uniform deserve better treatment. They deserve full funding, full continuity of funding, and full, honest accounting of how much this operation costs, and the American taxpayer is ready to step up to those needs. We should not hide the true cost until after the election and risk undercutting our men and women in uniform in the field when they are at war because of politics in this political season. Let us do better in this House to fully fund our men and women in uniform.

BUSH ADMINISTRATION'S GROWING CREDIBILITY PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, last week the President of the United States introduced a budget with a $520 billion deficit. If we look across the spectrum, not only does this budget have a fiscal deficit of historic highs of $521 billion, the budget has a credibility deficit, blaming 9/11 and corporate scandals for the creation of this deficit. In fact, the Bush administration is continually facing a growing credibility problem not just in fiscal terms but also in policy terms at home and also overseas. America's word must be respected abroad as well as here, but the administration's word is coming under question.

If we take it from issue to issue, whether it is on the deficit, and we are running a record-high deficit, and the President wants to claim to be a fiscally responsible President, but not once in any of his budgets has he introduced a budget that is either balanced or gets to a road to balance. Not once.

In November, this House debated a $400 billion prescription drug bill, and yet we learn that all along the administration knew it cost $550 billion. That is for a program that we debated and understood to be $400 billion, and not the $400 billion, not even the $500 billion, is paid for, driving the American taxpayer as well as our seniors further into debt.

The other day they talked about the importance of manufacturing jobs, yet they cut the manufacturing extension program which has helped small- and medium-sized manufacturers compete in the world market and add jobs.

The other day, a senior adviser to the President for economic policy announced that outsourcing of jobs was a good thing for the economy.

Mr. Speaker, the outsourcing of American jobs are a good thing for the Indian economy, not the American economy. Any administration who has a top economic adviser who believes outsourcing of jobs is a good thing is an administration with a record that has lost three million jobs in 3 years.

Whether it is on the budget that is out of whack with our values and our principles and our priorities, and as Goldman Sachs and the international monetary funds have announced, it is not even a credible budget. There is not a cent or direction in how we are going to reduce this deficit.

This President, from day one when he came into office, had a surplus north of $100 billion. In his last budget before his reelection, he submits a deficit of $521 billion.

In the area of jobs, three million Americans since he has been President have lost their jobs. They fake an interest in offering a manufacturing extension program and then call for its election or cuts by two-thirds.

Take the funding of police. They have advocated the importance of helping police and firefighters, talked about funding them, and in the President's budget a billion dollars was cut from the police and over $500 million from helping our firefighters.

If we take it from area to area, from section to section, this administration says one thing and then does another. The budget is a blueprint and a document representing the values, principles and priorities of the administration as well as for the United States. I cannot think of a worse example, to have a policy in which we are presented a budget with a $521 billion deficit, record numbers for the country. They are numbers that in my view put us at grave economic risk. We are now beholden to the Chinese and Japanese to continue to buy our securities where, God forbid, at any moment if we need their support they hold our economic security and determine our economic future, which puts us in a terribly vulnerable position.

Across the board on any number of subjects, we can watch how this administration continues both here at home to have its word questioned and also overseas has its word questioned. When a President of the United States has a credibility gap like that, it is not only endangering in my view his administration but our own economic security as Americans. We can see from the value of the dollar and the way it is falling people's judgment about the importance of our word and credibility.

On the issue of weapons of mass destruction in the recent report, that, too, is another example, and a glaring example, where the word of this administration now will be questioned rather than heeded.

In closing, as written in Time magazine, "Any of those challenges may have been manageable. The problem was that each news cycle brought a new question about the President's judgment and candor, which Democrats lost no time exploiting. Fiscal conservatives had been howling for months about a budget that seemed totally out of control."

BUSH SPIN-DOCTORS ALTER HEALTH DISPARITIES REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the gentleman from Illinois (Mr. EMANUEL) has just talked about the credibility of this administration, and there was an incident which happened yesterday which I think was really quite stunning.

Tommy Thompson, the Secretary of Health and Human Services, came before the Committee on Ways and Means. I have know him a long time. He is a dedicated, hard-working public servant. He is a straight shooter. When he appeared before us, I reluctantly had to ask my old friend tough questions. His answers were stunning. They were stunning because, without equivocation, Tommy Thompson told the truth.

Tommy Thompson acknowledged that someone significantly altered a report on health disparities in America, and he was having none of it. This is the guy who ought to be in charge, and we need help. He told the truth and took the fall for the political spin doctors inside his own agency, inside the White House, or both. We commissioned a report by the Institute of Medicine, and when it came back, it was changed. The American people need to know who did this. Significantly altering a report about health disparities in America is a betrayal of public trust. People of color, everyone in America ought to be outraged and demand accountability.

□ 1745

Political spin doctors turned science, and serious data about national health disparities affecting Native Americans, people of color and others, into a whitewash that taints anyone near it.

Let me give my colleagues an example. The first sentence of the original health disparities report circulated last June said, and I quote, "Inequalities in health care that affect some racial, ethnic, socioeconomic and geographic subpopulations in the United States ultimately affect every American." The alteration was, "The overall health of Americans has improved dramatically over the last century." One would hardly think they were talking about the same subject. It is a whitewash. It is a blatant disregard for the American people and an insult to every person of color. This was a study we commissioned to find out about the health disparities between groups in this country. Congress asked for science, and the administration's spin doctors buried it. They hid it from view and substituted their own version of the country.

In the June original document, the Department's scientists found "significant inequality" in health care. The last one, the doctored one, became "national problems." The scientists emphasized that these disparities are "pervasive in our health care system." The whitewash omitted those conclusions. Text describing data tables inside the paper was altered. In the key findings section, the whitewash omitted 28 of the 30 references to disparity. Everything was done to hide the real facts from people of color, from every citizen in America.

What does the administration say tonight to people of color? What does this administration say tonight to every American? Somebody ordered this whitewash. The American people need to know who did it. I would think there ought to be an investigation to find out who was responsible and take appropriate action. We cannot allow someone to hide the truth from Americans, no matter who they are. We cannot permit someone to deceive Members of Congress and every American. We cannot tolerate someone who alters a report that directly affects people of color and their health status in this country.

Someone is trying to trick us into thinking that the administration has all the answers and that everything is hunky-dory. This is one more evidence for the fact that this administration will not tell the truth, whether it is about weapons of mass destruction or about al Qaeda connections or even down to a health report. They will not even tell us what happens in communities of color with respect to diabetes, with respect to high blood pressure.

They said about Native Americans, Native Americans have a lower cancer rate. That sounds good. But not one single mention of the fact that they have the lowest life expectancy and the highest infant mortality rate among all Americans. How can they put a report out like that and let people believe that everything is equal in this country? It is not. We have not paid attention. When we put more money into national health institutes, and I agree with that, we ought to use science as the basis on which we allocate the money for the problems that affect the most people.

Mr. Speaker, we ought to ask the President to find out who did this in his administration. It is a travesty.

WAS AMERICA AT WAR IN THE 1990S?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, I am joined tonight by my colleague from Georgia. What we would like to talk about tonight is the issue of whether America is at war. Were we at war in the 1990s? What was the reaction of the administration in the 1990s? What do we see in the year 2000 and beyond? And what have we found about the weapons of mass destruction in Iraq?

First, were we a country at war during the 1990s? We have all the examples of the attacks on the United States. In 1993, the World Trade Center was bombed. In 1996, our military barracks were bombed in Saudi Arabia. Our embassies were attacked in Africa. The USS *Cole* was attacked in 2000. In 1995, two unidentified gunmen killed two U.S. diplomats and wounded a third in Karachi. A Palestinian sniper opened fire on tourists atop the Empire State Building. In 2000, a bomb exploded across the street from the U.S. embassy in Manila. It is not only the high-profile attacks that we should be concerned about, but what we saw during the 1990s was a pattern of attacks against the U.S., against our embassies, against our economic interests, against our military personnel, and against American civilians.

If we take a look at the quotes and the things that folks said about the 1990s and what was going on specifically, and maybe focused more on Iraq than anywhere else, you kind of get a feeling as to whether in the 1990s people in the administration understood the threat that terrorist groups and that Saddam Hussein posed to the United States.

The question that some ask today, or the facts that they state today is that, well, you know, this all came up after 2001, that the data was fabricated.

What did Bill Clinton say during his administration? February 17, 1998:

"Iraqi agents have undermined and undercut U.N. inspectors. They've harassed the inspectors, lied to them, disabled monitoring cameras, literally spirited evidence out of the back doors. And they will be all the more lethal if we allow them to build arsenals of nuclear, chemical and biological weapons and the missiles to deliver them. We simply cannot allow that to happen."

Again continuing, President Clinton in 1998:

"There should be no doubt Saddam's ability to produce and deliver weapons of mass destruction poses a grave threat to the peace of that region and the security of the world. There is no more clear example of this threat than Saddam Hussein's Iraq. His regime threatens the safety of his people, the stability of his region and the security of all the rest of us. In the next century, the community of nations may see more and more the very kind of threat Iraq poses now, a rogue state with weapons of mass destruction ready to use them or provide them to terrorists who travel the world. If we fail to respond today, Saddam will be emboldened tomorrow by the knowledge that they can act with impunity. I have no doubt he would use them again if permitted to develop them." A clear case that on February 17, 1998, President Clinton was not only aware of the threats that Saddam Hussein and Iraq posed but that the threat extended to people like Saddam and to different terrorist organizations.

I do not know if my colleague from Georgia has any other quotes from President Clinton or not. I yield to the gentleman.

Mr. GINGREY. I thank the gentleman for yielding. Yes, certainly I do.

Here is one, and I quote, from President Clinton:

"Iraq repeatedly made false declarations about the weapons that it had left in its possession after the Gulf War. When UNSCOM would then uncover evidence that gave a lie to those declarations, Iraq would simply amend the reports."

Another quote, again from President Clinton:

"And someday, some way, I guarantee you he'll use the arsenal, and I think every one of you who has really worked on this for any length of time believes that, too."

Mr. HOEKSTRA. Reclaiming my time, in comments by President Bill Clinton at the meeting of the National Security Council, comments on the bombing of strategic interests in Iraq: "I am convinced the decision I made to order this military action, though difficult, was absolutely the right thing to do. It is in our interest and in the interest of people around the world. Saddam has used weapons of mass destruction and ballistic missiles before. I have no doubt he would use them again if permitted to develop them."

I yield to my colleague from Georgia.

Mr. GINGREY. Here are another couple of quotes. Again, President Clinton:

"We want to seriously reduce his capacity to threaten his neighbors."

President Clinton again:

"We have learned through harsh experience that the only answer to aggression and illegal behavior is firmness, determination and, when necessary, action."

Mr. HOEKSTRA. There is no doubt that in the 1990s the Clinton administration, or at least the President, voiced the concerns about terrorist organizations, Iraq and specifically Saddam Hussein; but it was not only the President. The Vice President, May 23, 2000, during a conference breakfast with the American-Israeli Public Affairs Committee:

"Despite our swift victory and our efforts since, there is no doubt in my mind that Saddam Hussein still seeks to amass weapons of mass destruction. You know as well as I do that as long as Saddam Hussein stays in power, there can be no comprehensive peace for the people of Israel or the people of the Middle East. We have made it clear that it is our policy to see Saddam Hussein gone."

Al Gore, May 23, 2000: "We have made it clear that it is our policy to see Saddam Hussein gone."

Mr. GINGREY. Just listen to former, actually Senator Gore at the time and former Vice President Gore in a speech, a major policy speech made on September 29, 1992 by then Senator Al Gore, and I quote:

"He, Saddam, had already launched poison gas attacks repeatedly and Bush"—referring to Bush I—"looked the other way."

Mr. HOEKSTRA. If the gentleman will yield, this is the Vice President, or at that point in time the Senator?

Mr. GINGREY. The Senator running for Vice President.

Mr. HOEKSTRA. Referring to Bush I, and, what, accusing him of inaction?

Mr. GINGREY. Absolutely.

I will finish that quote:

"He, Saddam, had already conducted extensive terrorism activities and Bush looked the other way. He was already deeply involved in the effort to acquire nuclear weapons and other weapons of mass destruction and he, President Bush, looked the other way.

"Well, in my view the Bush administration was acting in a manner directly opposite to what you would expect with all of the evidence that it had available at the time. Saddam Hussein's nature and intentions were perfectly visible." Again, a major policy speech made by then Senator and Vice Presidential candidate Al Gore, September 29, 1992.

Mr. HOEKSTRA. We go on through the administration. Remarks by Madeleine Albright, the Secretary of State:

"In this struggle our adversaries are likely to avoid traditional battlefield situations because there American dominance is well established. We must be concerned instead by weapons of mass destruction and by the cowardly instruments of sabotage and hidden bombs. These unconventional threats endanger not only our Armed Forces but all Americans and America's friends everywhere."

Madeleine Albright in the Clinton administration got much of this right in perceiving the threat, as was so brutally proved on September 11.

Mr. GINGREY. If the gentleman will yield, continuing on, then Secretary of State Madeleine Albright as quoted in the Chicago Tribune, November 16, 1997: "Hussein's weapons will not discriminate if and when they are used, and therefore it is important for the region to understand that he is a threat."

☐ 1800

Mr. HOEKSTRA. Mr. Speaker, we are going to talk a little bit more about some of these quotes, and then we will talk about exactly what the Clinton administration did in the 1990s as they laid out the threat from terrorist organizations, as they laid out the threat from Saddam and Iraq.

Madeleine Albright, subject: Tonight's air strikes against strategic targets in Iraq. "This is a moment of grave determination. We have decided to use force because other means simply have not worked. Saddam's capacity to develop and brandish such armaments poses a threat to international security and peace that cannot be ignored. Month after month we have given Iraq chance after chance to move from confrontation to cooperation. We have explored and exhausted every diplomatic action. We will see whether force can persuade Iraq's misguided leaders to reverse course and to accept at long last the need to abide by the rule of law and the will of the world."

It took 3 years before inspectors on a limited basis were ever allowed back.

I yield to my colleague from Georgia.

Mr. GINGREY. Mr. Speaker, I think it would be informative to people who are paying attention, and I think all Americans are paying attention and they are listening to a lot of political rhetoric during this Presidential election year and the criticism that they are hearing not only from the leaders of our military, from the chairman of the Joint Chiefs, but especially to the Secretary of Defense, the honorable Donald Rumsfeld.

Listen to what former Secretary of Defense William Cohen had to say: "Noted again Tuesday that in the past Iraq imported enough material to produce up to 200 tons of the deadly chemical agent VX, 'theoretically enough to kill every man, woman, and child' on earth. Finding and eliminating all such chemical and biological warfare stocks must be an international priority." L.A. Times, November 26, 1997, Secretary of Defense William Cohen under the Clinton administration.

Mr. HOEKSTRA. Mr. Speaker, he goes on in another talk with an interview with Katie Couric on December 18. "One of reasons we are taking this action," and this is the Secretary of Defense, "is we don't want to see it taken with chemical or biological agents, but we do know," not we estimate, we think, "but we do know that Iraq has been in process of building that kind of capability. But we're looking at the intelligence very closely. We anticipate there will be terrorist attacks in a variety of areas of the globe, and we are taking whatever precautions we can against it."

Remember those words, because we will get back to it in a few minutes. "We are taking whatever precautions we can against it."

And what is against it? The variety of terrorist attacks in all areas of the globe.

I yield to my colleague.

Mr. GINGREY. Mr. Speaker, this next quote from former President Bill Clinton, I think, really speaks to it as much as any that we have given tonight, and here is the quote: "In the next century, the community of nations may see more and more the very kind of threat Iraq poses now, a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers, or organized criminals who travel the world among us unnoticed. If we fail to respond today, Saddam, and all those who would follow in his footsteps, will be emboldened tomorrow by the knowledge that they can act with impunity.

even in the face of a clear message from the United Nations Security Council and clear evidence of a weapons of mass destruction program."

And what was done then, Mr. Speaker? It was just drawing lines in the sand and then another line in the sand and another line in the sand and a dare and a double dare and a double-dog dare, and nothing was happening to deal with this until, of course, we had to strike the strike on 9/11 that resulted in over 3,000 lives lost.

Mr. HOEKSTRA. Mr. Speaker, here we go on and we go back to President Clinton on February 17, 1998, talking about the kind of environment that we see in Iraq and the kind of folks that we are trying to work on and taking a look at denial and deception. But how did Iraq work? This is President Clinton's description in 1998:

"Iraq repeatedly made false declarations about the weapons that it had left in its possession after the Gulf War. When UNSCOM," that is, the UN inspectors, "would then uncover evidence that gave lie to those declarations, Iraq would simply amend the reports.

"Iraqi agents have undermined and undercut UNSCOM. They've harassed the inspectors, lied to them, disabled monitoring cameras, literally spirited evidence out of the back doors of suspect facilities as inspectors walked through the front door. And our people were there observing it and had the pictures to prove it.

"If he refuses or continues to evade his obligations through more tactics of delay and deception, he and he alone will be to blame for the consequences."

September 9: "We've pushed and pushed some more to help UNSCOM," this is Secretary of State Madeleine Albright, "break through the smokescreen of lies and diction put out by the Iraqi regime . . . "

" . . . UNSCOM was able for the first time to conduct inspections of sensitive sites where it found new evidence that Iraq had lied about the size of its chemical weapons stock."

These are really interesting quotes, considering the debate. We have gone into this war situation with a number of allies, but the President has been critiqued because there were not enough partners in the process.

Here is what President Clinton said in a debate with Robert Dole on October 6, 1996: "Sometimes the U.S. has to act alone, or at least has to act first. Sometimes we cannot let other countries have a veto on our foreign policy."

Madeleine Albright's quote in 1998: "I am going to explain our position. And while we always prefer to act multilaterally, we are prepared to go unilaterally."

President Clinton, Time Magazine, 1998: "Would the Iraqi people be better off if there was a change in leadership? I certainly think they would be." Remember, by the year 2000, the official policy of the United States was regime change in Iraq.

1998, President Clinton: "If we fail to respond today, Hussein, and all those who would follow in his footsteps," and I think the President was referencing terrorist organizations that would attack America and other freedom-loving people around the world, "and all those who would follow in his footsteps, will be emboldened tomorrow by the knowledge that they can act with impunity." This is President Clinton.

And "what if he fails to comply and we fail to act? . . . Some day, some way, I guarantee you, he'll use the arsenal." President Clinton, August 31, 1998.

What we are seeing throughout the 1990s, whether it is President Clinton, whether it is the Vice President, whether it is the Secretary of State, or whether it is the Secretary of Defense, there is a clear pattern that the Clinton administration, rightfully so, identified terrorist threats, Saddam Hussein, and Iraq as a threat to the people of Iraq, as a threat to Israel, as a threat to the stability of the Middle East, and as a threat to the United States and the rest of the world.

I yield to the gentleman from Georgia.

Mr. GINGREY. Mr. Speaker, continuing on the line of reason the gentleman from Michigan is presenting, again Secretary of State Madeleine Albright in 1998, in fact, November 23, and this was in Time Magazine: "Up to now we've had diplomacy backed by force. Now we need to shift to force backed by diplomacy."

And listen to what she says less than a month later: "Month after month we have given Iraq chance after chance to move from confrontation to cooperation, and we have explored and exhausted every diplomatic action. We will see now whether force can persuade Iraq's misguided leaders to reverse course and to accept at long last the need to abide by the rule of law and the will of the world."

These were remarks made by Secretary of State Madeleine Albright on the night of the air strikes, the very limited air strikes, against strategic targets in Iraq, her comments made December 16, 1998.

What happened over the next 2 years? Nothing. These limited air strikes did nothing, and Saddam continued with his weapons of mass destruction, his terrorism on his own people, his refusal to let the weapons inspectors come back into the country and make sure he was complying with the U.N. resolutions.

Mr. HOEKSTRA. Mr. Speaker, there are those who say that this administration was the first to try to create a link between al Qaeda and Iraq. That is absolutely wrong.

In 1998, again with the attack on the plant in Sudan: "U.S. officials who declined to be identified told reporters that there were contacts as the Sudanese company was being developed between Al Shifa officials and Iraqis working on their country's VX program. 'Iraq is the only country we are aware of that had planned to use WMD,' the officials said. The officials also said there is evidence linking Osama bin Laden. Defense Secretary Cohen has publicly stated that bin Laden had some financial interest in contributing to this particular facility in Khartoum."

Where is that? How do we know if Secretary of Defense William Cohen said that? "We know that he, bin Laden, had contributed to this particular facility," Secretary of Defense William Cohen, New York Times, August 29, 1998.

Another quote: "And indeed we have information that Iraq has assisted in the chemical weapons activity in Sudan." That is an op-ed by Samuel Berger, the national security advisor, the Washington Times, October 16, 1998.

He goes on in that activity: "And, indeed, we have information that Iraq has assisted in the chemical weapons activity in Sudan . . . We had information linking bin Laden to the Sudanese regime and the Al Shifa plant." National security advisor, Samuel Berger, op-ed, October 16 in the Washington Times.

It is interesting. This link between Saddam Hussein, Iraq, terrorist organizations, and the threat that they combine to depose the United States and the rest of the world is not new. It has been outlined through the 1990s.

I yield to my colleague.

Mr. GINGREY. Mr. Speaker, if the gentleman from Michigan will allow me, I would just like to shift a little bit now and talk about the testimony and put it in the right, proper context that we are hearing from David Kay.

Mr. HOEKSTRA. Mr. Speaker, let us not go there yet, all right? Because every year there is something that is put out. It is called the Report on Global Terrorism. And if my colleague will take a look, he has got the 1999 review of Iraq. I have got the 1998.

□ 1815

Here is what it says in 1998. The global terrorism overview of state-sponsored terrorism. Iraq continues to provide safe haven to a variety of Palestinian rejectionist groups, including the Abu Nidal Organization, the Arab Liberation Front, and the former head of the now defunct 15 May Organization, Abu Ibrahim, who masterminded several bombings of U.S. aircraft.

In December, press reports indicated that Abu Nidal had relocated to Iraq and may be receiving medical treatment. Abu Nidal's move to Baghdad would increase the prospect that Saddam may call on the ANO to conduct anti-U.S. attacks.

Iraq also provides bases, weapons and protection to the MEK, a terrorist group that opposes the current Iranian regime. Back in 1998, through much of the 1990s, it was clear, at least in the global terrorism overview of state-sponsored terrorism, Iraq has consistently been identified as a state sponsor of terrorism on a global basis.

What did the report say in 1999?

I yield to my colleague from Georgia.

Mr. GINGREY. Well, Iraq continued to plan and sponsor international terrorism in 1999. Although Baghdad focused primarily on the anti-regime opposition, both at home and abroad, it continued to provide safe haven and to support various terrorist groups.

Many press reports stated that according to a defecting Iraqi intelligence agent, the Iraqi Intelligence Service had planned to bomb the offices of Radio Free Europe in Prague. Radio Free Europe offices include Radio Liberty, which began broadcasting news and information to Iraq in October of 1998. The plot was foiled when it became public in early 1999.

The Iraq opposition publicly stated its fears that the Baghdad regime was planning to assassinate those opposed to Saddam Hussein. A spokesman for the Iraqi National Accord in November said that the movement security organs had obtained information about a plan to assassinate its secretary general, Dr. Allawi, and a member of the movement's political bureau, as well as other Iraqi leaders.

Iraq continued to provide safe haven to a variety of Palestinian rejectionist groups, including the Abu Nidal Organization; the Arab Liberation Front, ALF; and the former head of the now defunct 15 May Organization, Abu Ibrahim, who masterminded several bombings of United States aircraft.

Iraq provided bases, weapons and protection to the MEK, an Iranian terrorist group that opposes the current Iranian regime. In 1999, MEK cadre based in Iraq assassinated or attempted to assassinate several high-ranking Iranian government officials, including Brigadier General Ali Sayyad Shirazi, deputy chief of Iran's Joint Staff, who was actually killed in an assassination attack.

Mr. HOEKSTRA. If I now take a look at the report on global terrorism in 2001, what does it say?

In addition, the regime continued to provide training and political encouragement to numerous terrorist groups, although its main focus was on dissident Iraqi activity overseas. But Iraq provided bases to several terrorist groups, including the Mujahedin-e-Khalq, the MEK, the Kurdistan Worker's Party, the Palestine Liberation Front, the Abu Nidal Organization.

In 2001, the Popular Front for the Liberation of Palestine, the PFLP, raised its profile in the West Bank and Gaza Strip by carrying out successful terrorist attacks against Israeli targets. In recognition of the PFLP's growing role, an Iraqi vice president met with the former PFLP secretary, General Habbash, in Baghdad. In January 2001, there was continued Iraqi support for the intifadah. Also in mid-September, a senior delegation from the PFLP met with an Iraqi deputy prime minister. Baghdad also continued to host other Palestinian rejectionist groups, including the Arab Liberation Front and the 15 May Organization. There is no doubt that Iraq continued its connection with terrorist organizations.

What happened in 2002? I yield to my colleague from Georgia.

Mr. GINGREY. Well, Iraq planned and sponsored international terrorism in 2002, that is what they did. Throughout the year, the Iraqi Intelligence Service, IIS, laid the groundwork for possible attacks against both civilian and military targets in the United States and other Western countries. The IIS reportedly instructed its agents in early 2001 that their main mission was to obtain information about United States and Israeli targets. The IIS also threatened dissidents in the Near East and Europe and stole records and computer files detailing anti-regime activity.

In December of 2002, the press claimed Iraq intelligence killed Walid Ibrahim Abbas al-Muhah al-Mayahi, a Shi'ite Iraqi refugee who was living in Lebanon and a member of the Iraqi National Congress. Iraq was a safe haven, a transit point and an operational base for groups and individuals who direct violence against the United States, Israel and other countries.

Baghdad overtly assisted two categories of Iraqi-based terrorist organizations, Iranian dissidents devoted to toppling the Iranian Government and a variety of Palestinian groups opposed to peace with Israel. The groups include the Iranian Mujahedeen-e-Khalq and the Abu Nidal Organization, although Iraq reportedly killed its leader.

The Palestinian Liberation Front, PLF, and the Arab Liberation Front, ALF. In the past year, the PLF increased its operational activities against Israel and sent its members to Iraq for training for future terrorist attacks.

Baghdad provided material assistance to other Palestinian terrorist groups that are in the forefront of this intifadah. The Popular Front for the Liberation of Palestine General Command, Hamas, and the Palestine Islamic Jihad are the three most important groups to which Baghdad has extended outreach and support efforts. Saddam paid the families of Palestinian suicide bombers to encourage Palestinian terrorism, channeling $25,000 since March through the ALF alone to families of suicide bombers, both in Gaza and on the West Bank. Public testimonials by Palestinian civilians and officials and cancelled checks captured by Israel in the West Bank verify the transfer of a considerable amount of Iraqi money.

The presence of several hundred al Qaeda operatives fighting with the small Kurdish Islamist group Ansar al Islam in the northeastern corner of Iraqi Kurdistan where the IIS operates is well documented. Iraq has an agent in the most senior levels of Ansar al Islam as well.

In addition, small numbers of highly placed al Qaeda militants were present in Baghdad and areas of Iraq that Saddam controls. It is inconceivable that these groups were in Iraq without the knowledge and acquiescence of Saddam's regime.

In the past year, al Qaeda operatives in Northern Iraq concocted suspect chemicals under the direction of senior al Qaeda associate Abu Mussab Zarqawi; and they tried to smuggle them into Russia, Western Europe, and the United States for terrorist organizations and operations. Iraq is a party to five of the 12 international conventions and protocols relating to terrorism.

That is what Iraq has been doing in the year 2002.

Mr. HOEKSTRA. I think the record is relatively clear. In many ways, the Clinton administration in the 1990s got the message. After the World Trade Center bombing, after the U.S. barracks bombings, after our embassy bombings, after the USS *Cole* and as American civilians were attacked around the world, the rhetoric was very, very good.

The rhetoric that came out of the Clinton administration said we are at war. We are prepared to punish and hold those accountable who have attacked us. We are willing to go in and preemptively attack and be on the offense against those who may attack us in the future; and we may even go it alone, because we will not allow another country to hold veto over American national security.

They defined the war. They said we are at risk at home and abroad. Civilian, military individuals would be at risk; our allies would be at risk. Madeleine Albright identified that it would be an unconventional war. Parts of it would be conventional; parts of it would be unconventional. Some battles would be in the open; some would be in secret. We would use both conventional weapons and weapons of mass destruction. It is a violent and a dangerous world. Truck bombs, improvised explosive devices, small labs for chemical and biological weapons, weapons that could be delivered by plane, ships, missiles, or backpacks.

You go back to the one quote I think you had from, I am not sure if it was the President or Al Gore, but I got the quotes here again.

From William Cohen: "We anticipate there will be terrorist attacks in a variety of areas of the globe and we are taking whatever precautions we can against it."

Al Gore in 2000: "We have made it clear that it is our policy to see Saddam Hussein gone."

I am not sure what quote my colleague has over there, but we ought to take a look at what the Clinton administration did in the 1990s.

Mr. GINGREY. I think what the gentleman so clearly pointed out is the previous administration made the case against Saddam Hussein. They made the case based on the intelligence that they were receiving at that time. What they did is they talked the talk, and we have spent some time here this evening giving you some quotes, various members, including the President, the Vice President, the Secretary of State.

Mr. HOEKSTRA. It is a consistent message through all levels of their policy chain.

Mr. GINGREY. Absolutely. The point I was going to make is they were willing, the previous administration, to talk the talk; but what they were not willing to do was to walk the walk.

This administration has walked the walk; and because of that, this world is a safer place with the capture of Saddam Hussein.

Mr. HOEKSTRA. There is an interesting article I would like to reference that talks a little bit about what the previous administration did during the 1990s. The article is "Show Stoppers," and it is out of the Weekly Standard, January 26, 2004. It is written by Richard Shultz, who is director of International Security Studies at the Fletcher school, Tufts University, and director of research at the Consortium for the Study of Intelligence in Washington, D.C.

He brings up an interesting point. America has the best trained military in the world, regular Army; but then we also have some very special folks, Special Operations folks.

Remember, the policy as he lays out here was that we were prepared to preemptively and offensively attack those individuals who we thought might be a threat to the United States. We knew who they were. The Clinton administration identified al Qaeda; they identified bin Laden as being threats. We heard that in our quotes tonight.

But what Richard Shultz goes on to point out, he says not once during the 1990s, even though we on occasion might have known where bin Laden was, we knew where his terrorist camps were, not once did we take and use our Special Operations forces to neutralize the capability of these folks who we were relatively confident and who the Clinton administration were selling the American people on that these were a threat to the American public and to our military and to our allies around the world.

We never used our Delta Force, we never used our Seals, we never used our Rangers to kill or capture bin Laden or attack al Qaeda training bases.

Mr. GINGREY. If the gentleman will yield further, one of the most preposterous facts is that during of the previous administration in the late 1990s, Osama bin Laden was offered up to our country, and we refused to accept him saying that he was not that much of a threat. We did not need him.

Mr. HOEKSTRA. Taking back my time, Mr. Shultz goes on to talk about the Clinton administration's desire for preemptive and offensive actions. But they never took the step. Terrorism is a crime, they said. They said we will prosecute it afterwards. We will not use our forces for minimizing the capability of these people to wage war against us. It does not meet the Pentagon's definition of war. We are risk-averse.

That sent a very clear message to terrorist organizations and rogue regimes like Iran, Iraq, Syria and a number of other countries that said the United States is not going to do anything.

□ 1830

They may respond, but even if we attack their battle ships, even if we attack their embassies or their barracks, they will not respond or they will respond in a very minimal way, and they will allow us to keep moving forward and to prepare other attacks.

I yield to the gentleman from Georgia.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding. No question, when we keep drawing lines in the sand and making threats and dares and double dares, as was done by the previous administration, attack after attack after attack, the other side is rightly going to assume that you are just so much bluster, that you are no threat. So they continue in their terroristic ways, and that really is essentially what has happened. Thank God that this President, our 43rd President, George W. Bush, had the courage to finally say, enough is enough.

Mr. HOEKSTRA. Mr. Speaker, a couple of other things. We never used our Special Operations forces. But with all of this discussion about what capabilities do we have in intelligence, it is helpful to have a discussion as to what the Clinton administration did during the 1990s with intelligence. From 1992 to 1999, the intelligence agency, we decreased the number of agents we had in the field by 27 percent, we decreased the number of stations or locations that we had around the world by 30 percent, and we decreased the number of assets. What is an asset? An asset is a spy. We reduced the number of assets we had by 40 percent. We gutted our human intelligence capability. We have phenomenal satellites and different things that can do wonderful things in trying to help us figure out what is going on, but unless we have the human intelligence to determine intent and planning or to go inside of a building and see what is going on inside of a building and to hear and be part of the discussions, we cannot figure out exactly what is going on; and even if we have those people in certain places, it is still difficult to pull together the entire practice.

But the reason we were kind of blind in Iraq in 2000 is that Bill Clinton's administration, President Clinton's administration, gutted our human intelligence. I yield to the gentleman.

Mr. GINGREY. Well, no question. And of course it reminds me, thinking back, of I think it was the Clinton administration had decided that they wanted to have a nicer, a nicer, kinder, gentler intelligence agency; and anybody that was ever known to have jaywalked or spit on the sidewalk, they were not eligible to be an intelligence officer because they did not project that image.

I am going to tell my colleagues right now, it is clear that when the going gets tough, the tough get going; and we need tough people. And as the gentleman from Michigan was saying, we cut down on the number of personnel involved in intelligence operations and the kind of people that we need to deal with these people on an international basis. This is dangerous work, and we need tough, dangerous people to fight fire with fire. We did not have that in the previous administration.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, what my colleague is talking about is that in 1995 and 1996 the Clinton administration implemented what was called the Deutsch Doctrine. John Deutsch was the director of the CIA. And, after some things happened in 1995, the Deutsch Doctrine becomes the official policy of the CIA.

What does the Deutsch Doctrine say? It does what my colleague said, although maybe not quite as strict as what my colleague said; but it said, we are not going to recruit as human assets those individuals who have human rights records or who have criminal records; we are not going to recruit those kinds of people to spy for the United States. As a matter of fact, we are not only going to not recruit those people in the future, we are going to go and do what is called the "Deutsch scrub." We are going to go back and take a look at those people who are working for us today. They have made that choice, they have left the dark side, they are spying for the United States, they are giving us the information that we need to be safe, but the Clinton administration says, thanks, but no thanks. You have a dark record in your background, you are out of here, leaving these people in no man's land and saying, well, let me see. I was a bad guy. I came over to the good side, and now you are cutting me loose.

It was a chilling effect for the work of the CIA and the people that were doing the work in the CIA. It was a chilling effect, obviously, for those spies who were spying for us and now were cut off; and the basic message was, you are not good people to do business with. They think, one day you are going to use us, and the next day we are out in the cold.

We get to 2000. And I wonder how many people in Saddam's cabinet room, when we watch him sitting at the table, I wonder how many of them had clean human rights records. I mean, remember, they hung thousands of people in their jails. There is evidence they might have used chemical or biological testing on some of their prisoners. They killed over 300,000 of their own people. They gassed the Kurds, they gassed the Iranians. Sitting in that room, I do not think there were a lot of Eagle Scouts. I yield to my colleague.

Mr. GINGREY. Mr. Speaker, there is no question that I am sure there were no Eagle Scouts. When we are dealing with an international terrorist, a brutal, rogue dictator like Saddam Hussein and the terrorists associated with him, the only thing they understand is an eye for an eye and a tooth for a tooth. And it is like our military leaders have said many times in testifying before Congress, before committees, before the Committee on Armed Services, if the die-hards insist, they are going to die hard, and we have given it to them. I commend the President for that, and I think this world is a safer place because of it. It is not over, and we do not need to be thinking about an exit strategy until it is over. Our men and women deserve better than that. Many of them have paid the ultimate sacrifice, and they deserve a victory, and we shall have a victory.

Mr. HOEKSTRA. Mr. Speaker, candidate Governor Bush in 1999, he echoed the understanding of the threat that President Clinton, Vice President Gore, and others laid out. He called to mind an earlier time when free people were confronted with what he called rapid change and momentous choices. In was the 1930s, Nazi Germany is rearming, the British are reluctant to respond. Winston Churchill outlines to the people, the United Kingdom, what they are facing. Winston Churchill: "The era of procrastination, of half measures, of soothing and baffling expedience, of delays is coming to a close. In its place, we are entering a period of consequences."

For the United States, that day of consequences, the day where we suffered the consequences of half measures, of soothing and baffling expedience, of delays through the 1990s, we suffered that day of consequence on 9–11, 2001.

We want to move on a little bit and talk a little bit about what Dr. Kay has found relative to what the National Intelligence Estimate indicated we might find, and this is the backdrop of what President Clinton outlined during the 1990s and the Clinton administration outlined during the 1990s about the dangers of Saddam Hussein and Iraq. It is in the backdrop of what happened on 9-11, 2001; and the National Intelligence Estimate indicated that since inspections ended in 1998, Iraq has maintained its chemical and biological weapons effort. What has Dr. Kay found? This is from a statement by Dr. Kay on the "Interim Progress Report." He talks about discovering dozens of WMD-related program activities. Concealment efforts. So it is very, very public that Dr. Kay has recognized and found that the National Intelligence Estimate said Iraq has maintained its chemical and biological weapons effort programs. I did not say weapons; I said programs. It is exactly what Dr. Kay found when he got to Iraq.

Mr. GINGREY. Mr. Speaker, in regard to that, I just wanted to point out, and I started to mention this a little bit earlier, that Dr. Kay was a consultant to the Iraqi Survey Group. The Iraqi Survey Group is 1,300 individuals in Iraq continuing, as we speak tonight, continuing to look for weapons of mass destruction. The Iraqi Survey Group is not led by consultant Dr. David Kay; the Iraqi Survey Group is commanded by Lieutenant General Keith Dayton. Dr. Kay worked for General Dayton as a consultant, and General Dayton told a group of us when we were in Iraq over the Christmas season that Dr. Kay had been out of Iraq for over a month, and I do not think that Dr. Kay has been back in Iraq since that time.

So it is very possible that he does not actually know what the Iraqi Survey Group is doing and what they are finding right now. I will tell my colleagues one thing that they are finding. We talk about weapons of mass destruction. If we want to very narrowly define that as chemical weapons or nerve gas or biological anthrax, that is one definition of weapons of mass destruction.

But I am going to tell my colleagues, the ultimate weapon of mass destruction was found in Iraq; and he was in a little hole just south of Tikrit, and we got rid of him. And in the process of looking for these other weapons of mass destruction, what have we found? Hundreds, literally hundreds of mass graves with thousands, hundreds of thousands of people, his own people that Saddam had gassed, and also untold numbers of caches of weapons of conventional destruction. My colleagues tell me one of these road-side devices is not a weapon of mass destruction or a shoulder-mounted SA-7 rocket from Russia or a grenade launcher? Absolutely. We are finding and destroying as we continue to seek, and I truly believe that we will find those chemical and biological weapons.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, the National Intelligence Estimate said, if left unchecked, Iraq probably will have a nuclear weapon during this decade.

Here is what Dr. Kay had to say, George Stephanopoulos, October 5, 2003: "I think if they had, if someone had given them the enriched material or the plutonium, I think that it would have taken them a year or less to fabricate a weapon from that material. They had the capability, they had the knowledge, once given the proper material to very quickly develop a nuclear weapon."

I yield to my colleague from Georgia.

Mr. GINGREY. Mr. Speaker, this is a comment, speaking of Dr. Kay's report, here is what Dr. Kay says, among many things that Dr. Kay is saying. There is something to link them, Saddam, to weapons of mass destruction, and that is the equipment. The equipment was on the prohibited list that had to be declared. The fact that they did not declare the equipment, not only did they not declare it, it was imported equipment. A lot of it we dated was imported from after 1998 in spite of U.N. sanctions.

He went on to say, another quote from Dr. Kay: "We tend to, when we analyze a failure, look at our own failures and forget there is another side to the equation."

Again, this is Dr. Kay: "I am convinced the Iraqis tried to deceive us and, in part, they tried to deceive us and others into believing that they really did have those weapons."

Mr. HOEKSTRA. Mr. Speaker, here we have NIE key judgments: In view of most agencies, Baghdad is reconstituting its nuclear weapons program.

Here is the interview, or here is his testimony in front of the Senate Committee on Armed Services last week or a week and a half ago. The NIE concluded that Iraq could build its first nuclear weapons when it acquires efficient weapons-grade material. Do you think that is accurate?

Kay: Yes. You have to realize that this was a country that had designed and gone through a decade-long nuclear program. They knew the secrets.

Mr. Speaker, much of the assessment that was done, the National Intelligence Estimate, was pretty accurate. Obviously, the expectation of finding stockpiles of weapons of mass destruction, I thought we would find them quicker. We have not found them. Dr. Kay believes that there is a high probability that they do not exist and we may not find them, but recognizes that he has talked about and he has seen the Iraqis' ability to gut, and they looted their information files and burned the records, destroyed the records.

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They were great at denial and deception. They loved to bury things. Not only did Saddam Hussein go in a spider hole, but they took Mig-29s, pulled them out in the countryside, dug a hole, had the cockpit open and filled them with sand and dirt and buried them. There were things that were moved to Syria.

I think Dr. Kay with the interviews and things he has done has a very good assessment, but he will acknowledge that the search is not complete. That particular part he says is 85 percent complete, but there will always be a level of uncertainty because of how well the Iraqis did denial and deception.

Mr. GINGREY. He went on to say, and again this is part of the Dr. Kay's report, "The surprising thing we have found in the biological program is a vast network of laboratories. It is now over two dozen labs that were not declared to the U.N. even though they had equipment and were clearly conducting activities that were declarable. Now, quite frankly, we are not sure fully what they were doing right now. They had biological and chemical production equipment in them. Most of them are relatively small by historic Iraqi standards. They are mostly in houses and residential areas. Some are in business establishments. One was in a hospital. These are facilities that at the minimum carried out research and development and kept the scientific skill level."

When you think about the fact that it took us months and months to find Saddam in the country, a country the size of California, buried in a six-by-three-foot hole south of Tikrit, and probably would not have found him without accurate, absolutely, the most accurate human intelligence, I do not think it is surprising that we are having difficulty finding these weapons of mass destruction.

There are any number of things that he could have done with them, from shipping them out of the country, to destroying them, to burying them, to putting them in very small vials. It does not take a footlocker to store some of these weapons of mass destruction. They are easily hidden.

So we need to keep looking, absolutely. The Iraqi Survey Group under General Dayton will continue that search.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for joining me in this Special Order this evening. I think we firmly established that the record clearly outlines that, for the last decade and more, Iraq has been identified as a terrorist regime, dangerous to its neighbors, its own people and the rest of the world.

As a matter of fact, I think in one of the quotes that the gentleman went through, then-Senator Al Gore attacked the previous Bush administration for not doing enough to rein in Saddam Hussein and Iraq. And this was a President who took them to war once and that was not enough. This was an administration that talked about attacking unilaterally.

The Clinton administration laid the foundation for the dangers of the Iraqi regime under Saddam Hussein. They did not respond. September 11 happened. It is a whole new world. The threat was outlined. The intelligence was there. The President responded. And the Iraqi people, as the gentleman and I have found out as we have gone over there, the Iraqi people are better off and are thankful that Saddam has been removed from power and that they can move and move forward in building a free and democratic Iraq.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. HOEKSTRA. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 361) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 361

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, February 11, 2004, it stand adjourned until 2 p.m. Tuesday, February 24, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, February 12, 2004, Friday, February 13, 2004, or Saturday, February 14, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, February 23, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDITIONAL ADJOURNMENT OF THE HOUSE TO SATURDAY, FEBRUARY 14, 2004

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 4 p.m. on Saturday, February 14, 2004, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 361, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore (Mr. BEAUPREZ). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, FEBRUARY 25, 2004

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, February 25, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

APPOINTMENT OF HON. WAYNE T. GILCHREST TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTION THROUGH FEBRUARY 24, 2004

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 11, 2004.

I hereby appoint the Honorable WAYNE T. GILCHREST to act as Speaker pro tempore to sign enrolled bills and joint resolutions through February 24, 2004.

DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

WHAT ARE THEY THINKING?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I come to the floor this evening to give voice to the voiceless. Millions of Americans are filling out unemployment forms and are filling our unemployment rolls. Many more are dropping off the lists because they simply see no hope and no prospects for jobs in the future.

According to recent reports, in the last 3 months, more than 40 percent of the unemployed have been out of work for more than 15 months, for over a year. We have not seen record numbers like this since 1983. Jobs are becoming scarcer.

In my own State of Ohio, we have lost 264,700 jobs since President Bush took office. And last week in our district, Dixie Cups, owned by Georgia Pacific, announced its closure; 207 more Americans will be without work. Nationwide, we have seen the disappearance of over 3 million private sector jobs. Now the Bush administration appears to be supporting outsourcing of even more of our jobs overseas.

It used to be that it was only the workers on the line who had to worry. Now, in Silicon Valley, the high-tech areas of the country have to worry, too; and in our medical community, if we are to read the President's report, even radiologists and those in medical tech are feeling the pain and will feel the pain.

We are not just talking about the manufacturers and the farmers anymore. Even the previously sacred service sector jobs are under threat. Even telephone solicitors are now being outsourced to India and to Ireland as the ranks of our unemployed continue to grow.

Earlier this week, the top Bush economic advisor, the head of the President's Council of Economic Advisors, stated, outsourcing of jobs is a form of free trade, and that is probably a plus for the economy in the long run.

It is hard to read those words and really think he believes them. What is going on in the minds of the people over there at the White House? Maybe the President needs to get out from behind his desk in the Oval Office, travel around the country and meet with real workers who are worried and the millions who are out of work.

Just last month President Bush came to my district. Unfortunately, his motorcade did not make any stops in our community where he had an opportunity to meet these people, those who are really worried and those who have been out of work for a very long time. If he had done that, he might have heard from people who used to work at Dixon-Ticonderoga, manufacturing school supplies and whose jobs have been moved to Mexico; nearly 2,000 workers from Phillips Electronics, who had the same thing happen to them; or Georgia Pacific-Dixie Cup, the workers who just lost their jobs last week; or those at Acuity Lighting in Vermillion, Ohio, whose jobs are being moved to Matamoros, Mexico; or the workers from Spangler Candy out in Williams County in Bryan, Ohio, whose jobs have been moved and more will be moved to Mexico, making candy canes and various sugar candies; or any number of workers on the line in our tool and die shops who have been moved out of those shops and on to the unemployment lines.

But, instead, for him it was just another campaign stop in Ohio. In fact, the day after his visit, the unemployment rate in Ohio ticked up again.

My constituents know what is important, a dependable job with a decent wage. They want to help their children complete their education, first high school and, if possible, college beyond that; and they want to be able to depend on a pension that will be there for them when they need it. But, instead, we are turning our students into debtors, our pensions are becoming more risky, and it is harder and harder for our kids to go on to school.

The 2003 trade deficit will set a record of nearly half a trillion dollars, more products being made, more services being done in other countries rather than here at home. Over a half a trillion dollars. Imagine if we could invest that here at home. The Federal deficit, as a result, is also at record highs.

And what is the President's plan to secure Social Security and Medicare for our generations and beyond? More budget-busting tax breaks for the super rich, while wages for ordinary people are stalled or declining or they are thrown on to unemployment lines.

Again, I really do have to ask, what is the White House thinking? I have repeatedly called for a new Declaration of Independence for our country, a declaration of economic independence for our families, for our workers. We must ensure first the economic security of our Nation. It must be one of our Nation's number one priorities. Instead, leading Republicans think it is a great idea to send more of our jobs overseas.

It makes me wonder what kind of future is in store for our future generations. This Congress must draw the line in the sand here. I urge my colleagues on both sides of the aisle to stand up for working families immediately for the extension of unemployment benefits and no more stealing from the Social Security Trust Fund to pay off the White House's pet projects; no more tax breaks for the super rich; no more unfair trade deals like NAFTA; and no Chairman of the President's Council of Economic Advisors that had the idea of sending more of our jobs overseas is the answer to these problems.

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TOBACCO BUYOUT LEGISLATION

(Mr. GOODE asked and was given permission to address the House for 1 minute.)

Mr. GOODE. Mr. Speaker, I rise in support of tobacco buyout legislation. The consensus measure is H.R. 3160. We need to eliminate the Federal quota program. If we do such, American tobacco will be more competitive with foreign tobacco. A buyout would end the tobacco quota system; and a number of tobacco farmers, particularly the older ones, will cease to grow tobacco.

Many quota holders and growers have invested a considerable amount of money in the current tobacco program over the years. They deserve compensation for their loss, and that compensation can come from tobacco.

If we adopt legislation for a tobacco buyout, it will greatly benefit south Virginia, southwest Virginia, much of North Carolina, South Carolina, Georgia, Florida, Tennessee, Kentucky, and several other States.

I hope we can see positive action on tobacco buyout legislation soon.

THE PRESIDENT'S BUDGET

The SPEAKER pro tempore (Mr. GINGREY). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LEE) is recognized for 60 minutes as the designee of the minority leader.

Ms. LEE. Mr. Speaker, I rise tonight to join my colleagues from the Congressional Black Caucus to discuss the President's reckless, very reckless budget for fiscal year 2005 and to really examine the terrible toll that it will take on our country as a whole and specifically African Americans. And, Mr. Speaker, I would now like to yield to the gentleman from Maryland (Mr. CUMMINGS), our distinguished chairman of the Congressional Black Caucus.

Mr. CUMMINGS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise this evening to raise serious concerns about the Bush administration's fiscal year 2005 budget proposal, along with my colleagues in the Congressional Black Caucus.

This budget contains misplaced priorities that leaves all Americans behind. In the first place, this budget adds $521 billion to our national debt for the next fiscal year. This is on top of $7 trillion national debt that our Nation has already incurred. That is roughly $2,000 for every woman, man, and child in America today.

This is extremely disappointing, Mr. Speaker, given that at the beginning of the Bush administration we had a $280 billion surplus, and we were expecting record surpluses for years yet to come.

Many economists say that increased deficits signal danger for our economy because increased deficits cause or result in higher interest rates, slow economic growth, lower national savings, and reduce economic productivity. Given this, I am appalled that the Bush administration's budget fails to account for spending in Iraq and Afghanistan in its proposal and also plans to implement further tax cuts.

In fact, just today, it was reported that the military chiefs are saying that the $87 billion we have just appropriated for the war will run out by September 30.

Moreover, the Congressional Budget Office has said that if the $1.7 billion tax cut were allowed to expire in 2011, the budget would be balanced by 2014. However, it is my understanding that the administration still plans to introduce its permanent tax cut proposal and press for continued defense spending while cutting or eliminating Federal programs that will also strengthen our Nation.

Again, this budget has misplaced priorities that leave all Americans behind.

Mr. Speaker, as my colleagues may be aware, the White House released its annual economic report of the President this week, which stated that 2.6 million jobs would be created by the end of 2004. It seems as though the President is promising that he will spin straw into gold, which is an impossible task. It is impossible because every year since President Bush took office this report has been completely wrong.

In 2002, the administration estimated that 800,000 new jobs would be added to the economy; but, instead, the United States economy lost a net total of 1.9 million jobs just in 2002. In 2003, the administration projected that the tax breaks would add 510,000 additional jobs by the end of 2003. Instead, 53,000 jobs were lost. All together, since President Bush took office, 3 million jobs have been lost; and the last President to have a net job loss during his administration was President Herbert Hoover.

Mr. Speaker, we cannot grow as a Nation with 9 million Americans out of work, 43 million without health insurance, and a future generation that lacks the educational resources to compete in the 21st century global economy; yet this budget proposes to cut more than 60 programs that would uplift this Nation. But tonight I would like to specifically highlight one Federal program that has made a tremendous impact in my district. Although the program is fully funded in my district, the President's current budget will keep this program from starting in new communities.

Mr. Speaker, I am specifically referring to the Empowerment Zone Program administered by the United States Department of Housing and Urban Development. Created under the Clinton administration, this Empowerment Zone Program creates economic development in the Nation's most distressed urban communities through public-private partnerships.

In my district, this program has created 12,000 jobs in neighborhoods that were previously deteriorating, abandoned, and had high crime rates. With the $100 million Federal grant, the Baltimore Empowerment Zone provided customized job training to thousands of residents and helped them obtain jobs in health care, biotechnology, manufacturing, retail, and hospitality. Many of these jobs provided higher pay, benefits, and career growth that were not previously available to these residents.

In one particular instance, a former Army veteran who could not find a civilian job received training through the Empowerment Zone. Today, he works in an operating room at the world-renowned Johns Hopkins University hospital.

The Empowerment Zone also helped thousands of families to buy their first home, as well as provide small business loans. This is a classic example of how the Bush administration should be stimulating the economy. However, instead of expanding this program to other cities, the administration has decided to completely cut all funds to this program by fiscal year 2005. This would essentially dissolve the program.

Like the Empowerment Zone, 65 other programs are being abandoned through the President's fiscal year 2005 budget. While looking at the list of 65, I notice that all Americans in some way or another would be affected by these cuts.

Programs for homeland security, the environment, women, people of color, children, the disabled, microloans for small business, the HOPE VI housing program, and health care are all being targeted for cuts in this budget. Therefore, Mr. Speaker, this budget should be called the Leave All Americans Behind budget.

Before I conclude, Mr. Speaker, I would urge my colleagues on both sides of the aisle to think about how these cuts will have an impact on their constituents. While I strongly support giving our troops the funding and the resources they need to do their jobs and while I support increasing homeland security, I strongly urge that we maintain a balance and continue giving America all it needs to remain a superpower.

With that, Mr. Speaker, I thank the gentlewoman for her leadership and for conducting this hour for the Congressional Black Caucus.

Ms. LEE. Mr. Speaker, let me thank the chairman again for his diligence, vigilance, and really helping the Congressional Black Caucus educate the public and hopefully many of our colleagues on the other side about the most pressing issues confronting our constituents and our country. I want to thank the gentleman from Maryland (Mr. CUMMINGS) for his leadership and for, once again, I will say helping us to wake up America.

Mr. Speaker, let me just say a few things about this budget tonight. First of all, no documents are more important to the health and the welfare of American people than our Nation's budget. It can give the 44 million Americans without health insurance access to affordable health care, including the 7.4 million African Americans without health insurance. It can put the millions of unemployed people back to work, including the 1.7 million African Americans and the 1.4 million Hispanics seeking work. It can honor our commitment to veterans instead of raising their health care costs, including over 2.6 million African American veterans, and the list goes on and on.

Instead of sending us a budget for the American people, this President has sent us a budget that turns its back on people and on our future. It sacrifices our children, our senior citizens, our security, our veterans, our environment, our economy in order to advance special interests and to promote tax breaks for the wealthy.

Incredibly, the budget does all of this damage to Americans at home and does not even include the cost of our operations in Iraq and Afghanistan, a clear failure, a very clear failure to come clean with the American people about the staggering costs of the war.

I think we all know, and we heard that today, that we can expect another very large supplemental appropriations request for the war after the November election. The President, I believe, needs to really stop playing politics and to start paying attention to our needs right here at home.

To merely call this budget a reflection of misplaced priorities really does not go far enough in describing the injustices that it promotes. It represents nothing less than an assault on the American people. The Bush administration is at war with the working poor, the middle class, working families and, yes, people of color. This budget, I tell my colleagues, is proof of that.

The repercussions of this budget will be felt in cities and towns and rural communities across America. They will certainly be felt in my district in northern California where the high-tech economy has struggled and where housing costs are sky high, where seniors and veterans are struggling each and every day just to pay medical costs and grocery bills, where crime is taking the lives of our young people and threatening our communities, where infrastructure is crumbling, where our first responders and our ports are still not receiving the Federal funds that they need to keep our homeland safe and prepared, and where the State budget is being squeezed and slashed, and the repercussions of this budget will be felt for decades to come due to the record deficits that it creates.

It is truly mind-boggling to think how the administration turned a $5.6 trillion surplus, projected just 3 years ago, into record deficits as far as the eye can see. Our children and our grandchildren will be paying off the reckless tax cuts for the rich, the lavish breaks for offshore corporations, and the huge overpayments to HMOs that are in this budget. They will be paying for this for the rest of their lives. This $4 trillion deficit will haunt our children for years to come.

These outrageous and very reckless breaks for special interests and the wealthy help explain why this budget leaves so many behind. It explains why this President decimates housing programs in his 2005 budget. It represents a $350 million cut compared to last year's funding level.

The budget cuts are again focused on section 8 and public housing, the program that serves the Nation's poorest families, seniors and the disabled. The budget is $1.6 billion below the level needed to renew all section 8 vouchers; and it proposes to block grant the voucher program, dismantling low-income tenant protections.

It eliminates funding for HOPE VI programs, a program that Congress reauthorized last year on a bipartisan basis; and it cuts the McKinney-Vento homeless prevention grants by $2 million.

Mr. Speaker, instead of spending billions on missile defense and other Cold War inventions, we could put more resources into housing, which is a national emergency and a national disgrace; and instead of spending $1 trillion in tax breaks, we could put more resources into our communities by providing the tools that they desperately need to combat crime and to deter crime.

Let me just tell my colleagues for a minute a little bit about violent crime in my own district. Last year, in Oakland, 114 lives were ended in senseless killings, and 17 people have already been killed in the first 6 weeks of this year.

☐ 1915

It is not unlike any other urban area where opportunities just do not exist. It is a vicious and deadly cycle, and it must end.

But to end the bloodshed and the pain, not only in Oakland but throughout our country, we must have a comprehensive approach and put the resources to address the root problem that fuel the cycle. We know many of the factors that contribute to violence among young people: drugs, the lack of job training, employment opportunities, and a lack of options. The hard truth of the matter is that young people have no hope, and homelessness breeds anger, despair and crime, so we need to offer hope.

By sending jobs offshore, outsourcing, moving manufacturing, technology and service jobs offshore, today I asked Mr. Greenspan in our Committee on Financial Services, what do we tell our young people? What do they go to school for and for what jobs? These jobs are nonexistent, so what are our options for our young people?

What does the President offer to our law enforcement agencies to help them combat and to deter crime? The administration has offered cuts, cuts and more cuts. The budget cuts juvenile justice and delinquency prevention grants by 43.9 percent, and it eliminates the Edward Byrne formula and discretionary grants, the State criminal alien assistance program, and local law enforcement block grants. The budget cuts $655 million from the COPS program which provides grants and other assistance to help communities hire and train and retain police officers and improve law enforcement technologies.

I can say that this directly harms our community where every night 9 out of the 35 beats in Oakland are not covered because they simply cannot afford the staff.

In addition to community policing, we need to make a local and a national investment in violence prevention. We need a real plan, a real plan for the reentry of ex-offenders. There are 1.4 million inmates in America's State and Federal prisons, and more than 600,000 will be released to return to their communities this year. These inmates are parents to 1.5 million children. If adults recently released from prisons and jails and those on parole are included, the number of affected children more than doubled to an estimated 3.2 million.

Clearly, the President's meager offering of a $300 million 4-year program, or $75 million a year for reentry, is a drop in the bucket. We could use that just in my congressional district. This program amounts to about $125 per inmate leaving prison this year. What in the world is that about?

Mr. Speaker, the Bush budget underfunds our communities and our country. We need a jobs program. The unemployment rate among African Americans rose to 10.5 percent last year, significantly higher than the unemployment rate at the beginning of the Bush administration. The unemployment rate for Hispanics rose from 6.6 percent to 7.3 percent in 1 month. This rate is 24 percent higher than when Bush took office. Despite these realities, the Bush budget squanders an additional $1 trillion over the next 10 years on additional tax cuts for the wealthy. The President's budget does nothing to create jobs, to create good-paying jobs here at home.

We also need job training, yet the President's budget contains $286 million in cuts for job training and employment services. These cuts come on top of $1.5 billion in cuts to job training and related services already enacted that President Bush has proposed since he took office.

We need to invest in education and after-school programs. But, instead, this President's budget underfunds Leave No Child Behind by about $9.4 billion.

It leaves 40 percent of children eligible for Head Start out in the cold, and it provides only half of the funding promised to after-school programs, meaning the 1.3 million children who were promised after-school services just will not get them.

We need to invest in basic health and mental health services, but, instead, this budget freezes funding for the Maternal and Child Health Block Grant title 10 family planning program and also the Healthy Start program. It freezes all of this funding.

It also proposes an additional $25 billion in tax breaks for health savings accounts, a proposal which benefits the healthy and the wealthy and will raise premiums for most Americans. The President's association health plans will raise premiums for about 20 million Americans and reduce benefits for millions more.

Mr. Speaker, this President is really more interested in the future of the bank accounts of the rich in this country than he is about the future of our communities. It is really about choices. We could choose to invest in the future, grow our economy, enhance our security, look out for our children and our seniors and those who are struggling economically, the poor. Or we could provide tax cuts for multimillionaires and special interests. That is the choice the Bush budget offers; and, unfortunately, the choice is very grim in terms of this budget, which is a road map, which is a budget that speaks to, really, the values of this administration which I believe are very unAmerican values.

I urge my colleagues to continue to spread the word about this dangerous Bush budget and to let them know in November what we think about his budget priorities.

Mr. Speaker, I yield to the gentleman from North Carolina (Mr. BALLANCE).

Mr. BALLANCE. Mr. Speaker, I thank the gentlewoman from California (Ms. LEE), my leader, before I got to Washington; and I thank the gentleman from Maryland (Mr. CUMMINGS), the chairman of the Congressional Black Caucus, and the gentleman from Florida (Mr. MEEK) who will speak later on.

I am proud to stand here tonight as an American, indeed, an African American. I am proud to live in America, the land of the free and the home of the brave, the land of opportunity. But there is a problem. There are some for whom the promise of America is not being realized. They are the unemployed, the laid off, the jobless, those whose unemployment has run out, and those who have been looking for a job so long that they have given up.

America can do better. Why are we not doing better? I submit it is because we have the wrong priorities, and I submit that the budget that our President presented to us last week has the wrong priorities.

I want to talk just briefly about a section of the country, North Carolina, a section of North Carolina, rural, poor, eastern, that I represent. It is called the First Congressional District. It is largely rural, largely African Americans, Native Americans, facing devastating job losses and obviously sweeping economic concerns. I am deeply concerned about the well-being of thousands of families, thousands of unemployed, thousands of laid off who live in my district.

During the President's State of the Union address in January, I listened carefully and I heard nothing that would tend to address the needs, the hopes and desires of those of whom I speak. Yes, after reviewing the proposed budget, my concerns continue to grow. With a staggering 31,767 people unemployed in the First District as of December 1, 2003, additional plant closings and layoffs threaten to raise that number even higher and to stress and distress an already unstable economy.

In fact, just last week Rubbermaid of Greenville, North Carolina, announced plans to lay off another 315 workers this coming month. They join the ranks of other plant closings, dozens in my area, since the summer of 2003.

During his State of the Union address, the President promised more tax cuts, more permanent tax cuts. He had already promised that those would generate jobs. We have heard that pitch before. It has not materialized, and we do not believe it is going to materialize this time around, so that is why we are here tonight. We have to continue to speak out and cry out and make a plea that we will change our policies and provide opportunities for families, for jobless, for people who are hurting, people who are losing hope.

Since 2001, this Nation has lost 2.9 million jobs. Locally, in Vance County, one of the counties I represent, they suffer an unemployment rate of 12.5 percent, more than double the national unemployment rate. The President's priorities do not appear to match those of working families in eastern North Carolina. We have a few millionaires in eastern North Carolina, but they are very few.

With jobs continuing to disappear, despite 3 years of promises through tax cuts, our families want to enjoy the same quality of life afforded every other family throughout the Nation. They want to live in a sound economy, free of the fear of losing their jobs. They want to raise their families, have good health care, and to continue to express their patriotic values as Americans.

This budget relies on tax cuts which sacrifice priorities for funding at home for those items that I just mentioned. On last year's tax cuts, the poorest 20 percent of North Carolinians received a mere $69. We know about the theory, if you give it to the rich, it will trickle down, but it is not working. We are losing jobs.

I sent the President a letter last week inviting him as he travels to please come to northeastern North Carolina, please visit Roanoke Rapids, Henderson, and Rutherford, North Carolina, to see what is happening when people lose their jobs, lose their hope, are standing in the unemployment line, and finding that their unemployment has run out.

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As I said earlier, America can do better. We have the ability. We have the technology. We simply have to get our priorities straight in order to help those who are most in need. I thank the gentlewoman from California so very much for this opportunity.

Ms. LEE. I want to thank the gentleman from North Carolina for his very eloquent and very clear statement. One thing that the gentleman from North Carolina pointed out was that this unemployment and the fact that poverty is rampant now speaks to rural, as well as to urban, communities. This is something that I do not think the President has recognized in this budget. I do hope he accepts the gentleman's invitation to come to his district because maybe then we will see a revision of this budget to speak to some of those issues.

Mr. BALLANCE. I thank the gentlewoman. I look forward to that.

Ms. LEE. Mr. Speaker, I yield to my good friend from Florida (Mr. MEEK), a leader in the Committee on Armed Services, who has truly and is truly making his mark here in the House of Representatives.

Mr. MEEK of Florida. I want to thank the gentlewoman from California for her comments earlier about what this budget is doing to America versus for America. I think it is important in our democracy to be able to outline not only the pitfalls but where we can play offense, moving forward, moving this country forward.

As I speak about moving our country forward, it is important that we have a budget that is going to reflect our qualities and our values here in the United States. When I see a budget such as the President has sent here to the Hill, I cannot help but question the priorities of the administration versus the priorities of families that are living here in the United States, those that are working and those that are looking for work.

I must say that being a past creature of State government, I think it is important that we understand when the Federal commitment is cut, then the State commitment has to be cut. And when the State commitment is cut, then the local government commitment to communities and families is cut also. When I am talking about local government, I am not just talking about your counties or your parishes or just a city. I am talking about school boards. We call it devolution of taxation here in Washington, D.C. We cut it here, and they raise it there. Property taxes have gone up throughout this country, in all communities, not because local governments are saying that we like to raise revenue locally; they are doing it because the Federal Government is no longer supporting and helping and assisting local communities in vital programs that put forth the quality of life in America that we enjoy.

I just want to share a few figures. I am going to speak briefly tonight. States are currently facing their worst fiscal crisis in decades, with 41 States facing a cumulative budget gap of $48 billion for 2004 alone. States are facing budget deficits of approximately $40 billion for States in fiscal year 2005 and nearly $200 billion. How are they going to make up that gap? They are going to make up that gap by raising tuition on students and working families, individuals that are going to community colleges trying to better themselves, prepare themselves as it relates to having an educated and prepared workforce which makes this country strong; also as it relates to making sure that we do not spend billions and millions of dollars in incarcerating individuals since we cut the COPS program.

I was so glad to hear my colleague speak of the cuts that are in the COPS program. Not only am I a member of the Committee on Armed Services, as was mentioned earlier, but also the Select Committee on Homeland Security. I think it is very, very important that we protect the homeland, and I know it is important that we defend our country. But at the same time I must say that we are going to fall short in having young people who may make youthful indiscretions due to the fact that its government and its local community failed them by making sure that we have vital direction programs to be able to build the kind of integrity and the kind of culture that we would like to build here and continue to maintain here in the United States.

Let us talk just for a moment about local governments. Being a past State trooper, I have a great appreciation for what police chiefs are trying to do in this country, and sheriffs, all of them. I believe that all sheriffs and all police chiefs genuinely would like to see a community that works towards harmony and also works towards making sure that they do not have to carry out the act of having to arrest individuals in a given community. If we continue to follow the track of this budget that has been sent by this administration to the Congress, and I am speaking to my colleagues here because we have to really man up and woman up and go see the wizard not only to get courage but also to get heart and making sure that we stand up on behalf of those individuals who cannot stand for themselves. We see a rural housing and economic development program that is cut by $25 million, and we also at the same time see dropout programs that are also cut. We also have a HOPE VI revitalization for severely stressed public housing that is cut by $149 million. Someone may say, well, we have to cut spending; but, ladies and gentlemen, we are not cutting spending. We are going further into spending, away from what we may say are mom and apple-pie issues here in the United States.

As we start looking at our democracy and as we start looking at what we must do as Americans, and all of us have been elected to lead, doing common things uncommonly well in this country, of making sure that we do not hand a mandate to local governments to where they have to fulfill that mandate by raising taxes on everyday working Americans. Yes, we may receive a $400 check or a $300 check in the mail; but also on the other hand, out of our left pocket money is being pulled out, through property taxes, money is being pulled out on local referendums and bond referendums because the Federal commitment has been cut.

I just want to say, ladies and gentlemen, as we look at this deficit that has grown under this administration, as we look at our commitment as Americans of making sure that we stand up for our children's future, as we make sure that children that are born, newly born in a hospital as I speak now already owe the Federal Government $24,500, and dollars that are not in a deficit, and paying on a deficit that we are creating, that this administration is creating, then we are going to find ourselves in a very sad situation looking at the abuses of contracting and all of these things that are going on as relates to the war in Iraq.

I just want to say that it is important that we continue to share these bread-and-butter, literally, bread-and-butter issues with Americans about where this administration is falling short as it relates to providing the kind of leadership. It is just something fundamentally wrong, if you are a Democrat, Republican, independent, socialist, whatever you want to be a member of, the Green Party, you name it, for a President to speak passionately on making sure that we make tax cuts permanent on behalf of the wealthiest Americans and not speak passionately about making sure that we provide the necessary, not the funding that it deserves but the necessary funding to educate our children, to be able to provide a health care system that is going to make our country healthy and to be able to help local governments as it relates to their commitment of protecting the home front and our local communities. Because with the defensive budget that the President has sent to the Hill, it leaves very little room for us to play offense in solving and hopefully stopping some of the issues that are going to be far more expensive than it would be if we were able to prevent them.

I thank the gentlewoman so very much, and I want to commend my colleagues for coming to the floor and sharing with America about what is going on and what we are going to fight against to make sure that we maintain the America that we celebrate today.

Ms. LEE. I want to thank the gentleman from Florida for really laying it out in terms of his very clear presentation. As I was listening to him explain the relationship between the Federal budget, local budgets and State budgets, he was really talking about the dismantling of America as we know it. I think that his voice and his breaking it down like that helps the public understand that what this budget does is not what America is, is not what we stand for. I just want to thank the gentleman for coming this evening and for being a part of this.

Mr. MEEK of Florida. I am so glad once again that the Congressional Black Caucus saw fit to share with all Americans what is happening to them versus for them, because we are here to make sure that good things happen in America and that we push programs that are putting people to work and that are making sure that our children are not left with a bill, that we are willing to eat steak and have a good time right now, so that we dismantle our future in America. We want to have it better for them than it was for us.

Ms. LEE. Let me now yield to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary, someone who is a strong fighter in terms of protecting our Constitution, who works tirelessly not only for her constituents but for children and families throughout our country and throughout the world.

Ms. JACKSON-LEE of Texas. I want to thank the distinguished gentlewoman from California. First of all, I want to thank her for her determinedness. Some would wonder why we would spend time on the floor late into the evening trying to dissect, whether it is HIV/AIDS and the funding that she worked so hard for and we are finding now that the funding is falling short, working on questions of war and peace, and they would simply wonder why we are here at this time of night speaking to our colleagues and debating an issue. I want to thank her for always being ready to educate not only Americans but our colleagues on these issues that are so particularly sensitive and important to many people who cannot speak for themselves. I thank her for allowing me to join in this evening with my colleagues from Florida and North Carolina and Maryland. I want to read the roll tonight, because this is, I think, the way to shock a lot of us into realizing what has happened when you begin to spend moneys that do not have priority, are not prioritized.

I know that the gentlewoman did not call me to the floor, and I did not come to the floor, to begin a debate on the question of Iraq and the expenditure of $87 billion and the mounting billions. I guess we are up to $175 billion, going up to 200 at this point because we are spending, as I understand it, I know we are spending a billion a month in Afghanistan. I know we need more troops in Afghanistan; and I think none of us, if I can just repeat the statement that I make all the time, are divided amongst our support to the troops, and we respect the young men and women that are on the front lines in Afghanistan, Bosnia, Germany and Iraq. But I think many of us made the point that we questioned the value of going to war in the first place, and now where we find ourselves as we look toward the future, one, in an unsolved resolution of the conflict in Iraq. It is unsolved, there is no resolution to it, there is no plan; and so we continue to spend money in Iraq, and we have many ills and problems with it which really has created, where I am going, the $551 billion deficit that we now face and that is because we have not made priorities, we have not had an administration that has been willing to make the hard choices.

I heard a discussion of the President and I always tell my constituents, I respect the office, I respect the person, but I heard a discussion, I think, this past Sunday where there was no reason given for going to war and there was no reason to give response to the state of this economy. It was that we will get jobs, or they are coming; and it does not really address the fact that as the Commander in Chief and the CEO of this Nation, you have to sit down and make hard decisions. Are you going to put together a domestic spending budget that addresses the needs of our people, all of our people, the hurt, the pain of the people? Or are you going to say, it is going to fix itself? And I think what I heard in the President's presentation is, it will fix itself. We'll go ahead and put $1.1 trillion in permanent tax cuts, mostly to both the richest of Americans and also to corporations. In doing that, we will then put ourselves in a position to see the $551 billion deficit continue to grow, and as well we will see it grow into 4 to $5 trillion.

The gentlewoman and I were together over the weekend in a very important meeting, and we heard the point being made that what that symbolizes, what that means is that the President and the Vice President are sitting late at night and, like me, have their glasses on, I imagine, and looking over Social Security checks that need to be going out to our constituents and literally endorsing them to pay our bills and to pay the permanent tax cuts, taking your Social Security fund, if we do not put a stop to it, and literally endorsing them for this increasing deficit and the tax cuts that are now being made permanent, or at least proposed to be permanent. That is what I say when I am talking about priorities.

We are now facing a 10-year deficit of at least $4 trillion. We have about $551 billion in deficit right now, $146 billion more than we projected in 2003. So what has happened is, let me just begin to read the roll. In the budget proposals, here is what is happening to programs that Americans have become used to depending on. I am not even listing the crisis that we have with the Medicare prescription drug question where we started out saying it was $400 billion, now it has risen to $534 billion, and we have got a lot of complaining in the United States Congress. I think we have said that when we debated on the floor of the House, we needed a precise, narrow bill that dealt with giving a guaranteed prescription drug benefit to seniors.

□ 1945

We did not need an investment in our good friends in the pharmaceutical industry. We did not need an investment in the HMOs. We did not need to tell this government that it could not even negotiate a cheaper price, but that is a whole other story.

But listen to this: No moneys for the advanced technology program. That is a program that typically, $171 billion, used to help, if one will, put together programs and technology programs for the benefit of small companies. That is gone.

Technology opportunities programs. We have talked a long time about digital divide. That is now gone. We will not get that.

Programs dealing with alcohol abuse reduction. We used to have a program that would help deal with alcohol abuse in our systems. Let me tell my colleagues that is important. More teenagers are drinking now. That is gone.

Arts in Education. That helps to, if one will, expose our children to art of many kinds. That is gone.

Community Technology Centers. Gone, no money for it.

Dropout prevention programs. Texas has one of the highest dropout rates among Hispanics and African Americans. I was just at a school this past week, and they said one of their major issues was dropout among middle school students. That is gone.

Elementary and secondary school counseling. I recall when we were all concerned about the number of shootings in our schools, and what did we do? Pass a lot of bills dealing with enhancing school counseling opportunities so we would have more school counselors. Gone.

Literacy programs for prisoners. Many of our incarcerated persons from our neighborhoods are illiterate. That is gone.

State grants for incarcerated youth offenders. Gone.

Women's educational equity. Gone.

National youth sports. Gone.

Empowerment zones. Funding not needed.

As I recall, I think I heard even the chairman of the Congressional Black Caucus get up and speak about the value of empowerment zones and what lives have been changed, how lives have been changed and how neighbors have been changed and how valuable they were.

Brownfields redevelopment. In my community alone we are still fighting to clean up brownfields, and I see that we have zeroed that out with an explanation, accomplishments not reported. What do they mean, "not reported?" We are still working to clean up brownfields, and I can assure the Members what that means to inner-city communities.

Let me cite Acres Home in my congressional district that has been working and working, the community has been working to get their brownfields cleaned up, and we are still going back in there with the EPA to see what has been done. That is gone.

COPS hiring grants, $119 million, gone. They say that it has merged with other programs. I do not know how one can do that. If it is merged, it is gone, and it means there is no money.

For those who come from areas where there are migrant and seasonal workers, there were moneys in order to enhance their quality of life. This is our farming industry that needs migrant and seasonal workers. We have eliminated resources that can help them with their better quality of life.

Let me conclude with the Microloan program from the Small Business Administration. Gone. Microloan program. Gone.

As I show this picture to our friends and colleagues, it seems to me that we have got a Swiss cheese here, a budget with a lot of holes. It seems to me, Mr. Speaker, that what happened is that the priorities were disproportionately weighted toward those who already have, and if they can come up with a budget to the floor of the House or to the Congress and tell us that they have cut arts education and so many other things that impact people's lives, then I think that it is now time for us to rally and to be able to address needs of the American people.

I thank the gentlewoman for allowing me to come. I am going to keep this somewhere visible in my office to know how many people have been hurt by this budget and to suggest that this Congress is obligated to fix the problem on behalf of the American people.

I thank the gentlewoman for allowing me to share this list of the have-nots, because I think the only way the have-nots will gain their rightful place is for us to begin the fight and to be able to write a budget that makes sense on behalf of the American people.

I rise today once again begin disappointed with this Administration's efforts to truly represent the values of average Americans and of the African American community. President Bush's latest efforts in the form of his 2005 national budget continues his irresponsible economic policies that have resulted in so many Americans suffering. This Administration has a credibility crisis. President Bush has said his tax cuts would act as a stimulus for our flagging economy and create jobs, this clearly has not happened. Instead of adopting more inclusive policies this President has decided to give even more tax cuts to benefit the wealthy. This Administration has misplaced priorities that are leaving average working Americans and our community in a bind.

EDUCATION

We all know that education is one of the most important priorities for our African American community. Our children's success or failure will be the true indicator of our effectiveness in this body. The generation of African American leaders who preceded us spent their lives making sure that we were able to get educated and have the ability to succeed that every American was entitled to. This President's budget threatens that very core principle. This is more than rhetoric; this idea is based on staggering facts. Of the 65 programs cut completely from the Bush budget, 39 of them were education programs. This President believes America will be better off if the richest Americans get $66,000 tax cuts, but he doesn't believe our children will be better with programs like Dropout Prevention, Even Start and School Leadership, all of which are now obsolete. This President has a different set of priorities when he believes that hundreds of millions of dollars in cuts for our children's education will be better for America. We as a united community and an integral part of this Nation can not allow this flawed budget proposal to stand. Our children's future and in turn the future of the African American community is at stake.

DEFICIT

The most disturbing aspect of President Bush's flawed budget proposal is the soaring deficits that will result from his policies. This administration has tried to say that deficits don't matter; we know that this is simply not true. History has proven that chronic deficits threat our economic strength by crowding out private investment, driving up interest rates, and slowing economic growth. Indeed foreign investment in the United States has dried up because foreign investors have no confidence in the Bush economic agenda. This Administration's irresponsible budget policies have turned a surplus into a large deficit that is choking off growth in the American economy.

President Bush likes to say his budget is geared towards tax cuts for all Americans. When in fact the average American won't receive a substantial tax cut, but will instead be hit with a tax hike in the form of an ever-growing deficit. A large deficit means taxpayers have to shoulder the costs of paying the interest on this new national debt. The end result will be a debt tax on the great majority of Americans. This will be a tax on lower and middle class Americans; it will be a tax on our heroic war veterans; it will be a tax on the elderly and most unfortunately it will be a tax on our children. The truly sad part of the President's budget is that while it is bad for America today it is even worse for future generations of American taxpayers.

TAX CUTS

I want to highlight some of the most egregious examples of this Administration's misplaced priorities. President Bush believes we can spend tens of billions of dollars a year to provide $66,000 tax cuts to the top 1% of tax payers, but he does not feel we can afford many vital programs many of which are tied to our national security.

Perhaps the most blatant example of this Administration's irresponsibility is the fact that the FAA budget was actually cut. At a time when our national security is under such great scrutiny I can not think of too many agencies that face greater pressure than the FAA to keep our nation safe. How can this President spend so much time and effort stressing the importance of homeland security and then cut the budget of the agency on the front line of stopping terrorists from attacking our nation? The irresponsibility does not stop there; the President's budget fails to provided the U.S. Postal Office with $779 million needed for biodetection technology that guards against anthrax-like attacks. After the Ricin incident in the Senate Office Buildings a few days ago, how can anyone in this body in good conscious approve a budget that does not address our vulnerability for bioterrorism attacks through the mail? This is where President Bush lacks credibility, he has taken drastic and some would say unconstitutional measures in the name of national security, but now when it comes to fully funding our most sensitive security concerns he decides it is more important to appease the richest 1% of Americans with irresponsible tax cuts.

Unfortunately the misplaced priorities do not stop with our national security. The "No Child Left Behind" initiative is left under funded by $9.4 billion a full 27% less than Congress authorized. Funding for America's veterans will be cut by $13.5 billion over the next five years. Its truly sad how this President not only doesn't fully fund sensitive security issues, but he is also cutting funding to two of our most sensitive constituencies; our children who are our future and our veterans who in the past have sacrificed so much so that we may live freely. Instead of supporting those constituencies this President believes that the richest 1% of Americans deserve yet another tax cut. These misplaced priorities are evident throughout the President's budget and demonstrate a fundamental lack of understanding about the needs of the average American.

JOB LOSS

President Bush has been one of the worst Presidents ever to take office when it comes to job creation. Simply put, our economy can never truly be considered successful until Americans who want jobs can find jobs. This is simply not the situation that the average American faces today. Under the Clinton Administration job growth continually improved. In contrast, under the Bush Administration the rate of unemployment has soared. In his State of the Union Address the President stated that jobs are on the rise, unfortunately the rise in employment he spoke of amounted to 1,000 jobs created over the last month. At that rate of job growth, it will take 192 years and eight months for the economy to return to the number of jobs at the beginning of President Bush's term of office. We are 8.4 million jobs behind where we are supposed to be at this point. That is a staggering number and it should be unacceptable to every member of this body. The Bush Administration assured the American people that tax cuts would result in job growth. The American people are still waiting to see this growth, too many of them are waiting unemployed and fearing for their prosperity. This Administration has argued that deficits do not matter and that job growth is not an economic priority. I can't think of too many Americans who would agree with that assessment. This President is not in touch with the needs and aspirations of the American people. This budget continues to reflect his irresponsible agenda based on a few special interests.

IRAQ AND AFGHANISTAN

It's unfortunate that this Administration does not understand the necessity of proper planning and vision. It has become painfully obvious to many of us in this body that this President did not have a plan to deal with post-war Iraq and Afghanistan. That point is once again made obvious by the fact that in this entire budget there is no funding included for the 2005 costs of ongoing military operations in Iraq and Afghanistan. This is truly irresponsible, our brave fighting men and women are risking their lives in Iraq and Afghanistan and this President can not even provide figures for the costs that these military operations will incur. Does this President want us to believe that the costs for this War on Terror have disappeared? Or is he telling us that he plans to pull our troops out of Iraq and Afghanistan? Once again, this President's irresponsible agenda is being exposed; he does not have the credibility to allow yet another flawed budget to pass this body.

NASA

I was there a few weeks ago at the White House when President Bush announced his new NASA initiative to return America to the moon and eventually man missions to Mars. The funding for NASA has been increased in this budget, but it only begins to pay for future exploration efforts, a detailed plan on how the President plans to achieve his NASA initiatives is still needed. I believe the President when he says he has the aspiration to get America back to the moon, its just unfortunate that he does not have the proper planning to do so. His actions in Iraq and Afghanistan leave him no credibility in this body to believe that he can achieve his ambitious agenda. This entire budget in fact is riddled with false promises and under funded ambitions.

CONCLUSION

This President has spent a great deal of time while in office talking about patriotism. He has stood in full gear on board an aircraft carrier in an effort to show the American people how patriotic he is. However, in my mind a patriot is a person who stands with their nation. In submitting this flawed budget this President has shown that he does not stand with real average Americans. It is not patriotic when you bring your nation from a point of success to the point of failure in the form of an enormous federal deficit. It is not patriotic when you side with the interests of the richest one percent of Americans and then cut or eliminate the programs that serve the great majority of Americans. It is not patriotic when our children are left behind without the proper resources to truly succeed. It is not patriotic when you ignore the wishes of an entire community in order to push through your own ideological agenda. This President talks about patriotism but when it comes to standing with average Americans and standing with the African American community to serve the interests of the entire nation this President has consistently failed.

This President has time and again asked for patience from this body and from the American people to allow time for his policies to start showing progress, unfortunately time has run out. Too many Americans are suffering and it is clear that President Bush's vision for America is not one that coincides with that of the average American or with the African American community. I hope we will continue to stress the danger of this budget, together we will be the ones to push the true interests of our constituents, to push for a real vision of America.

Ms. LEE. Mr. Speaker, I thank the gentlewoman from Texas for really calling the roll and for putting it out there and for reminding the country that, yes, the President did indicate that, for the most part, that the economy and our job crisis would just about fix itself. How do we tell young people that as we encourage them to go to school to develop skills and knowledge to get a job when, in fact, the economy does not allow for that?

Again, I must repeat that today we talked with Chairman Greenspan, and his response in essence was the same thing. It will just have to fix itself.

How do we allow a government as great as ours to just give those kinds of responses when we know that tax cuts for the wealthy are there, we know that the war, as the gentlewoman indicated earlier, is being funded to the tune of billions and billions and billions of dollars?

I think that what the gentlewoman from Texas (Ms. JACKSON-LEE) talked about tonight shows us that it cannot just fix itself. It is a matter of misplaced priorities, and we have got to demand that our priorities be reordered.

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the gentlewoman would yield, I see the gentlewoman from Florida (Ms. CORRINE BROWN), and I know she is going to pick up on this because I know anything that helps her district she has already gotten. So I know she is an empowerment lady, she is a Hope VI lady, and I just want her to know that we are struggling.

I see this, and I did not mention it because I am a little bit confused. I was trying to be factual before I said it, but I am going to read this. Hope VI revitalization of severely distressed public housing, I know, in fact, my community is saying they are getting ready to send an application for Hope VI moneys, and I see that that has been deleted $149 million, and it says "goals achieved." I did not want to call it because I thought maybe I had missed something, but it just came to me that my community was doing that.

I guess one other point I want to bring in about what the gentlewoman said about Mr. Greenspan is that there are some people who have been unemployed so long that they are not even in the system. They are not even getting unemployment. They are not even in line to get it. So we are looking at a budget that has to address those needs and to address this big whopper of a number, and it tells me that goals are achieved when I just left home and I have a community that is applying for a Hope VI grant.

Ms. LEE. Yes, Mr. Speaker, and Hope VI is being dismantled based on the President's budget.

I yield to the gentlewoman from Florida (Ms. CORRINE BROWN), member of the Committee on Transportation and Infrastructure, a member of the Committee on Veterans' Affairs, who fights each and every day for the protection of our democracy, for our veterans, for jobs, for the economy, for children and families throughout, again, our country and throughout the world.

Ms. CORRINE BROWN of Florida. Mr. Speaker, first of all, let me commend both the gentlewoman from Texas (Ms. JACKSON-LEE) and, of course, the gentlewoman from California (Ms. LEE) and the chairman of the Congressional Black Caucus and other Members for forging these kinds of debates and discussions on the floor of the House of Representatives, the people's House.

I have got to just take a moment to remind everyone that I am the congresswoman from Florida, the Third Congressional District of Florida. I, along with the gentleman from Florida (Mr. HASTINGS) and Carrie Meek, was the first Member of African American descent that was elected to Congress in 129 years. So we have a tremendous amount of responsibility.

I have to mention just for a moment the 2000 election. I do not think I can ever come to this floor and not mention the 2000 election, because I want the American people to know that it matters who is in charge. I want everyone to know that not just 500,000 people nationally voted for Gore, over 50,000 people in Florida voted for Gore. And if we are not careful, and if we look at the reports, the same thing will happen again. We can have another election stolen from the people, and the people will not have a voice in this House.

We have three separate branches of government. We have the administrative branch. We have the House and the Senate. It is a real honor to serve in the people's House, but the people do not have a voice in the people's House. The House voted against privatizing FAA. The House voted, the Senate voted, and it came back in the appropriations bill. The House voted against doing away with overtime pay. The Senate voted against it. It came back in the appropriations bill. We can only vote up or down.

So we do not have a dictatorship in this country, but we have a void, and that void needs to be taken care of in November.

One can tell something about a country, something about an organization, something about a church by their budget, the priorities of that budget. Just think about it. If one is in a church and they are concentrating on building and if they are in an organization that is just building and building, that tells one something about the organization. But if the organization is interested in the children, the senior citizens, the elderly, that tells one something about that group.

I can tell the Members that this budget is what I call "reverse Robin Hood," robbing from the poor and working people to give tax breaks to the rich.

I want to extend that a little further because it is more than tax breaks to the rich. It is the rich that contributes to the Bush campaign re-election fund. All one has to do is follow the money. I say follow the money.

If we look at the budget, what has been cut? Veterans' programs, homeless, public education. And that is the real joke. They stole this, just like the election, "Leave No Child Behind," but this administration are not only leaving the children behind, they are leaving their grandmothers and everybody else.

Public transportation, seven out of the 15 Cabinet-level agencies cut; EPA cut; HUD cut; Department of Agriculture cut; Commerce cut; Health and Human Services cut; Justice, Transportation, and Treasury, to give huge tax breaks to those who have contributed to the President's reelection campaign. And I stand by that. All one has to do is follow the money.

What is most disturbing to me, and there are many things that are disturbing, but how the veterans' budget is being cut. When the President made this great discovery that he wanted to go to Mars, and I guess he is going, it comes out of the VA HUD budget. They are already cutting up HUD, and now they are going to squeeze the veterans' budget even more. So that additional money for NASA is going to be taken right out of the hides of the veterans in this country. Misplaced priorities.

There is one area that I want to ask questions in before we end, and I will turn my statement in. Under the area of homeland security, in Florida I guess we have got some kind a scheme. I have talked to mayors on both sides of the aisle, first responders. They have not received a dime under homeland security. I have talked to other Members of Congress. They have received the moneys in the area, but they have taken off a portion for administrative. But in Florida they come up with this list and in Tallahassee they can decide whether or not to send any of that money to the community. They are not sending them money, but they may send them flight suits or something. But the community is using COPS programs and they are using additional police or fire as first responders because that is where the money is needed.

We are not checking the ports. We are not checking the containers that are coming in. So homeland security is a failure under this administration, just like so many other areas.

But would the gentlewoman respond to what is happening in her area under homeland security?

This budget is another clear example of reverse robin hood: robbing from the veterans, the homeless, public education, public transportation, and 7 of the 15 Cabinet level agencies (the EPA, HUD, The Departments of: Agriculture, Commerce, Health and Human Services, Justice, Transportation, and the Treasury), to give away huge tax breaks to those who contribute to President Bush's re-election campaign.

Once again President Bush came out with a budget that is too little, too late. It is a budget that short changes the middle class, a budget that does nothing for minorities. And it is mind blowing that the Administration is going ahead to make the trillion dollar deficit they created even worse by building another budget around more tax cuts, and making them permanent! As is obvious from the budget introduced today, President Bush is the president of special interest groups.

Time and time again our veterans get the shaft. The fiscal year 2005 budget is a perfect example of how the Bush administration is failing to treat our veterans with the respect that they have earned. We show potential and current members of the armed forces how America honors their sacrifice by how well we treat our veterans. We owe it to the soldiers, airmen, sailors and marines, who have served as a source of pride in our Nation, to begin enrolling Priority 8 veterans into the VA healthcare system; increase the VA home loan guaranty to 90 percent of Fannie Mae-Freddie Mac's conforming limit so that the guaranty keeps pace with the rising cost of housing; maintain VA staff at an adequate level so that already backlogged claims can be processed; and fully fund concurrent receipt for every eligible veteran. This budget is not adequate to meet the needs of 25 million of our nation's finest individuals.

Ironically, the President's budget plan, which rhetorically proposes to strengthen our economy and our national defense, will only weaken them. Economically, the huge budget deficits are more than just an accounting problem, they will be injurious to our children, and our children's children, who will be forced to repay the record amounts of debt we are borrowing today. And it is not necessary to be an economist to know that chronic deficits threaten our economic strength because they crowd out private investment, drive up interest rates, and slow economic growth.

The budget proposed today makes it quite evident that the Bush Administration does not have any plan to eliminate the budget deficits, and in fact, is pushing headlong toward expanding the size of the deficits. The $5.6 trillion ten-year surplus projected when the President took office has been replaced by deficits year after year. For 2004, the budget proposes a record deficit of $21 billion—$146 billion more than the 2003 deficit, which was also a historic record. Deficits for every year are worse than projected a year ago.

Moreover, it is mind blowing that the Administration, in the face of these deficits is only making them worse by building its budget around yet another set of tax cuts! These tax cuts will reduce revenues by $1 trillion, and driving the budget further into the red. And what's more, the President is doing everything he can to make them permanent!

This budget is completely unrealistic because it leaves out countless items. Once Administration initiatives like additional costs for military operations in Iraq and Afghanistan, Medicaid giveaway and space travel to Mars are included, the Nation's deficit will spiral even higher. This is an administration that is not only without a plan to erase the deficit, but by proposing to make their tax cuts permanent, they will push the current deficit to sky high levels."

Ms. LEE. Mr. Speaker, I thank the gentlewoman, first of all, for a very powerful statement.

Secondly, just to paint a picture very quickly, my area is an area that is a very vulnerable area. We have a great port. We have a major transit system. We have laboratories, universities, a very high-risk area.

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We are severely underfunded. Our first responders do not have the resources, our schools do not have the resources, our ports still do not have the resources. We need to be able to check containers before they are put on the ships and brought over to our country. Our police officers are getting cut. We do not have the funding for police officers. Our county submitted an excellent application 2 years ago. It is still not fully funded. I believe for the most part the majority of California has not been funded in terms of homeland security.

This budget I do not think steps up to the plate. Domestic security should be our first priority in terms of the fight against terrorism. Again, I do not believe that our budget and this budget reflects that.

So I say to the gentlewoman from Florida (Ms. CORRINE BROWN), we are going to have an uphill battle this year. But I think the American people are waking up and understanding that we do have some issues with regard to national security. But those issues should be prioritized in terms of our domestic security, and this budget and last year's budget did not fund our first responders, our firefighters, police officers and homeland security efforts in my arena.

Ms. CORRINE BROWN of Florida. As the gentlewoman said, as far as HUD is concerned, with the cutting out of the programs, prevention programs that were supported, and in addition we are cutting the COPS program that helped the community.

Ms. LEE. That means that crime will increase.

I thank my colleagues for joining me tonight.

Mr. HOYER. Mr. Speaker, as we honor Black History Month fifty years after the landmark Brown v. Board of Education decision, one would think that we would be able to celebrate the end of the "separate but equal" doctrine and laud the accomplishments of America's black community.

There is no doubt that we have come a long way from the days of Jim Crow and segregated schools, but the "separate but equal" doctrine did not disappear with the waving of a magic wand by the courts fifty years ago.

Today, in some instances, it seems to be one accepted by the current White House. The President's Fiscal Year 2005 Budget released earlier this month is a potent example of this Administration's willingness to tolerate two Americas. But now, like then, the doctrine is better characterized as "separate and not equal."

Instead of celebrating the achievements of black entrepreneurs like Madame C.J. Walker, Earl Graves and Bob Johnson, I am obligated by the economic plight of many black Americans to discuss how the President's economic policies are failing minority communities.

Under the President's budget the White House seems to believe that "separate but equal" is acceptable in our nation's economy.

The President did not make job creation a priority in his budget. While he increased funding for some job programs as a campaign ploy, he cut funding for other programs. Meanwhile, the unemployment rate among African Americans increased last month to 10.5 percent, more than double that of white Americans. When the President assures Americans that the economy is getting better and that jobs are being created, he certainly can't be addressing black America.

In addition, the Bush budget cuts nearly $80 million in funding for the Small Business Administration, which plays a key role in helping minority owned small businesses grow.

Finally, the SBA programs targeted at low-income and minority communities—the Microloan Program, the New Markets Venture Capital Program, the Business Information Centers, and others—received no funding.

This month should also be a time for celebrating the black Americans who have contributed to education. Carter G. Woodson was a visionary who established Black History Month. Woodson realized that white and black America knew little of African Americans' accomplishments and he was determined to educate America on those achievements.

Instead, I am forced to talk today about the fight against a budget that will shortchange America's children, including African American children who disproportionately attend poorly performing schools. The President's budget would fail to provide $9.4 million in promised education funding, eliminate the Even Start program and freeze funding for Pell grants and cut the funding of Perkins loans by nearly $100 million, shutting the door on college for many minority students.

We should also laud this month the pioneering efforts of Dr. Charles Drew, whose groundbreaking medical work with blood and transfusions have saved lives around the world. Instead, we must focus our hearts and minds on the 7.4 million African Americans without healthcare insurance and the millions more who can barely afford to pay their premiums. The President makes no serious attempt to address these issues in his budget.

In addition, the President's budget cuts by 15 percent funding for the Office of Minority Health. This office supports disease prevention, health promotion, and educational efforts in minority communities. Black Americans suffer proportionally higher rates of heart disease, obesity and diabetes and are in need of such services.

The disparities between the lives of many African Americans and the rest of our country are unconscionable. Whether one looks to jobs, education and healthcare the President's budget fails to address problems facing the African American community at virtually every turn.

Mr. Speaker, I would like to be here today speaking of African American contributions and achievements. Instead, I am compelled to talk about the persistence of "separate but equal" in our society, and the sad fact that the President's budget does little to confront this entrenched separation in our country.

A WISE CONSISTENCY

The SPEAKER pro tempore (Mr. BEAUPREZ). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

Mr. PAUL. Mr. Speaker, a wise consistency is the foundation of a free society, yet everyone knows or thinks they know that consistency is the hobgoblin of little minds.

How many times has Ralph Waldo Emerson been quoted to belittle a consistent philosophy defending freedom? Even on this floor I have been rebuked by a colleague with this quote for pointing out the shortcomings of Congress in not consistently and precisely following the oath to uphold the Constitution.

The need to discredit consistency is endemic. It is considered beneficial to be flexible and pragmatic while rejecting consistency. Otherwise, the self-criticism would be more than most Members could take.

The comfort level of most politicians in D.C. requires an attitude that consistency not only is unnecessary, but detrimental. For this reason, Emerson's views are conveniently cited to justify pragmatism and arbitrary intervention in all our legislative endeavors.

Communism was dependent on firm, consistent, and evil beliefs. Authoritarian rule was required to enforce these rules, however. Allowing alternative views to exist, as they always do, guarantees philosophic competition.

For instance, the views in Hong Kong eventually won out over the old communism of the Chinese mainland, but it can work in the other direction. If the ideas of socialism within the context of our free society are permitted to raise their ugly head, it may well replace what we have if we do not consistently and forcefully defend the free market and personal liberty.

It is quite a distortion of Emerson's views to use them as justification for the incoherent and nonsensical policies coming out of Washington today. But the political benefits of not needing to be consistent are so overwhelming that there is no interest in being philosophically consistent in one's votes.

It is a welcome convenience to be able to support whatever seems best for the moment, the congressional district or one's political party. Therefore, it is quite advantageous to cling to the notion that consistency is a hobgoblin. For this reason, statesmanship in D.C. has come to mean one's willingness to give up one's own personal beliefs in order to serve "the greater good," whatever that is.

But it is not possible to preserve the rule of law or individual liberty if our convictions are no stronger than this. Otherwise, something will replace our Republic that was so carefully designed by the founders. That something is not known, but we can be certain it will be less desirable than what we have.

As for Emerson, he was not even talking about consistency in defending political views that were deemed worthy and correct. Emerson clearly explained the consistency he was criticizing. He was most annoyed by a foolish consistency. He attacked bullheadedness, believing that intellectuals should be more open-minded and tolerant of new ideas and discoveries.

His attack targeted the Flat Earth Society types in the world of ideas. New information, he claimed, should always lead to reassessment of our previous conclusions. To Emerson, being unwilling to admit an error and consistently defending a mistaken idea, regardless of facts, was indeed a foolish consistency. His reference was to a character trait, not sound, logical thinking.

Since it is proven that centralized control over education and medicine has done nothing to improve them, and instead of reassessing these programs, more money is thrown into the same centralized planning, this is much closer to Emerson's foolish consistency than defending liberty and private property in a consistent and forceful manner while strictly obeying the Constitution.

Emerson's greatest concern was the consistency of conformity. Nonconformity and tolerance of others obviously are much more respected in a free society than in a rigidly planned authoritarian society. The truth is that Emerson must be misquoted in order to use him against those who rigidly and consistently defend a free society, cherish and promote diverse opinions, and encourage nonconformity.

A wise and consistent defense of liberty is more desperately needed today than at any time in our history. Our foolish and inconsistent policies of the last 100 years have brought us to a critical juncture, with the American way of life at stake. It is the foolish inconsistencies that we must condemn and abandon. Let me mention a few.

One: conservatives who spend. Conservatives for years have preached fiscal restraint and balanced budgets. Once in charge, they have rationalized huge spending increases and gigantic growth in the size of government, while supporting a new-found religion that preaches deficits do not matter. According to Paul O'Neill, the Vice President lectured him that Reagan proved deficits do not matter.

Conservatives who no longer support balanced budgets and less government should not be called conservatives. Some now are called neo-conservatives. The conservative label merely deceives the many Americans who continuously hope the day of fiscal restraint will come. Yet if this deception is not pointed out, success in curtailing government growth is impossible.

Is it any wonder the national debt is $7 trillion and growing by over $600 billion per year? Even today, the only expression of concern for the deficit seems to come from liberals. That ought to tell us something about how far astray we have gone.

Number two: free trade fraud, neomercantilism. Virtually all economists are for free trade. Even politicians express such support. However, many quickly add, yes, but it should be fair. That is, free trade is fine unless it appears to hurt someone. Then a little protectionism is warranted, for fairness' sake. Others who claim allegiance to free trade are only too eager to devalue their own currencies, which harms a different group of citizens, like importers and savers in competitive devaluations in hopes of gaining a competitive edge.

Many so-called free trade proponents are champions of international agreements that undermine national sovereignty and do little more than create an international bureaucracy to manage tariffs and sanctions. Organizations like NAFTA and WTO and the coming FTAA are more likely to benefit the powerful special interests than to enhance true free trade.

Nothing is said, however, about how a universal commodity monetary standard would facilitate trade, nor is it mentioned how unilaterally lowering tariffs can benefit a nation. Even bilateral agreements are ignored when our trade problems are used as an excuse to promote dangerous internationalism.

Trade as an issue of personal liberty is totally ignored; but simply put, one ought to have the right to spend one's own money any way one wants. Buying cheap foreign products can have a great economic benefit for our citizens and serve as an incentive to improve production here at home. It also puts pressure on us to reassess the onerous regulations and tax burdens placed on our business community.

Monopoly wages that force wage rates above the market also are challenged when true free trade is permitted; and this, of course, is the reason free trade is rejected. Labor likes higher-than-market wages, and business likes less competition.

In the end, consumers, all of us, suffer. Ironically, the free traders in Congress were the most outspoken opponents of drug reimportation, with the convoluted argument claiming that the free trade position should prohibit the reimportation of pharmaceuticals. So much for a wise consistency.

Number three: following the Constitution, arbitrarily, of course. Following the Constitution is a convenience shared by both liberals and conservatives, at times. Everyone takes the same oath of office, and most Members of Congress invoke the Constitution at one time or another to make some legislative point. The fact that the Constitution is used periodically to embarrass one's opponents when convenient requires that no one feel embarrassed by an inconsistent voting record.

Believing that any consistency, not just a foolish one, is a philosophic hobgoblin, gives many Members welcome reassurance. This allows limited-government conservatives to massively increase the size and scope of government while ignoring the deficit. Liberals who also preach their own form of limited government in the areas of civil liberties and militarism have no problems with a flexible, pragmatic approach to all government expenditures and intrusions. The net result is that the oath of office to abide by all constitutional restraints on government power is rarely followed.

Number four: paper money, inflation and economic pain. Paper money and inflation have never provided long-term economic growth, nor have they enhanced freedom. Yet the world, led by the United States, lives with a financial system awash with fiat currencies and historic debt as a consequence.

No matter how serious the problems that come from central bank monetary inflations, the depressions and inflations, unemployment, social chaos and war, the only answer has been to inflate even more. Except for the Austrians, free market economists, the consensus is that the Great Depression was prolonged and exacerbated by the lack of monetary inflation. This view is held by Alan Greenspan and is reflected in his January 2001 response to the stock market slump and slower economy, namely, a record monetary stimulus and historically low interest rates.

The unwillingness to blame the slumps on the Federal Reserve's previous errors, though the evidence is clear, guarantees that greater problems for the United States and the world economy lie ahead. Though there is adequate information to understand the real cause of the business cycle, the truth and proper policy are not available.

Closing down the engine of inflation at any point does cause short-term problems that are politically unacceptable, but the alternative is worse in the long run.

It is not unlike a drug addict demanding and getting a fix in order to avoid the withdrawal symptoms. Not getting rid of the addiction is a deadly mistake. While resorting to continued monetary stimulus through credit creation delays the pain and suffering, it inevitably makes the problems much worse. Debt continues to build in all areas, personal, business and government; inflated stock prices are propped up, waiting for another collapse; malinvestment and overcapacity fail to correct; insolvency proliferates without liquidation.

These same errors have been prolonging the correction in Japan for 14 years, with billions of dollars of nonperforming loans still on the books. Failure to admit and recognize that fiat money, paper money, mismanaged by central banks gives us most of our economic problems, along with a greater likelihood for war, means we never learn from our mistakes.

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Our consistent response is to inflate faster and borrow more, which each downturn requires to keep the economy afloat. Talk about a foolish consistency. It is time for our leaders to admit the error of their ways, consider the wise consistency of following the advice of our founders, and reject paper money and central bank inflationary policies.

Number five: Alcohol prohibition. For Our Own Protection.

Alcohol prohibition was a foolish consistency engaged in for over a decade, but we finally woke up to the harm done. In spite of prohibition, drinking continued. The alcohol being produced in the underground was much more deadly, and related crimes ran rampant. The facts stared us in the face and, with time, we had the intelligence to repeal the whole experiment.

No matter how logical this reversal of policy was, it did not prevent us from moving into the area of drug prohibition, now in the more radical stages for the past 30 years.

No matter the amount of harm and cost involved, very few in public life are willing to advise a new approach to drug addiction. Alcoholism is viewed as a medical problem, but illicit drug addiction is seen as a heinous crime. Our prisons overflow with the cost of enforcement, now into the hundreds of billions of dollars, yet drug use is not reduced.

Nevertheless, the politicians are consistent. They are convinced that a tough stand against usage, with very strict laws and mandatory sentences, sometimes life sentences for nonviolent offenses, is a popular political stand. Facts do not count, and we cannot bend on consistently throwing the book at any drug offender. Our prisons are flooded with nonviolent drug users.

Mr. Speaker, 84 percent of all Federal prisoners are now nonviolent drug users, but no serious reassessment is considered.

Sadly, the current war on drugs has done tremendous harm to many patients' needs for legitimate prescribed pain control. Doctors are very often compromised in their ability to care for the seriously and terminally ill by overzealous law enforcement.

Throughout most of our history, drugs were legal and, at times, were abused but, during that time, there was no history of the social and legal chaos associated with drug use that we suffer today. One hundred years ago a pharmacist openly advertised, "Heroin clears the complexion, gives buoyancy to the mind, regulates the stomach and the bowels and is, in fact, a perfect guardian of health." Obviously, this is overstated as a medical panacea, but it describes what it was like not to have hysterical busybodies undermine our Constitution and waste billions of dollars on a drug war serving no useful purpose.

This country needs to wake up. We should have more confidence in citizens making their own decisions and decide, once again, to repeal Federal prohibition, while permitting regulations by the States alone.

Six: The FDA and legal drugs. For Our Own Protection.

Our laws and attitudes regarding legal drugs are almost as harmful. The FDA supposedly exists to protect the consumer and patients. This conclusion is based on the assumption that consumers are idiots and all physicians and drug manufacturers are unethical or criminals. It also assumes that bureaucrats and politicians, motivated by good intentions, can efficiently bring drugs onto the market in a timely manner and at a reasonable cost. These same naive dreamers are the ones who say that in order to protect the people from themselves we must prohibit them from being allowed to reimport drugs from Canada or Mexico at great savings.

The FDA virtually guarantees that new drugs come on line slower and cost more money. Small companies are unable to pay the legal expenses and do not get the friendly treatment that politically connected big drug companies receive. If a drug seems to offer promise, especially for a life-threatening disease, why is it not available with full disclosure to anyone who wants to try it? No, our protectors say that no one gets to use it or make their own decisions until the FDA guarantees that each drug has been proven safe and effective. And, believe me, the FDA is quite capable of making mistakes, even after years of testing.

It seems criminal when cancer patients come to our congressional offices begging and pleading for a waiver to try some new drug. We call this a free society. For those who cannot get a potentially helpful drug, but might receive a little comfort from some marijuana raised in their own backyard legally in their home State, the heavy hand of the DEA comes down hard, actually arresting and imprisoning ill patients. Federal drug laws blatantly preempt State laws, adding insult to injury.

Few remember that the first Federal laws regulating marijuana were written as recently as 1938, which means just a few decades ago our country had much greater respect for individual choices and State regulations in all health manners.

The nanny state is relatively new but well entrenched. Sadly, we foolishly and consistently follow the dictates of prohibition and government control of new medications, never questioning the wisdom of these laws.

The silliness regarding illegal drugs and prescription drugs was recently demonstrated. It was determined that a drug used to cause an abortion can be made available over the counter. However, Ephedra, used by millions for various reasons and found in nature, was made illegal as a result of one death after being misused. Individuals no longer can make their own decisions at an affordable price to use Ephedra. Now it will probably require a prescription and cost many times more. It can never be known, but weight loss by thousands using Ephedra may well have saved many lives, but the real issue is personal choice and responsibility, not the medicinal effects of these drugs. This reflects our moral standards, not an example of individual freedom and responsibility.

Number seven: Foreign Policy of Interventionism.

Our foreign policy of interventionism offers the best example of Emerson's foolish inconsistency. No matter how unsuccessful our entanglements become, our leaders rarely question the wisdom of trying to police the world. Most of the time, our failures prompt even greater intervention, rather than less. Never yielding to the hard, cold facts of our failures, our drive to meddle in nation-building around the world continues. Complete denial of the recurrent blow-back from our meddling, a term used by our own CIA, prompts us to spend endlessly, while jeopardizing the lives of hundreds of thousands of people.

Refusing to even consider the failure of our own policies is outrageous. Only in the context of commercial benefits to the special interests and the military industrial complex, molded with patriotic jingoism, can one understand why we pursue such a foolish policy. Some of these ulterior motives are understandable, but the fact that average Americans rarely question our commitment to these dangerous and expensive military operations is disturbing. The whipped-up war propaganda too often overrules the logic that should prevail. Certainly, the wise consistency of following the Constitution has little appeal.

One would think the painful consequences of our militarism over the last 100 years would have made us more reluctant to assume the role of world policeman in a world that hates us more each day.

A strong case can be made that all the conflicts, starting with the Spanish-American war up to our current conflict in the Middle East, could have been avoided. For instance, the foolish entrance into World War I to satisfy Wilson's ego led to disastrous peace at Versailles, practically guaranteeing World War II. Likewise, our ill-advised role in the Persian Gulf War I placed us in an ongoing guerilla war in Iraq and Afghanistan, which may become a worldwide conflict before it ends.

Our foolish antics over the years have prompted our support for many thugs throughout the 20th century, Stalin, Somoza, Batista, the Shah of Iran, Noriega, Osama bin Laden, Saddam Hussein and many others, only to regret it once the unintended consequences became known. Many of those we supported turned on us or our interference generated a much worse replacement, such as the Ayatollah in Iran.

If we had consistently followed the wise advice of our early presidents, we could have avoided the foreign policy problems we face today and, if we had, we literally would have prevented hundreds of thousands of needless deaths over the last century. The odds are slim to none that our current failure in Afghanistan and Iraq will prompt our administration to change its policies of intervention.

Ignoring the facts and rigidly sticking to a failed policy, a foolish consistency as our leaders have repeatedly done over the past 100 years unfortunately will prevail, despite its failure and huge costs.

This hostility toward principled consistency and common sense allows for gross errors in policymaking. Most Americans believed, and still do, that we went to war against Saddam Hussein because he threatened us with weapons of mass destruction and his regime was connected to the al Qaeda. The fact that Saddam Hussein not only did not have weapons of mass destruction but essentially had no military force at all seems to be of little concern to those who took us to war.

It was argued, after our allies refused to join in our efforts, that a unilateral approach without the United Nations was proper under our notion of national sovereignty. Yet resolutions giving the President authority to go to war cited the United Nations 21 times, forgetting the U.S. Constitution that allows only Congress to declare war. A correct declaration of war was rejected out of hand.

Now, with events going badly, the administration is practically begging the U.N. to take over the transition, except, of course, for the Iraqi Development Fund that controls the oil and all of the seized financial assets. The contradictions and distortions surrounding the Iraqi conflict are too numerous to count. Those who wanted to institutionalize the doctrine of preemptive war were not concerned about the Constitution or consistency in our foreign policy and, for this, the American people and world peace will suffer.

Number eight: Promoting Democracy. An Obsession Whose Time Has Passed.

Promoting democracy is now our Nation's highest ideal. Wilson started it with his ill-advised drive to foolishly involve us in World War I. His Utopian dream was to make the world safe for democracy. Instead, his naivete and arrogance promoted our involvement in the back-to-back tragedies of World War I and World War II. It is hard to imagine the rise of Hitler in World War II without the Treaty of Versailles, but this has not prevented every President since Wilson from promoting U.S.-style democracy to the rest of the world.

Since no weapons of mass destruction or al Qaeda have been found in Iraq, the explanation given now for having gone there was to bring democracy to the Iraqi people. Yet we hear now that the Iraqis are demanding immediate free elections not controlled by the United States, but our administration says the Iraqi people are not yet ready for free elections. The truth is that a national election in Iraq would bring individuals to power that the administration does not want. Democratic elections will have to wait.

This makes the point that our persistence in imposing our will on others through military force ignores sound thinking, but we never hear serious discussions about changing our policy of meddling and empire-building, no matter how bad the results. Regardless of the human and financial costs for all of the wars fought over the past 100 years, few question the principle and legitimacy of interventionism.

Bad results, while only sowing the seeds of our next conflict, concern few here in Congress. Jingoism, the dream of empire, and the interests of the military industrial complex generates the false patriotism that energizes supporters of our foreign entanglements.

Direct media coverage of the more than 500 body bags coming back from Iraq is now prohibited by the administration. Seeing the mangled lives and damaged health of thousands of our other casualties of this war would help the American people to put this war in proper perspective.

☐ 2030

Almost all war is unnecessary and rarely worth the cost. Seldom does a good peace result.

Since World War II, we have intervened 35 times in developing countries, according to the L.A. Times, without a single successful example of a stable democracy. Their conclusion, "American engagement abroad has not led to more freedom or more democracy in countries where we have become involved."

So far the peace in Iraq, that is, the period following the declared end of hostilities, has set the stage for a civil war in this forlorn, Western-created, artificial state. A U.S.-imposed national government unifying the Kurds, the Sunnis, and the Shiites will never work. Our allies deserted us in this misadventure, dumping the responsibility on the U.N., while retaining control of the spoils of war as a policy of folly that can result only in more Americans being killed. This will only fuel the festering wounds of Middle East hatred toward all Western occupiers.

The Halliburton scandals and other military industrial connections to the occupation of Iraq will continue to annoy our allies and, hopefully, a growing number of American taxpayers.

I have a few suggestions on how to alter our consistently foolish policy in Iraq. Instead of hiding behind Wilson's utopianism of making the world safe for democracy, let us try a new approach.

First, the internal affairs and the needs for nation-building in Iraq are none of our business. Our goal in international affairs ought to be to promote liberty and private property, free market order through persuasion and example and never by force of arms, clandestine changes or preemptive war.

We should give up our obsession with democracy, both for ourselves and others, since the dictatorship of the majority is just as destructive to a minority, especially individual liberty, as a single Saddam Hussein-like tyrant.

Does anyone really believe that the Shiite majority can possibly rule fairly over the Sunnis and the Kurds?

A representative republic loosely held together with autonomy for each state or province is the only hope in a situation like this. But since we have systematically destroyed that form of government here in the United States, we cannot possibly be the ones who will impose the system on a foreign and very different land 6,000 miles away, no matter how many bombs we drop or people we kill.

This type of change can only come with a change in philosophy and an understanding of the true nature of liberty. It must be an intellectual adventure, not a military crusade.

If for no other reason, Congress must soon realize that we can no longer can afford to maintain an empire circling the globe. It is a Sisyphean task to rebuild the Iraq we helped to destroy while our financial problems mount here at home. The American people eventually will rebel and demand that all job and social programs begin here at home before we waste billions more in Iraq and Afghanistan and many other forlorn lands around the world.

The Constitution places restraints on Congress and the executive branch so as not to wage war casually and without proper declaration. It provides no authority to spend money or lives to spread our political message around the world. A strict adherence to the rule of law and the Constitution would bring an immediate halt to our ill-advised experiment in assuming the role of world policeman.

We have been told that our efforts in Iraq has been worth the 500-plus lives lost and the thousands wounded. I disagree. With great sadness for the families who have lost so much and with so little hope for a good peace, I can only say I disagree and I hope I am wrong.

Number nine: Fighting terrorism with big government, a convenience or necessity?

Fighting terrorism is a top concern for most Americans. It is understandable, knowing how vulnerable we now are to an attack by our enemies, but striking out against the liberties of all Americans with the Patriot Act, the FBI, or the Guantanamo-type justice will hardly address the problem.

Liberty cannot be enhanced by undermining liberty. It is never necessary to sacrifice liberty to preserve it. It is tempting to sacrifice liberty for safety, and that is the argument used all too often by the politicians seeking more power. But even that is not true.

History shows that a strong desire for safety over liberty usually results in less of both. But that does not mean that we should ignore the past attacks or the threat of future attacks that our enemies might unleash.

First, fighting terrorism is a cliche. Terrorism is a technique or process, and if not properly defined the solutions will be hard to find. Terrorism is more properly defined as an attack by a guerilla warrior who picks the time and place of the attack because he cannot match the enemy with conventional weapons. With too broad a definition of terrorism, the temptation will be to relinquish too much liberty, being fearful that behind every door and in every suitcase lurks a terrorist-planted bomb. Narrowing the definition of terrorism and recognizing why some become enemies is crucial.

Understanding how maximum security is achieved in a free society is vital.

We have been told that the terrorists hate us for our wealth, our freedom and our goodness. This war cannot be won if that belief prevails. When the definition of terrorism is vague and the enemy pervasive throughout the world, the neo-conservatives who want to bring about various regime changes for other reasons conveniently latch onto these threats and use them as the excuse and justification for our expanding military presence throughout the Middle East and the Caspian Sea region.

This is something they have been anxious to do all along. Already plans are being laid by neo-conservative leaders to further expand our occupations to many other countries, from Central America and Africa to Korea. Whether it is invading Iraq, threatening North Korea or bullying Venezuela or even Russia, it is now popular to play the terrorist card. Just mention terrorism and the American people are expected to grovel and allow the war hawks to do whatever they want. This is a very dangerous attitude.

One would think that with the shortcomings of the Iraqi occupation becoming more obvious every day more Americans would question our flagrant and aggressive policy of empire building.

The American people were frightened into supporting this war because they were told that Iraq had 25,000 liters of anthrax; 38,000 liters of botulinum toxin; 500 tons of sarin, mustard, and VX nerve gas; significant quantities of refined uranium and special aluminum tubes used in developing nuclear weapons.

The fact that none of this huge amount of material was found and the fact that David Kay resigned from heading up the inspection team saying none will be found does not pacify the instigators of this policy of folly. They merely look forward to the next regime change as they eye their list of potential targets, and they argue with conviction that the 500-plus lives lost were worth it.

Attacking a perceived enemy who had few weapons, who did not aggress against it and who never posed a threat to us does nothing to help eliminate the threat of terrorist attacks. If anything, deposing an Arab Muslim leader, even a bad one, incites more hatred towards us, certainly not less. This is made worse if our justification for the invasion was in error.

It is safe to say that in time we will come to realize that our invasion has made us less safe and has served as a grand recruiting tool for the many militant Muslim groups that want us out of their countries, including the majority of those Muslims in Saudi Arabia, Pakistan, Afghanistan and the entire Middle East.

Because of the nature of the war in which we find ourselves, catching Saddam Hussein or even killing Osama bin Laden are almost irrelevant. They may well simply become martyrs to their cause and incite even greater hatred toward us.

There are a few things we must understand if we ever expect this war to end. The large majority, especially all the militant Muslims see us as invaders, occupiers, and crusaders. We have gone a long way from home and killed a lot of people, and none of them believe it is to spread our goodness.

Whether or not some supporters of this policy of intervention are sincere in bringing democracy and justice to the region, it just does not matter. No one over there believes us.

This war started a long time before 9/11. That attack was just the most dramatic event of the war so far. The Arabs have fought Western crusaders for centuries, and they have not yet forgotten the European Crusades centuries ago. Our involvement has been going on to some degree since World War II but was dramatically accelerated in 1991 with the Persian Gulf War invasion and with the collapse of the Soviet system.

Placing U.S. troops on what is considered Muslim holy land in Saudi Arabia was pouring salt in the wounds of this already existing hatred. We belatedly realized this and have removed these troops.

If these facts are ignored, there is no chance that the United States-led Western occupation of the oil-rich Middle East can succeed. Seventy percent of the world's oil is in the Persian Gulf and Caspian Sea regions. Without a better understanding of the history of the region, it is not even possible to define the enemy, know why they fight or understand the difference between guerilla warrior attacks and vague sinister forces of terrorism.

The pain of recognizing that the ongoing war is an example of what the CIA calls blowback and an unintended consequence of our foreign policy is a great roadblock to ever ending the war.

Number ten: Judicial review.

Respect for the original intent of the Constitution is low in Washington. It is so low it is virtually non-existent. This causes much foolish inconsistency in our Federal courts. The Constitution, we have been told, is a living, evolving document; and it is no longer necessary to change it in the proper manner. That method is too slow and cumbersome, it is claimed.

While we amended it to institute alcohol prohibition, the Federal drug prohibition is accomplished by majority vote by the U.S. Congress. Wars are not declared by Congress but pursued by executive orders to enforce U.N. resolution.

The debate of the pros and cons of the war come afterwards, usually following the war's failure, in the political arena rather than before with the proper debate on a declaration of war resolution. Laws are routinely written by unelected bureaucrats with themselves becoming the judicial enforcement authority.

Little desire is expressed in Congress to alter this monster that creates thousands of pages each year in the Federal Register. Even the nearly 100,000 bureaucrats who now carry guns stir little controversy. For decades executive orders have been arrogantly used to write laws to circumvent a plodding or disagreeable Congress. This attitude was best described by a Clinton presidential aide who bragged, "Stroke of the pen, law of the land, kinda cool."

This is quite a testimonial to the rule of law and constitutional restraint on government power.

The courts are no better than the executive or legislative branches in limiting the unconstitutional expansion of the Federal monolith. Members of Congress, including committee chairmen, downplay my concern that proposed legislation is unconstitutional by insisting that the courts are the ones to make such weighty decisions, not mere Members of Congress.

This was an informal argument made by House leadership on the floor during the debate on campaign finance reform. In essence, they said, we know it is bad, but we will let the courts clean it up. And look what happened. The courts did not save us from ourselves.

Something must be done, however, if we expect to rein in our ever-growing and intrusive government. Instead of depending on the courts to rule favorably when Congress and the executive branch go astray, we must curtail the courts when they overstep their authority by writing laws rubber-stamping bad legislation or overruling State laws.

Hopefully, in the future we will have a Congress more cognizant of its responsibility to legislate within the confines of the Constitution.

There is something Congress by majority vote can do to empower the States to deal with their first amendment issues. It is clear that Congress has been instructed to write no laws regarding freedom of speech, religion or assembly. This obviously means that Federal courts have no authority to do so either. Therefore, the remaining option is for Congress to specifically remove jurisdiction of all first amendment controversies from all Federal courts, including the Supreme Court.

Issues dealing with prayer, the Ten Commandments, religious symbols or clothing or songs, even the issue of abortion are properly left as a prerogative of the States. A giant step in this direction could be achieved with the passage of my proposed legislation, We The People Act.

In conclusion, Mr. Speaker, Emerson's real attack was on intellectual conformity without a willingness to entertain new ideas based on newly acquired facts. This is what he referred to as a "foolish inconsistency."

The greatest open-minded idea I am aware of is to know that one does not know what is best for others, whether it is in the economic, social or moral policy or in the affairs of other nations. Believing one knows what is best for others represents the greatest example of a closed mind. Friedrich Hayek referred to this as a pretense of knowledge. Governments are no more capable of running the economy made fair for everyone than they are of telling the individual what is best for their spiritual salvation.

□ 2045

There are a thousand things in between that the busybody politicians, bureaucrats, and judges believe they know and yet do not. Sadly, our citizens have become dependent on government for nearly everything from cradle to grave and look to government for all guidance and security.

Continuously ignoring Emerson's advice on self-reliance is indeed a foolish consistency which most of the politicians now in charge of the militant nanny state follow, and it is an armed state, domestic as well as foreign. Our armies tell the Arab world what is best for them, while the armed bureaucrats at home harass our own people into submission and obedience to every law and regulation, most of which are incomprehensible to the average citizen.

Ask three IRS agents for an interpretation of the Tax Code and you will get three different answers. Ask three experts in the Justice Department to interpret the anti-trust laws and you will get three different answers. First, they will tell you it is illegal to sell too low. Then they will tell you it is illegal to sell too high, and it is certainly illegal if everybody sold products at the same price. All three positions can get you into plenty of trouble and blamed for, first, undermining competition; second, for having too much control and gouging the public; and, third, for engaging in collusion. The people cannot win.

Real knowledge is to know what one does not know. The only society that recognizes this fact and understands how productive enterprise is generated is a free society, unencumbered with false notions of grandeur. It is this society that generates true tolerance and respect for others.

Self-reliance and creativity blossom in a free society. This does not mean anarchy, chaos or libertine behavior. Truly, only a moral society can adapt to personal liberty. Some basic rules must be followed and can be enforced by government, most suitably by local and small government entities. Honoring all voluntary contractual arrangements, social and economic, protection of all life, and established standards for private property ownership are the three principles required for a free society to remain civilized. Depending on the culture, the government could be the family, the tribe, or some regional or State entity.

The freedom philosophy is based on the humility that we are not omnipotent but also the confidence that true liberty generates the most practical solution to all our problems, whether they are economic, domestic security, or national defense. Short of this, any other system generates authoritarianism that grows with each policy failure and eventually leads to a national bankruptcy. It was this end, not our military budget, which brought the Soviets to their knees.

A system of liberty allows for the individual to be creative, productive, or spiritual on one's own terms, and encourages excellence and virtue. All forms of authoritarianism only exist at the expense of liberty. Yet the humanitarian do-gooders claim to strive for these very same goals. To understand the difference is crucial to the survival of a free society.

GENERAL LEAVE

Mr. DELAHUNT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the gentlewoman from California's (Ms. LEE) Special Order.

The SPEAKER pro tempore (Mr. BEAUPREZ). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

IRAQ WATCH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 60 minutes.

Mr. DELAHUNT. Mr. Speaker, we are here again this evening. As I am sure many of our colleagues are aware, during the course of the past 8 months, several of us have taken to the floor to discuss issues surrounding Iraq, Afghanistan, and other issues of concern related to the war on terror, particularly as it is focused in the Middle East.

I am joined tonight by two members of that group. We call ourselves the Iraq Watch, my colleague who is sitting to my right, the gentleman from Washington (Mr. INSLEE); and I know that the gentleman from Ohio (Mr. STRICKLAND) will soon join us.

Earlier today before the House Committee on International Relations, Secretary of State Colin Powell appeared and testified concerning the budget proposal put forth by the Department and by the administration for the coming year. The Secretary had to leave earlier than some of us would have hoped, but I commend him for bearing up, if you will, for some 3 hours before the House Committee on International Relations.

During the course of his testimony, he mentioned the tragedy that occurred in the town of Halabjah, a town he well knows because during the course of President Reagan's last 4 years he served in the capacity as the national security adviser and during the administration of George Herbert Walker Bush he served in the capacity of chief of staff of the Joint Chiefs. So he was very familiar, obviously; and many of us remember his service to the country during the Gulf War and prior to that what was occurring in the region.

If I had had an opportunity to question him, I was going to indicate to him that I have a profound concern about what we are currently doing in terms of establishing alliances and relationships with some extremely unsavory regimes that very well might come back to haunt us. Some can only be described as extremely harsh dictatorships with abysmal human rights records. Uzbekistan and Turkmenistan come to mind immediately.

Now we have a base in Uzbekistan where last year the Department of State used the following language in describing the abuse of human rights in that particular Nation. Let me quote, "The security services routinely torture, beat and otherwise mistreat detainees. They allegedly use suffocation, electric shock, rape and other sexual abuse." The list goes on and on and on.

Of course, the budget proposal put forth by the Department of State, under the leadership of Colin Powell, directs millions of dollars to Turkmenistan, whose leader has created a Stalinist personality cult that rivals anything we saw with Saddam Hussein. He even went so far as to rename the month of January after himself and the month of April after his mother.

I remember observing the interview between Mr. Russert and President Bush this past Sunday; and the President described, appropriately so, Saddam Hussein as a madman. I might have used a different word. He might be crazy but he is not stupid, I guess is what I would say; but the new President, if you will, of Turkmenistan, who has changed his name to Turkmenibashi certainly seems to fit that particular description, and Karimov in Uzbekistan is nothing more than a thug with ambitions for regional power, again, very similar to Saddam Hussein.

When the Secretary of State alluded to Halabjah, it provoked me to think that, are we repeating the same mistakes that we made in the 1980s when the United States Government supported Saddam Hussein? Let us remember, it was the United States Government that removed Saddam Hussein from the terrorist list. We now hear that he supported terrorist groups. He was doing that in the 1980s, but the Reagan-Bush administrations removed him from the terrorist list, but they did not stop there. They went further. They restored full diplomatic relations with Saddam Hussein. In fact, they provided him credits and loan guarantees and, in fact, provided him intelligence during the course of his war with Iran.

What I found particularly disturbing, and later when one of my colleagues speaks, I have a chart that shows just a minuscule number of transfers of dual-use technologies that were approved by the Reagan-Bush administration, the Reagan-Bush White Houses, if you will, that no doubt became the building blocks of the tools for Saddam Hussein to develop that nuclear program that was discovered in the aftermath of the Gulf War. I mean, it was those White Houses, those administrations, that allowed the transfer of those dual-use technologies.

Let me tell my colleagues where I received that information: not from a newspaper report, not from a think tank with a particular bias, but with an institution that everyone in this Chamber would acknowledge is free of bias, is what we all rely on to do our research, the Congressional Research Service.

□ 2100

That particular report was authored and produced in June of 1992. But I guess what is particularly disturbing is when I hear the Secretary of State refer to Halabjah and say that we know he used chemical weapons against his own people. In this case, it was the Iraqi Kurds in the north who had aligned themselves with the Iranian forces with which Iraq was at war at the time.

The only action that I can discover in terms of my research was mild, off-the-record condemnations by the United States Government. And when this Congress back in 1988, 1989 and 1990 passed legislation, both branches independent of each other, that would have imposed sanctions on Saddam Hussein, it was the administration of George Herbert Walker Bush that blocked it. I agree obviously with the Secretary of State, he did use these weapons against his own people.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, the fact is, at the time he used those weapons we were cooperating with him. The first Bush administration was cooperating with him. He was a part of our team, so to speak, because we felt it was best if Iraq would be able to prevail over Iran at the time. And then to think that, 10 or 12 years later, there is no evidence that I know of or that the administration has brought forth to show that Saddam Hussein used chemical weapons following that incident some 12 or so years ago. And then to come back after a decade and use that as an excuse to launch a preemptive war simply does not make sense.

When Saddam Hussein used these chemical weapons against his own people, our government was silent. We knew it was happening, and we were silent. And then for these self-righteous statements to be made a decade later does not make sense.

Mr. DELAHUNT. Mr. Speaker, not only were we silent, and it is very important that the historical record be revealed to the American people, and that is why we are tonight. If any viewer has any questions about the accuracy of what we state, I am sure that the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Washington (Mr. INSLEE) and any other member of Iraq Watch, we would be happy to respond and see that the reports, unbiased, that were authored back in 1992, would be provided to anyone who has an interest. They can contact our office.

But it was not just silence. It was absolutely, according to this report, action to block the imposition of sanctions at that point in time. I dare say what would have happened if in 1988 and 1989 and 1990 there were sanctions on Iraq, that would have been a message to Saddam Hussein. We can speculate that maybe we would have avoided the first Gulf War if we had taken on that thug then. But, no, we were not sending that message. We continued after the conclusion of the war. I have heard the argument while we tilted towards Iraq, that was the language that was used, we tilted towards Iraq because of our concern with Iran and the Ayatollah Khomeini.

As I said earlier, what are we doing now? We are allying ourselves with two more despots, two more thugs who I dare say years from now could very well be the new Saddam Husseins.

Mr. STRICKLAND. Mr. Speaker, if I may just respond, I think many of us watched the President's interview last Sunday morning with Tim Russert, and the President continuously called Saddam Hussein a madman. I have no problem with that. He is a despicable human being. The President talked about the chemical and biological threat, and he talked about the fact that he used chemicals on his own people.

What the President failed to say was that he did that in the late 1980s when the President's father was in the Oval Office, when Colin Powell was a part of the administration, and we did nothing except block the efforts of Congress to impose sanctions.

My point is all of these years later to come forth and try to use that argument to convince the American people that we should launch a preemptive war that to this point has cost over 530 precious American lives, has resulted in the injury of thousands of our troops, has consumed about $150 billion of resources, the word "hypocrisy" comes to mind here.

The American people, when we hear that Saddam Hussein used chemical weapons against his own people, assume that we are talking about something that happened within the last few months or last few years, not over 10 years ago. When you tell a half truth or a partial truth, it gets pretty close to being a lie. I think the American people really have been manipulated, misled and purposely deceived in the kind of information that they have been given about why we needed to enter into this preemptive war.

Mr. DELAHUNT. Mr. Speaker, to point out two other facts, the initial approach to Saddam Hussein in 1983 at the direction of President Reagan was done by a special envoy.

Mr. STRICKLAND. I think that special envoy is our current Secretary of Defense.

Mr. DELAHUNT. Mr. Speaker, that is correct.

Mr. STRICKLAND. That is Mr. Donald Rumsfeld, and we have pictures of Mr. Rumsfeld shaking hands with Saddam Hussein. Back in those days, the fact that he was a dictator and cruel and vicious to his own people and used chemical weapons against the Kurds, back in those days it did not seem to mean a lot, apparently, because we took no action. In fact, the administration at that time actually blocked, proactively blocked, the imposition of sanctions.

Mr. DELAHUNT. In 1988, 1989, and 1990 the United States Congress took action.

Mr. STRICKLAND. Tried to, certainly.

Mr. DELAHUNT. Both the House and the Senate passed legislation that would have imposed sanctions, and it was the White House of George Herbert Walker Bush that blocked it.

Pausing again, going back in memory, who was the Secretary of Defense?

The Secretary of Defense was Mr. CHENEY, the current Vice President. His Under Secretary of Defense was Paul Wolfowitz.

So, again, the dots here have to be connected. It is important, I believe, to present that historical record to the American people to give them the information that they need to conduct their own analysis.

I challenge anyone from the administration or a Member of Congress to come to the floor and debate that particular unfortunate reality. If congressional action had been approved and the President, this President's father, had signed a bill that would have imposed sanctions, we can only speculate what would have happened.

What I would have suggested, if we knew it and we speak again of human rights and how bad and claim a certain moral authority, what should have occurred is the President of the United States should have stepped up and requested an international tribunal and brought that thug, Saddam Hussein, before it for a trial, for a prosecution, and let justice happen.

Mr. STRICKLAND. Absolutely. If I can just point out something that I think the observer of this Iraq Watch may be asking, why are these Members going so far back in history? Why are they regurgitating facts that happened more than 10 years ago?

I think it is important to point out that the same people that were responsible then are making decisions now, and the same people who I think neglected to do the right thing more than 10 years ago are the people who have advised this President and urged this President to engage in preemptive war. They are the same individuals who want to remain in power. We can only guess what their next adventure may be if, in fact, they are allowed to remain in power. They continue to advise the President. They continue to justify this preemptive war.

Mr. Speaker, I would like to take a moment to share something else which I think many Americans do not fully understand, and I think they will find it interesting.

There is a story in The Hill newspaper here, which is one of the Capitol Hill newspapers, about an effort by the gentleman from California (Mr. WAXMAN) to get some answers regarding something that happened in this country following the attack on September 11.

As it turns out, when our country was attacked, there were a number of Saudi citizens, some of them relatives of Osama bin Laden, in this country. They were here in this country. As we know, most of those who flew those airplanes into the Towers and into the Pentagon and those that were responsible for the plane crash in Pennsylvania were Saudi citizens. They were not from Iraq or Iran or Syria. They were from Saudi Arabia. Now this is what gets interesting.

A few days after 9/11, a significant number of those Saudi citizens, including relatives of Osama bin Laden, were allowed to leave this country. Apparently, they were allowed to leave this country before they were ever questioned. Did they know anything about the al Qaeda terrorism network? Did Osama bin Laden's relatives who were in this country at the time perhaps know of his whereabouts?

☐ 2115

We do not know. The FBI does not know because apparently they did not bother to ask the question. We are trying to find out from Attorney General John Ashcroft who made the request that these Saudi citizens be allowed to leave our country. Who made the decision to allow them to leave without being questioned? Can you imagine a few days after the attack upon our country when these pilots were Saudi citizens and we knew almost certainly that Osama bin Laden was responsible for those attacks, that members of his family, two members especially, Abdullah bin laden and Omar bin laden, were allowed to get on an airplane and be taken out of this country.

Mr. DELAHUNT. Has the Attorney General responded? Has he identified those officials that were responsible?

Mr. STRICKLAND. He has not responded. If I can just share this with the gentleman, at a Senate Banking, Housing and Urban Affairs Committee hearing just last year, Richard Clarke, who has headed the National Security Council's counterterrorism security group said, and this is a quote: "What happened was that shortly after 9/11 when it became clear that most of the terrorists of 9/11 were Saudis, the Saudi government feared that there would be retribution and vigilantism in the United States against the Saudis. That seemed to be a reasonable fear."

If our government felt that vigilantism and retribution was going to endanger the lives of these Saudi citizens and Osama's relatives who were here in this country at the time, why did they not just simply take them into protective custody, at least until the FBI had an opportunity to question them? Is it possible that the Saudi citizens and Osama bin Laden's relatives could have known about the attacks? Might they have known where Osama bin Laden was located? We will never know because our government let them leave without first of all subjecting them to questioning.

Mr. INSLEE. If the gentleman will yield, there is some additional information he may be interested in that I have read in press accounts. Again, these are press accounts because our government to date has not shared this information with the public; but not only did this administration allow these people to leave without being fully interrogated by the FBI but the press accounts that we have read stated that while everybody else was grounded from traveling, and we know how many people had to drive across America to get home for a week or so after September 11, that this administration actually cleared a special jet that flew around the country as one of the only few planes flying in America at that time to pick up members of the bin Laden family to shepherd them out of this country as soon as possible. So not only did we not fully question these folks, we actually accommodated them flying around while John Q. Citizen could not fly himself to get from Dubuque back to Seattle.

Let me also indicate that to my knowledge, and again we do not have full information from our administration to date, but to our knowledge these people have never been interrogated by the FBI, even today, about what happened. And now we have a war in Iraq, rather than adequate research and interrogation of Saudi citizens today as to what happened on September 11.

Mr. STRICKLAND. I think it is legitimate to ask this question: Were these Saudis, were these members of Osama bin Laden's family given special treatment? Why would they have been given special treatment? Can you imagine how we would have felt, how we would have reacted if those who piloted those planes into our trade towers had been Iraqi citizens? Or Syrian citizens? Can you imagine how we would have reacted if there had been relatives of Iraqis or of Saddam Hussein in this country after such an attack? Why were the Saudis given such special treatment? Could it be because of the oil and because of the close connection between the oil industry and the Saudi government and the Bush family and the Saudi royal family? I think these are questions that deserve to be answered.

I think Attorney General Ashcroft should answer questions regarding who made the request that these citizens be allowed to leave the country without questioning. I think we should find out for certain that the FBI had said they had no interest in questioning them. I cannot imagine the FBI within days of the towers being struck saying we have no interest in questioning relatives of Osama bin Laden. I just cannot imagine that that is the case.

Mr. INSLEE. I feel very strongly that these are just some of the questions that our government has a duty to answer. One of the reasons I feel so strongly about that is that this afternoon, I had a very painful discussion with a family in Bremerton, Washington, with whom I have been working for about a week or two now whose son and husband has been missing in Iraq, a soldier in Iraq. I have been working with this family to try to do what we could to assuage their concerns and make sure that we were doing everything we could to bring him home. Today I had to talk with that family, and they found out this morning that their son and husband would never be returning to them.

Mr. STRICKLAND. I think it is appropriate that we bring this back to the human price that is being paid for our policies, because Sunday evening back in my district in southeastern Ohio, I visited a funeral home, attended the wake of a young soldier who had just returned, a man leaving a 14-year-old son, a 5-year-old daughter, three sisters, a mother, and wife. Saturday morning I went to the air base in Youngstown, Ohio. I met with about 30 soldiers and their families and their children; and in that early morning hours as the snow was falling, I saw those soldiers get on that plane, and I saw that plane take off down that snowy runway and disappear into the heavens. Tonight those soldiers are in the desert. The fact is that as we talk about the policies of our Nation, I do think it is appropriate, and I thank the gentleman from Washington for bringing our attention to the fact that we talk about policies, we talk about decisions in an almost theoretical sense sometimes here, but the fact is that there are real families, real soldiers, real deaths, real injuries.

I also, and I will end my remarks with this, over this past weekend was able to attend a happy occasion because I went to the homecoming party of a young soldier who had just returned from Iraq. He was there with his grandfather, his father and his 4-year-old son, four generations. The mother of this 4-year-old son, the wife of this young soldier who had just returned, told me that during this soldier's absence, their 4-year-old son was so disturbed that the pediatrician suggested that he may need to go see a child psychiatrist, and she said his daddy is home and he is back to normal. Everything that we do here in this Chamber, but especially the decisions that we make regarding war and peace, affect real people, real families. I think we should never, ever forget that.

I thank the gentleman for bringing up that situation that occurred in his district as well as giving me a chance to talk about the situation in my district.

Mr. INSLEE. Unfortunately, all of us probably in every district have had these tough times with families.

Mr. DELAHUNT. I can tell of a very sad moment when I attended a funeral in my hometown of a young man, 36 years old. His widow was there; his parents were there. His dad, Charlie Caldwell, taught my daughter in the local public school. He was killed. He was killed in a humvee. When we pause and think of it, the pain that this has caused. We have had this discussion before. Not only is it causing pain today; but in very real terms with the cost of this effort, if you will, we have already spent $187 billion. And while it is not in the President's budget, because clearly he has an interest in not increasing the deficit any more than it is and it is absolutely out of control, we know that and I think the American people know that, but we hear, and it has been reported that there is an additional $50 billion that will be in a supplemental. Of course, it will not happen before the election. But if I can just for one minute, because I want to go back, I want to let those who are watching, and maybe it is impossible, they cannot see this list; but this is just a small piece of exports to Iraq by U.S. companies from the year 1985 to 1990.

Mr. STRICKLAND. Can I ask a question about that, because the heading across the gentleman's chart says "Licensed Dual Use Exports to Iraq by U.S. Companies, 1985 to 1990." When we use the phrase "dual use," does that mean that what has been exported can be used perhaps for legitimate purposes but also could be used for illegitimate military purposes or offensive purposes if that government chose to use them in that way?

Mr. DELAHUNT. That is absolutely the correct definition. I think sometimes when we speak among ourselves because we know the terms, we seem to forget that oftentimes viewers and constituents and others, really, I am sure they are wondering, what are we talking about. I really thank the gentleman for making that clear. Yes, dual use means they can be used for peaceful purposes, or they can be used for the development of programs such as the nuclear program that Saddam Hussein began, started. It was well along the way in terms of its development when in 1990 during the Gulf War he was defeated, and under the agreement, the U.N. inspectors went in and found that, yes, he did have a nuclear program at that point in time. Actually, the United Nations inspection team did a superb job. But where did the technologies come from for the development of Saddam Hussein's nuclear weapon program? It is right here.

Let me just read several. There are computers for possible use in nuclear weapons development. Computers useful for missile development. Computers that U.N. inspectors believed monitored uranium enrichment for atomic bomb fuel. Computers useful for graphic design of atomic bombs and missiles. Computers for manufacturing tool design and graphics. Computers for possible use in atomic bomb or missile development. This is the moneys that were paid to American firms under a license approved in the first Bush administration.

Mr. STRICKLAND. From 1985 to 1990?

Mr. DELAHUNT. From 1985 to 1990. Again. I just do not think that we can overstate the historical record because I think it provides the American people, particularly those who are watching us here tonight, with information for them to reach their own conclusions. The reality is, he did have chemical weapons; and as Secretary Powell indicated today, they knew he had chemical weapons when they launched Desert Storm in the first Gulf War and our soldiers were prepared; but, of course, he did not use them.

□ 2130

He did not use them. He only used them against his own people.

Mr. STRICKLAND. More than 10 years ago.

Mr. DELAHUNT. In 1988 in Halabja, and he murdered somewhere between 5,000 and 10,000 Iraqi Kurds, and we were silent then when we should have imposed the sanctions and insisted that he be brought to trial. So that is the full story. That is the full story.

Again, today, Secretary Powell continued to talk about intent. And there was evidence of intent, and I hear Dr. Rice, Condoleezza Rice, we know he used them. Yes. Back in 1988 and 1989, and we did nothing then, and here we are in 2002.

Mr. STRICKLAND. Mr. Speaker, may I point out something to my friend. The U.N. inspections worked. The U.N. inspectors were in Iraq. They were asking for additional time. It was this government that terminated the inspections right before this war began. And the fact is that if the inspections had continued, we would have uncovered the fact that these weapons of mass destruction did not exist in Iraq at the present time. And it is so sad, it is tragic that we rushed to a decision, that we told the U.N. inspectors their time was up and that we initiated this preemptive war. And we cannot, we must not, forget that over 530 of our fellow Americans have lost their lives, and we are losing lives in Iraq every day, and there is no end in sight.

Mr. DELAHUNT. Mr. Speaker, just to pick up on the gentleman's point that in terms of the work that the U.N. teams did, respectively it has been established that there were no stockpiles. There were no weapons of mass destruction. In fact, David Kay, appointed by President Bush, came back and told the American people, to use his words, we were all wrong. I think it is so important to analyze and understand all of the dots here and what lies in the future. As I said in my opening remarks, we are now creating alliances and working with people who rival Saddam Hussein in terms of their tyranny, their abuse of human rights, and their willingness to do anything to enhance their power.

I mentioned earlier we have a military base in Uzbekistan. And the President of Uzbekistan, here he is with our Secretary of Defense. The gentleman, if the Members will, to Secretary Rumsfeld's right, his name is Karimov, Islam Karimov. He is a tyrant. He is a thug, and we are in bed with him. The American people should know that. In Turkmenistan, I had mentioned earlier the leader of Turkmenistan, and we are sending him millions of dollars. Talk about a madman. He is a certifiable nut, changing the names of the calendar, April for his mother and January for himself. What are we doing? We are making the same mistake, and that is why it is important that those that are watching Iraq Watch tonight take this information, read on their own, and look to the future and understand that we are now or could be planting the seeds for another Saddam Hussein that will wreak havoc in the region, that obviously these two will continue to abuse human rights and what about our claim to moral authority when we are losing prestige in the world today?

Mr. INSLEE. Mr. Speaker, if the gentleman would yield, because he is bringing up moral authority, which is very important; and we were talking about the families we have been working with who have lost their sons and daughters in Iraq, and there is a moral obligation by the United States Government to come forward and answer some of these questions that we have been asking tonight. And the gentleman mentioned something about reading and some folks may find some reading material of interest. I want to refer to people about a moral question that our government owes to the American people, and that is the question of how this war was started based on what, according to Mr. Kay, was a false premise.

The people of this country, the families who have servicepeople serving in Iraq, those who have lost members of their families, they deserve a clear, cogent, and complete answer of how a war was started based on a false premise about what the status of weapons was in Iraq. And the gentleman mentioned things he was reading. I read something extremely disturbing to me this weekend. It was printed in the Knight Ridder newspapers. I read it in the Seattle Times February 10, an article entitled "Doubts and Dissent Removed from Public Report on Iraq. Secret version President Bush received was more cautious about threat."

We know at this point, according to Mr. Kay, our expert in the field and now even according to the President apparently, that the premise that gave rise to this war was false about the status of weapons of mass destruction in Iraq. And that is disturbing enough. It is it disturbing for our soldiers and sailors. It is disturbing of our standing in the world, starting a war on a false premise. But this article was more disturbing to me because the conclusion and premise of this article was not only was this premise false but that the Government of the United States of America in a sense distorted in significant ways the nature of intelligence that it had available to it before the war started. For instance, and again this is in the newspaper, and I cannot vouch for its authenticity. It makes reference to some intelligence reports. This is not coming from myself. It is coming from the Seattle Times and the Knight Ridder newspaper. But they made reference to a statement essentially by the President that there is no doubt, and that is a quote from this President, that the President of the United States looked at the American people and said there is no doubt, no doubt, that Iraq had some of the most lethal weapons systems devised by man before this war started.

But this article disclosed that the intelligence reports given to the President of the United States showed there was tremendous doubt about this situation. And I will quote from this article: "Whereas the President of the United States was essentially saying there is no doubt that Iraq had reconstituted, in the words of the Vice President, a nuclear program." Listen to what the intelligence report said, according to this article, that was given to the President of the United States. This was an intelligence report prepared by the State Department's intelligence arm, which is called the Bureau of Intelligence and Research, known as the INR.

This is a quote. That report said "the activities we have detected do not, however, add up to a compelling case that Iraq is currently pursuing what INR would consider to be an integrated and comprehensive approach to acquire nuclear weapons. Iraq may be doing so, but INR considers the available evidence inadequate to support such a judgment." The report goes on to say, "INR is unwilling to project a timeline for the completion of activities it does not now see happening."

So while the President of the United States, the leader of the free world, was telling the world and American soldiers and sailors and citizens that there was no doubt that this country had a meaningful, real, and contemporaneous nuclear program, our own intelligence services, at least one of them, was telling him they did not think so. This was not told to the American people. And even if one believes today that this war was totally justified based on the civil rights of the Iraqi citizens, and I respect people who have that view, even if one believes that, it is a moral wrong not to share this information with the American people and the U.S. Congress when this debate is going on.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. INSLEE. I have one more point I want to be sure I make, but I yield to the gentleman.

Mr. STRICKLAND. Mr. Speaker, when the President was interviewed on Sunday, he told the American people that the Congress had the same intelligence available to them as he had available to him. And that was not true. No one told us that there was ambiguity. The President and the Vice President spoke with surety. They said, as the gentleman has pointed out, there was no doubt.

Mr. DELAHUNT. I should interrupt the gentleman to say that Secretary Powell made that statement again. And not having had the opportunity because he left early, I was stunned by that particular remark. I do not know any Member in this body that had these different reports. With the caveats and the qualifiers, what we got was something different, Mr. Speaker.

Mr. STRICKLAND. We cannot even find out who served on the Vice President's energy task force, let alone have access to all the intelligence that the President has available.

Mr. INSLEE. Mr. Speaker, let me make a point, because I think it is important. It is not just this nuclear threat. As the gentlemen know, Condoleezza Rice made repeated references to the mushroom cloud, which is a most disturbing image to all of us having suffered through September 11, and a real potential threat from Iran and North Korea. But it is not just the nuclear threat, but the American people were not given the full scoop in this regard.

The gentlemen will recall when the President and others made repeated references to the unmanned aerial vehicles that they told us was a threat to the continental United States, that Iraq could fly over American cities and spray biological material over the United States and none of us can always ever eliminate any threat. Today somebody may be planning to do that today as we speak. I do not want to be Pollyanna-ish about this, but the President told us that our intelligence services were telling us that was going on.

According to this article, let me tell the gentlemen what the United States Air Force was telling the President of the United States. What it said was: "The Air Force does not agree that Iraq is developing UAVs, unmanned aerial vehicles, primarily intended to be delivery platforms for chemical and biological warfare, CBW agents. The small size of Iraq's new UAV strongly suggests a primary role of reconnaissance, although CBW delivery is an inherent capability." We were told that Iraq was developing these weapons that could fly over Philadelphia and spray biological and anthrax over it when the Air Force was telling the President of the United States they did not believe that was the case.

Let me finish one more point. During our national debate, I respected the President of the United States' statement that Saddam Hussein was a tyrant and a thug and was massively abusive to his own people, and perhaps he rightfully argued that he believed preemptive action was appropriate. That is an argument we would respect and listen to. But during this national debate, before this President sent our citizens to die in the sands of Iraq, he did not owe us 30 percent of the truth. He did not owe us 75 percent of the truth. He owed us the whole truth and nothing but the truth. Hans Blix, who was defamed mightily by this administration prior to this war, I think said it best when he got this information. He said, "We deserve more than what a car salesman might give.

☐ 2145

We deserve the whole truth."

If these reports are accurate, again, I have not seen these, but I read about them in the newspaper, if these reports are accurate, we need to get to the bottom of what happened here. That is why this commission that the President has appointed needs to take it upon itself not only to look at the bureaucracy at the Central Intelligence Agency, but they need to know why the President of the United States and his administration was not entirely forthcoming about the intelligence in this regard.

Mr. DELAHUNT. You know what I would like to do? I would commend for reading, to those that are watching us have this conversation tonight, this Newsweek article. It is the publication of November 17, 2003, 4 or 5 months ago. Obviously, this is a picture of the Vice President, and it is entitled "How Dick Cheney Sold the War: The Inside Story."

Again, I think we and the citizens have an obligation to do as much homework as we can to fully understand the reality. Those points that the gentleman made, I have heard them on the floor today. Earlier the President went to Poland and spoke about those two mobile trailers that allegedly were being used in a bioweapon program. The CIA refuted that. Again, it is important to be accurate.

It is interesting, everybody in Washington at least knows and the American people should know that there has been tension within the administration between the Vice President on one side and Secretary Powell on the other side. If I had had an opportunity today, I was going to ask the Secretary if this story in The Washington Post was accurate.

There was a lengthy article; and it was, again, published on February 1 of this year. If you remember, when Secretary Powell went before the United Nations, what the article relates is that he was very careful and thorough in terms of what he believed to be accurate intelligence, and he had this CIA analyst come in and discuss it with him.

The CIA originally drafted his speech, which then went to the White House. But when it emerged, it looked entirely different. The Vice President's chief of staff, one individual by the name of Scooter Libby, and his National Security Advisor, Stephen Hadley, and other national security staffers had produced draft language for Powell, 45 pages on weapons of mass destruction, 38 pages on alleged links to terrorism, and 16 pages on Iraq's human rights abuses. Within 1 day, Powell's task force had largely abandoned the 45-page document on Iraq's weapons of mass destruction produced by Cheney's office and the National Security Council, using instead a classified National Intelligence Estimate assembled by the CIA in October.

Again, let me suggest this: a vision and a view and an ideology that had a conclusion and was looking for facts. We all know in the selection of facts, and, again, this can be done without even a conscious intent to deceive, but the attempt to make the case like lawyers do in a courtroom. But this is not a courtroom; this is not advocacy.

But, again, I was going to ask the Secretary, was that report true. When that speech that he had prepared had come out of the White House, out of the Vice President's office, changed so dramatically, did he abandon it and go and rely on the National Intelligence Estimate?

Do you know what? The American people have a right to know that process, the world has a right to know that process, because that was a presentation to the world by the representative of the United States to the world.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HONDA (at the request of Ms. PELOSI) for February 10 and the balance of the week on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GUTIERREZ) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. GUTIERREZ, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. COOPER, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

(The following Members (at the request of Mr. GINGREY) to revise and extend their remarks and include extraneous material:)

Mr. GILCHREST, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 610. An act to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

ADJOURNMENT

Mr. STRICKLAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 4 p.m. on Saturday, February 14, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 361, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at 9 o'clock and 50 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until 4 p.m. on Saturday, February 14, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 361, in which case the House shall stand adjourned pursuant to that concurrent resolution.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6728. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Patricia A. Tracey, United States Navy, and her advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

6729. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Patricia A. Tracey, United States Navy, and her advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

6730. A letter from the Secretary, Department of Health and Human Services, transmitting the Centers for Disease Control and Prevention's final report to Congress on Human Papillomavirus, as required by Public Law 106-554; to the Committee on Energy and Commerce.

6731. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report of the national emergency with respect toIraq that was declared in Executive Order 12722 of August 2, 1990; to the Committee on International Relations.

6732. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Amendment to the International Traffic in Arms Regulations (RIN: 1400-Z) received February 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6733. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6734. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: General Dynamics, Electric Boat Corporation, Groton, CT [CGD01-03-012] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6735. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone [CGD01-03-036] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6736. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Captain of the Port Milwaukee Zone, Lake Michigan [CGD09-03-277] (RIN: 2115-AA97) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6737. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security and Safety Zone: Protection of Large Passenger Vessels, Puget Sound, WA [CGD13-03-018] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6738. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA; Correction [CGD13-03-018] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6739. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operating Regulation; Upper Mississippi River, Louisiana, Missouri [CGD08-03-050] (RIN: 1625-AA09) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6740. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Hoquiam River, Aberdeen, WA [CGD13-04-001] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6741. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Southern Branch of the Elizabeth River, Chesapeake, VA [CGD05-04-010] (RIN: 1625-AA09) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6742. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Intracoastal Waterway, Beach Thorofare, NJ [CGD05-04-002] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6743. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Berwick Bay, Morgan City, LA [CGD08-04-003] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6744. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting a draft bill entitled the "Abandoned Mine Reclamation Program Extension and Reform Act of 2004"; jointlyto the Committees on Resources and Ways and Means.

6745. A letter from the Secretary, Department of Transportation, transmitting the Department's 2003 annual report on the recommendations received from the National Transportation Safety Board regarding transportation safety, pursuant to 49 U.S.C. 1135(d); to the Committee on Transportation and Infrastructure.

6746. A letter from the Director, Office of Management and Budget, transmitting a report identifying accounts containing unvouchered expenditures that are potentially subject to audit by the Comptroller General, pursuant to 31 U.S.C. 3524(b); jointly to the Committees on the Budget, Appropriations, and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHLERT: Committee on Science. H.R. 912. A bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; with an amendment (Rept. 108–418). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 3389. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations (Rept. 108–419). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1997. A bill to amend title 18, United States Code, and the Uniform Code, of Military Justice to protect unborn children from assault, and murder, and for other purposes; with an amendment (Rept. 108–420 Pt. 1).

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of the rule XII the Committee on Armed Services discharged from further consideration. H.R. 1997 referred to Committee of the Whole House on the State of the Union and ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3261. A bill to prohibit the misappropriation of certain databases, with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than March 12, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X (Rept. 108–421, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1997. Referral to the Committee on Armed Services extended for a period ending not later than February 11, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TERRY (for himself, Mr. SKELTON, Mr. HAYES, Mr. EDWARDS, Mr. SAXTON, and Mr. RYUN of Kansas):

H.R. 3795. A bill to amend the Impact Aid program under the Elementary and Secondary Education Act of 1965 to improve the distribution of school construction payments to better meet the needs of military and Indian land school districts; to the Committee on Education and the Workforce.

By Mrs. CUBIN (for herself and Mr. RAHALL):

H.R. 3796. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Resources.

By Mr. TOM DAVIS of Virginia (for himself and Ms. NORTON):

H.R. 3797. A bill to authorize improvements in the operations of the government of the District of Columbia, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Education and the Workforce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY:

H.R. 3798. A bill to amend the Homeland Security Act of 2002 to improve aviation security; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ADERHOLT (for himself and Mr. PENCE):

H.R. 3799. A bill to limit the jurisdiction of Federal courts in certain cases and promote federalism; to the Committee on the Judiciary.

By Mr. HENSARLING (for himself, Mr. RYAN of Wisconsin, Mr. CHOCOLA, Mr. COX, Mr. BARRETT of South Carolina, Mr. MARIO DIAZ-BALART of Florida, Mr. FEENEY, Mrs. MYRICK, Mr. GUTKNECHT, Mr. BEAUPREZ, Mr. FRANKS of Arizona, Mr. OTTER, Mr. HERGER, Mr. DEMINT, Mr. CULBERSON, Mr. TOOMEY, Ms. HART, Mr. ROYCE, Mr. GARRETT of New Jersey, Mr. THORNBERRY, Mrs. MUSGRAVE, Mr. PENCE, Mr. SHADEGG, Mr. CARTER, Mr. NEUGEBAUER, Mr. HOEKSTRA, Mr. RYUN of Kansas, Mr. CANTOR, Mr. BOOZMAN, Mrs. CUBIN, Mr. GOODE, Mr. AKIN, Mr. DOOLITTLE, Mr. KING of Iowa, Mr. SMITH of Michigan, Mr. PITTS, Mr. ISTOOK, Mr. SAM JOHNSON of Texas, Mr. GINGREY, Mr. CHABOT, Mr. BARTLETT of Maryland, Mr. WILSON of South Carolina, Mr. KLINE, Mr. TANCREDO, Mr. NORWOOD, Mr. SESSIONS, Mrs. BLACKBURN, Mr. BARTON of Texas, Mr. KENNEDY of Minnesota, Mr. FLAKE, Mr. SCHROCK, Mr. COLE, Ms. GINNY BROWN-WAITE of Florida, Mr. MILLER of Florida, and Mr. TURNER of Ohio):

H.R. 3800. A bill to reform Federal budget procedures, to impose spending safeguards, to combat waste, fraud, and abuse, to account for accurate Government agency costs, and for other purposes; which was referred to the Committee on the Budget for a period ending not later than June 1, 2004, and in addition to the Committees on Rules, Ways and Means, Appropriations, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTLETT of Maryland (for himself, Mr. FLAKE, Mr. CRANE, Mr. OTTER, Mr. DOOLITTLE, Mr. MANZULLO, Mr. PAUL, Mrs. MUSGRAVE, Mr. BLUNT, Mr. SAM JOHNSON of Texas, Mr. AKIN, Mrs. CUBIN, and Mr. PENCE):

H.R. 3801. A bill to amend the Federal Election Campaign Act of 1971 to repeal the requirement that persons making disbursements for electioneering communications file reports on such disbursements with the Federal Election Commission and the prohibition against the making of disbursements for electioneering communications by corporations and labor organizations, and for other purposes; to the Committee on House Administration.

By Mr. BASS (for himself, Mr. BRADLEY of New Hampshire, Mr. FERGUSON, and Mr. SIMMONS):

H.R. 3802. A bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes; to the Committee on Education and the Workforce.

By Ms. BERKLEY (for herself and Mr. BURGESS):

H.R. 3803. A bill to amend the Older Americans Act of 1965 to provide information and outreach for the prevention of osteoporosis; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of South Carolina:

H.R. 3804. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to make beach nourishment projects eligible for inclusion in mitigation plans and for hazard mitigation assistance; to the Committee on Transportation and Infrastructure.

By Mrs. CAPPS (for herself and Mr. FARR):

H.R. 3805. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Resources.

By Mr. GERLACH (for himself, Mr. ENGLISH, Mr. GILLMOR, and Mr. EHLERS):

H.R. 3806. A bill to amend the Internal Revenue Code of 1986 to allow a credit against the alternative minimum tax where stock acquired pursuant to an incentive stock option is sold or exchanged at a loss; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself, Mr. CANNON, Mr. HUNTER, Mr. LEWIS of California, Mr. SESSIONS, Mr. TAYLOR of Mississippi, Mr. MOLLOHAN, Mr. CUNNINGHAM, Mrs. EMERSON, Mr. ISSA, Mr. OTTER, Mrs. MUSGRAVE, Mr. KING of Iowa, Mr. FEENEY, Mr. BURTON of Indiana, Mr. HALL, Mr. DOOLITTLE, Mr. BARRETT of South Carolina, Mr. CALVERT, Mr. BACHUS, Mr. BOOZMAN, Mr. BISHOP of Utah, Mr. CRANE, Mr. BARTLETT of Maryland, Mr. DUNCAN, Mr. FRANKS of Arizona, Mr. HOSTETTLER, Mr. DEMINT, Mr. HERGER, Mr. JONES of North Carolina, Mr. PENCE, Mr. LEWIS of Kentucky, Mr. WILSON of South Carolina, Mr. AKIN, Mr. WHITFIELD, Mr. PEARCE, Mr. CULBERSON, Mr. BAKER, Mr. PETERSON of Minnesota, Mr. TERRY, Mr. SCHROCK, Mr. SHIMKUS, Mr. TIBERI, Mr. GOODE, Mr. MCCOTTER, Mr. SIMPSON, Mr. TANCREDO, Mr. KENNEDY of Minnesota, Mr. ROGERS of Alabama, Mr. HEFLEY, Mr. MILLER of Florida, Mr. MANZULLO, and Mr. SHUSTER):

H.R. 3807. A bill to provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer

Record, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ:

H.R. 3808. A bill to amend title 11 of the United States Code to provide priority for the payment of employee claims arising under the Worker Adjustment and Retraining Notification Act; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia (for himself, Mr. GEORGE MILLER of California, Mr. CONYERS, Ms. DELAURO, Ms. PELOSI, Ms. SLAUGHTER, Mr. MEEKS of New York, Ms. WOOLSEY, Mrs. CHRISTENSEN, Ms. NORTON, Ms. LEE, Ms. SOLIS, Mr. FRANK of Massachusetts, Mr. FROST, Mr. KUCINICH, Mr. RODRIGUEZ, Mr. GREEN of Texas, Mr. BERMAN, Ms. MILLENDER-MCDONALD, Mr. GRIJALVA, Mrs. MCCARTHY of New York, Mr. DAVIS of Illinois, Mr. NADLER, Mrs. MALONEY, Ms. WATSON, Mr. TIERNEY, Mr. BROWN of Ohio, Mr. RANGEL, Mr. OWENS, Mr. KILDEE, Mr. FARR, Mr. MATSUI, Mr. MCGOVERN, Mr. HONDA, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, Mr. SERRANO, Mr. BALLANCE, Mr. WATT, Mr. RYAN of Ohio, Mr. BLUMENAUER, Mr. BACA, Ms. KAPTUR, Ms. WATERS, Mr. PAYNE, Ms. JACKSON-LEE of Texas, Ms. MCCOLLUM, Mr. FATTAH, Mr. ANDREWS, Mr. TOWNS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. CORRINE BROWN of Florida, Mr. DELAHUNT, Mr. LANGEVIN, Mr. BISHOP of New York, Mr. ALLEN, Mr. FILNER, Ms. KILPATRICK, Ms. BALDWIN, Mr. RUSH, Mr. CUMMINGS, Ms. LINDA T. SÁNCHEZ of California, Mrs. DAVIS of California, Mr. GEPHARDT, Mr. UDALL of New Mexico, Mr. WEINER, Mr. GUTIERREZ, Ms. LOFGREN, Mr. STARK, Mr. STRICKLAND, Ms. MCCARTHY of Missouri, Mr. HASTINGS of Florida, Mr. SCOTT of Virginia, Mr. OLVER, Mr. HOLT, Mr. CLAY, Ms. SCHAKOWSKY, Ms. ROYBAL-ALLARD, Mr. MEEK of Florida, Mr. HOEFFEL, Mr. EMANUEL, Mr. HINOJOSA, Mr. MCNULTY, Mr. PASTOR, Ms. CARSON of Indiana, Mr. WYNN, Mr. BISHOP of Georgia, Ms. MAJETTE, and Mr. SCOTT of Georgia):

H.R. 3809. A bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. TOWNS, Mr. CROWLEY, Mr. JACKSON of Illinois, Mrs. CHRISTENSEN, Mrs. JONES of Ohio, Mr. SCOTT of Georgia, Mr. STARK, Mr. KENNEDY of Rhode Island, Ms. MCCOLLUM, Mr. ISRAEL, Mr. WAXMAN, Mr. DOGGETT, Mr. NADLER, Mr. EVANS, Mr. GRIJALVA, Mr. LANTOS, Ms. NORTON, Ms. JACKSON-LEE of Texas, Ms. SCHAKOWSKY, Ms. LEE, Mr. OWENS, Ms. MILLENDER-MCDONALD, Mrs. LOWEY, Ms. SLAUGHTER, and Ms. ROYBAL-ALLARD):

H.R. 3810. A bill to provide a United States voluntary contribution to the United Nations Population Fund only for the prevention, remedy, and repair of obstetric fistula; to the Committee on International Relations.

By Mr. PAUL:

H.R. 3811. A bill to amend the Internal Revenue Code of 1986 to waive the employee portion of Social Security taxes imposed on individuals who have been diagnosed as having cancer or a terminal disease; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 3812. A bill to require the Secretary of Veterans Affairs to carry out a demonstration project on priorities in the scheduling of appointments of veterans for health care through the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROHRABACHER:

H.R. 3813. A bill to provide for a Near-Earth Object Survey program to detect, track, catalogue, and characterize certain near-earth asteroids and comets; to the Committee on Science.

By Mr. SESSIONS:

H.R. 3814. A bill to enhance peace between the Israelis and Palestinians; to the Committee on International Relations.

By Ms. SLAUGHTER (for herself and Mr. HOUGHTON):

H.R. 3815. A bill to amend title 18, United States Code, to provide expanded protections against the misuse of public safety officer uniforms, and for other purposes; to the Committee on the Judiciary.

By Mr. STRICKLAND:

H.R. 3816. A bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MILLER of Florida:

H. Con. Res. 362. Concurrent resolution expressing the sense of the Congress regarding the importance of organ, tissue, bone marrow, and blood donation and supporting National Donor Day; to the Committee on Energy and Commerce.

By Ms. ROS-LEHTINEN (for herself, Mr. BLUNT, Mr. ENGEL, Mr. ACKERMAN, Mr. SMITH of New Jersey, Mr. CHABOT, Mr. CROWLEY, Mr. PENCE, Mr. MCCOTTER, Mr. TANCREDO, Mr. BERMAN, Mrs. JO ANN DAVIS of Virginia, Mr. BURTON of Indiana, Ms. BERKLEY, and Mr. LANTOS):

H. Con. Res. 363. Concurrent resolution expressing the grave concern of Congress regarding the continuing gross violations of human rights and civil liberties of the Syrian people by the Government of the Syrian Arab Republic; to the Committee on International Relations.

By Mr. TURNER of Texas (for himself, Mr. BELL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DOGGETT, Mr. EDWARDS, Mr. FROST, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HINOJOSA, Ms. JACKSON-LEE of Texas, Mr. LAMPSON, Mr. ORTIZ, Mr. REYES, Mr. RODRIGUEZ, Mr. SANDLIN, and Mr. STENHOLM):

H. Res. 523. A resolution providing for consideration of the bill (H.R. 594) to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions; to the Committee on Rules.

By Mr. ENGEL (for himself and Mr. BURTON of Indiana):

H. Res. 524. A resolution supporting the goals and ideals of Anti-Slavery Day; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut:

H. Res. 525. A resolution urging the Secretary of Homeland Security and the Secretary of State to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act if Poland satisfies the requirements in subsection (c)(2) of such section; to the Committee on the Judiciary.

By Mr. NEY (for himself, Mr. LANTOS, Mr. BLUNT, Mr. SNYDER, Mr. BEREUTER, Mr. BERMAN, Mr. BURGESS, Mr. DELAHUNT, Mr. GUTKNECHT, Mrs. JONES of Ohio, Mr. WEXLER, Mr. CUNNINGHAM, Mr. BURTON of Indiana, Ms. ESHOO, Mr. HONDA, Ms. GINNY BROWN-WAITE of Florida, and Mr. UDALL of Colorado):

H. Res. 526. A resolution expressing the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred on December 26, 2003, in Bam, Iran; to the Committee on International Relations.

By Mr. RODRIGUEZ:

H. Res. 527. A resolution celebrating the 50th anniversary of the opening of the Falcon International Dam, recognizing the dam's importance as a source of water and power and as a symbol of friendship and cooperation between the United States and the United Mexican States, and urging Mexico to honor all of its obligations under the 1944 Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande; to the Committee on International Relations.

By Mr. SHERMAN (for himself and Mr. HONDA):

H. Res. 528. A resolution expressing the sense of the House of Representatives that France should modify or abandon its ban on religious articles and symbols in state schools and respect the freedom of all to practice their religious faith without state interference; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under Clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 111: Mr. EDWARDS and Mr. NEAL of Massachusetts.

H.R. 173: Ms. MCCARTHY of Missouri, Mr. LEWIS of Georgia, Mr. TURNER of Texas, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 218: Mr. ROTHMAN, Mr. BRADY of Pennsylvania, and Mr. TURNER of Ohio.

H.R. 290: Mr. ABERCROMBIE, Mr. PAYNE, Mr. GEORGE MILLER of California, and Ms. KAPTUR.

H.R. 339: Mr. JOHN and Mr. BACHUS.

H.R. 370: Mr. STARK and Mr. FILNER.

H.R. 371: Mr. ANDREWS.

H.R. 391: Ms. PRYCE of Ohio.

H.R. 442: Mr. PAYNE.

H.R. 476: Mr. SANDERS.

H.R. 504: Ms. JACKSON-LEE of Texas.

H.R. 547: Mr. BROWN of Ohio.

H.R. 571: Mr. BROWN of Ohio and Mr. HOLT.

H.R. 594: Mr. SIMPSON, Ms. HART, and Ms. PRYCE of Ohio.

H.R. 685: Mr. HONDA.

H.R. 727: Mr. DAVIS of Florida.

H.R. 768: Mr. KENNEDY of Rhode Island and Mr. GREENWOOD.

H.R. 785: Ms. KILPATRICK.

H.R. 814: Ms. MILLENDER-MCDONALD, Mr. RENZI, and Mr. STARK.

H.R. 839: Mr. GUTIERREZ, Mr. REYNOLDS, and Mr. GILLMOR.

H.R. 932: Ms. JACKSON-LEE of Texas.

H.R. 962: Mr. FATTAH, Mrs. MCCARTHY of New York, Ms. LINDA T. SÁNCHEZ of California, Mr. EVANS, and Mr. PRICE of North Carolina.

H.R. 1004: Mr. SCHIFF.

H.R. 1057: Mr. ISSA, Mr. SESSIONS, and Mr. SHIMKUS.

H.R. 1080: Mr. MICHAUD and Mr. BRADLEY of New Hampshire.

H.R. 1088: Mr. DOGGETT.

H.R. 1127: Mr. BRADLEY of New Hampshire, Mr. BALLENGER, and Mr. EVANS.

H.R. 1155: Mr. LARSEN of Washington.

H.R. 1179: Mr. BALLENGER and Mr. CRANE.

H.R. 1196: Mr. ANDREWS.

H.R. 1200: Ms. DELAURO and Mr. TIERNEY.

H.R. 1214: Mr. HINCHEY, Mr. ROGERS of Michigan, and Mr. ROTHMAN.

H.R. 1304: Ms. SLAUGHTER.

H.R. 1325: Mr. FOLEY.

H.R. 1336: Mr. CARDIN.

H.R. 1478: Mr. DEMINT.

H.R. 1480: Mr. SNYDER.

H.R. 1483: Mr. ANDREWS.

H.R. 1532: Mr. GREEN of Texas, Mr. COBLE, and Mr. TOWNS.

H.R. 1567: Mr. COLLINS.

H.R. 1608: Mr. SOUDER, Mr. OWENS, Mr. BURTON of Indiana, Mr. MCNULTY, Mr. FILNER, and Mr. PASTOR.

H.R. 1622: Mr. DAVIS of Alabama and Mr. MILLER of North Carolina.

H.R. 1631: Mr. WICKER, Mr. KLINE, Mr. HERGER, Mr. JONES of North Carolina, Mr. SESSIONS, Mr. GALLEGLY, Mr. BARRETT of South Carolina, and Mr. SIMPSON.

H.R. 1639: Ms. LORETTA SANCHEZ of California.

H.R. 1726: Ms. BORDALLO, Mr. WICKER, and Ms. WOOLSEY.

H.R. 1784: Mr. MILLER of North Carolina.

H.R. 1916: Mr. UDALL of New Mexico.

H.R. 2096: Ms. BERKLEY, Mr. JOHN, Mr. RODRIGUEZ, and Mr. SIMPSON.

H.R. 2227: Mr. PAYNE.

H.R. 2262: Mr. BELL and Mr. ACKERMAN.

H.R. 2318: Mr. TURNER of Texas.

H.R. 2394: Mr. OBERSTAR.

H.R. 2632: Mr. FROST.

H.R. 2720: Mr. GREENWOOD.

H.R. 2724: Mr. FILNER.

H.R. 2743: Mr. MICA.

H.R. 2797: Mr. UPTON.

H.R. 2849: Mr. BALLENGER.

H.R. 2852: Mr. KENNEDY of Minnesota and Mr. EVERETT.

H.R. 2863: Mrs. NAPOLITANO, Ms. SOLIS, Mr. SPRATT, Mr. DICKS, Mr. HAYES, and Mr. BURR.

H.R. 2952: Mr. WU.

H.R. 2963: Mr. BACA.

H.R. 2967: Mr. BRADY of Pennsylvania, Mr. ANDREWS Ms. PRYCE of Ohio and Mr. DUNCAN.

H.R. 2987: Ms. NORTON.

H.R. 3015: Mr. SHIMKUS.

H.R. 3026: Mr. NADLER.

H.R. 3104: Mr. SCHIFF, Mr. FROST, Ms. LORETTA SANCHEZ of California, Mr. PETRI, Mr. DEFAZIO Mr. MURTHA, Mrs. MALONEY, Mr. CROWLEY, Mr. BAIRD, Mr. GONZALEZ, Mr. MARSHALL, Mr. STARK, Mr. GUTIERREZ, Mrs. MCCARTHY of New York, Mr. KENNEDY of Rhode Island, Mr. JOHN, Ms. MCCARTHY of Missouri, Ms. DELAURO, and Mr. MCINTYRE.

H.R. 3180: Ms. SLAUGHTER and Mr. DEUTSCH.

H.R. 3192: Mr. FILNER and Mr. KLECZKA.

H.R. 3193: Mr. HEFLEY and Mr. SKELTON.

H.R. 3215: Mrs. CUBIN, Mr. DOOLITTLE Mr. CRANE, Mr. ISSA, Mr. HEFLEY, Mr. TOOMEY, Mr. BONNER, Mr. HENSARLING, Mr. JENKINS, Mr. BONILLA, Mr. MILLER of Florida, and Mr. KING of Iowa.

H.R. 3243: Mr. OXLEY, Mr. SMITH of New Jersey, Mr. CLAY, and Mr. FARR.

H.R. 3246: Mr. BRADLEY of New Hampshire, Mr. JONES of North Carolina, and Mr. KENNEDY of Minnesota.

H.R. 3274: Mr. GINGREY, Mr. NEY, Mr. DEAL of Georgia, Mr. TOM DAVIS of Virginia, Mr. WHITFIELD, Mr. DAVIS of Tennessee, and Mr. HOEKSTRA.

H.R. 3281: Mr. GILCHREST.

H.R. 3293: Mr. EMANUEL and Mr. PAYNE.

H.R. 3310: Mr. CRANE.

H.R. 3344: Mr. CLAY and Mrs. MCCARTHY of New York.

H.R. 3362: Mr. NADLER and Mr. PAYNE.

H.R. 3378: Mr. CASE, Mr. GREENWOOD, Mr. VAN HOLLEN, Mr. SHAW, and Mr. HASTINGS of Florida.

H.R. 3416: Mr. NADLER.

H.R. 3438: Mr. EMANUEL, Mr. NEAL of Massachusetts, Mr. DELAHUNT, Mr. KENNEDY of Rhode Island, Mr. MARKEY, and Mrs. MILLER of Michigan.

H.R. 3473: Mr. LEACH, Mr. NADLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CLAY, and Mr. SHADEGG.

H.R. 3482: Mr. PASTOR.

H.R. 3510: Mr. MARKEY.

H.R. 3528: Mrs. MCCARTHY of New York and Mr. FRANK of Massachusetts.

H.R. 3539: Mrs. DAVIS of California.

H.R. 3570: Mr. CAMP, Mr. DINGELL, and Mr. STUPAK.

H.R. 3574: Mr. SMITH of Texas, Mr. MOORE, Mr. DAVIS of Tennessee, Mr. BOUCHER, Mrs. BIGGERT, Mr. SESSIONS, Mr. HINOJOSA, Mr. DAVIS of Alabama, Mr. GONZALEZ, Mr. TOM DAVIS of Virginia, Mr. HEFLEY, Mr. PUTNAM, Mr. THOMPSON of California, Mr. ROSS, and Mr. GOODLATTE.

H.R. 3593: Ms. MCCOLLUM.

H.R. 3619: Mr. BOUCHER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCHUGH, and Ms. LOFGREN.

H.R. 3676: Mr. GRIJALVA and Ms. JACKSON-LEE of Texas.

H.R. 3684: Mr. MCDERMOTT.

H.R. 3687: Mr. BOEHLERT, Mr. LEWIS of Kentucky, Mr. CULBERSON, Mr. FERGUSON, and Mr. WILSON of South Carolina.

H.R. 3695: Mr. FERGUSON.

H.R. 3707: Mr. SKELTON, Mr. WEINER, Mr. LANGEVIN, Mr. MCGOVERN, Mr. CONYERS, Mr. HINOJOSA, Mr. VAN HOLLEN, Mr. HASTINGS of Florida, Mr. RUSH, Mrs. JONES of Ohio, Mr. GREEN of Texas, Mr. CRAMER, Ms. LEE, Ms. CARSON of Indiana, Mr. DAVIS of Alabama, Mr. BELL, MR. CLYBURN, and Mr. GEPHARDT.

H.R. 3711: Mr. FILNER and Mr. HINCHEY.

H.R. 3717: Mrs. JO ANN DAVIS of Virginia, Mr. RUSH, Mr. GOODLATTE, and Mr. GOODE.

H.R. 3722: Mr. BEREUTER.

H.R. 3726: Mrs. MALONEY, Mr. SERRANO, Mr. BISHOP of New York, Mrs. LOWEY, Mr. NADLER, Mrs. MCCARTHY of New York, Mr. MEEKS of New York, and Mr. OWENS.

H.R. 3728: Mr. GILCHREST.

H.R. 3736: Mr. NORWOOD, Mr. ISAKSON, Mr. TAYLOR of Mississippi, Mr. SHIMKUS, Mr. FORBES, Mr. GOODE, Mr. STEARNS, Mr. PAUL, Mr. BARTLETT of Maryland, Mr. GINGREY, and Mr. MILLER of Florida.

H.R. 3737: Mr. TOM DAVIS of Virginia.

H.R. 3743: Mr. MARSHALL, Mr. PETERSON of Minnesota, and Mr. MCINTYRE.

H.R. 3757: Mr. ADERHOLT, Mr. PENCE, Mr. TANCREDO, Mrs. MYRICK, Mr. FEENEY, Mr. JONES of North Carolina, and Mr. AKIN.

H.R. 3763: Mr. TOM DAVIS of Virginia, Mr. LEWIS of Kentucky, Ms. ESHOO, Mrs. WILSON of New Mexico, and Mr. BURNS.

H.R. 3777: Mr. BEREUTER, Mr. OSBORNE, Mr. BARTLETT of Maryland, Mr. STENHOLM, and Mr. HEFLEY.

H.R. 3780: Mr. RANGEL, Ms. JACKSON-LEE of Texas, Mr. CROWLEY, Ms. NORTON, and Mrs. CHRISTENSEN.

H.R. 3784: Mr. BEAUPREZ, Mr. FEENEY, Mr. HENSARLING, Mr. GINGREY, Mr. PENCE, Mr. GARRETT of New Jersey, Mr. SMITH of Michigan, Mr. KING of Iowa, Mrs. MYRICK, Mr. AKIN, Mr. GOODE, and Mrs. CUBIN.

H.R. 3791: Mrs. JO ANN DAVIS of Virginia.

H.J. Res. 45: Mrs. WILSON of New Mexico and Mr. LANTOS.

H.J. Res. 72: Mr. SIMMONS and Mr. DINGELL.

H.J. Res. 87: Mr. TAYLOR of Mississippi, Mr. RANGEL, and Mr. MENENDEZ.

H. Con. Res. 218: Mr. CUMMINGS.

H. Con. Res. 247: Mr. LYNCH.

H. Con. Res. 266: Mr. BISHOP of Georgia.

H. Con. Res. 298: Mr. LATOURETTE.

H. Con. Res. 318: Mr. BURTON of Indiana, Mr. AKIN, and Mr. KING of Iowa.

H. Con. Res. 326: Mr. INSLEE.

H. Con. Res. 327: Mr. FILNER and Mr. PITTS.

H. Con. Res. 332: Mr. BONNER, Mr. LOBIONDO, Mr. SCHROCK, Mr. ROTHMAN, Mr. JOHN, Mr. BURTON of Indiana, Mr. BONILLA, Mr. ROGERS of Alabama, Mr. KLINE, Mr. BACHUS, and Mr. FERGUSON.

H. Con. Res. 344: Ms. DELAURO, Ms. JACKSON-LEE of Texas, Mr. GORDON, Mr. CUMMINGS, Mr. FILNER, Mr. RANGEL, and Mr. COSTELLO.

H. Con. Res. 352: Ms. MCCOLLUM, Mr. PALLONE, Mr. FALEOMAVAEGA, Mr. MEEK of Florida, Mr. CROWLEY, Mr. LANTOS, Mr. UDALL of New Mexico, Ms. JACKSON-LEE of Texas, Mr. ABERCROMBIE, Mrs. MALONEY, Mr. MEEHAN, Mr. BERMAN, Ms. CORRINE BROWN of Florida, Mr. HASTINGS of Florida, Mr. LOBIONDO, Mr. MCNULTY, Mr. MCDERMOTT, Mr. MCINTYRE, Mr. FILNER, Ms. ROS-LEHTINEN, and Mr. DAVIS of Illinois.

H. Res. 60: Mr. MATHESON.

H. Res. 101: Mr. DEUTSCH and Mr. WATT.

H. Res. 125: Mr. KINGSTON.

H. Res. 313: Mr. SANDERS.

H. Res. 381: Mr. WEXLER, Mr. WAMP, Mr. RUSH, and Mr. ENGEL.

H. Res. 402: Mr. DUNCAN.

H. Res. 482: Mr. LEWIS of Kentucky, Mr. QUINN, and Mr. ETHERIDGE.

H. Res. 522: Mrs. MALONEY, Mr. TOWNS, Mr. KING of New York, Mr. GREEN of Wisconsin, Mr. FEENEY, Mrs. DAVIS of California, Ms. BALDWIN, Mrs. CHRISTENSEN, Ms. NORTON, Ms. MILLENDER-MCDONALD, and Mr. KILDEE.

PETITIONS, ETC.

Under clause 3 of rule XII.

56. The SPEAKER presented a petition of the Wisconsin Commercial Ports Association, relative to Resolution #02–03 authorizing funding for modernization of lock and dam infrastructure on upper Mississippi and Illinois rivers' inland waterways transportation system, as also approved by the Brown County Harbor Commission and the Brown County Board of Supervisors; which was referred to the Committee on Transportation and Infrastructure.

SENATE—*Wednesday, February 11, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who with Your grace can use misfortune or prosperity to bless us, thank You for Your loving purposes that crown our years with goodness.

Thank You, also, for disasters averted and advancements made.

Help us to see, with faith's eyes, each blessing that comes disguised as adversity and every temptation that hides beneath the mask of prosperity.

Let Your love reach others through us, as we seek to be Your ambassadors in a hurting world.

Bless our Senators. May they grow to fear, honor, love and serve You in all ways. Be their protector and teach them Your paths. May their plans prosper as they stay within the circle of Your will.

Help each of us to choose between faith and fear, courage and cynicism, integrity and dishonesty, that we would choose the better way.

We pray this in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will conduct a period of morning business for up to 1 hour, with the first 30 minutes under the control of the minority leader or his designee and the second 30 minutes under the control of the majority leader or his designee.

Following morning business, the Senate will resume consideration of S. 1072, the highway bill. It is my expectation that following the final remarks of several Senators, Chairman INHOFE will move to table the Warner amendment on seatbelts. Therefore, Senators should expect the first vote to occur prior to noon today.

As a reminder, two cloture motions were filed yesterday in relation to the highway bill. Those cloture votes are scheduled to occur tomorrow. I also remind all Senators that under cloture rules, all first-degree amendments must be filed by 1 p.m. today.

If cloture is invoked on the substitute to the highway bill on Thursday, we will remain on that until disposed of. Members may have germane and timely filed amendments considered but the Senate will act on this measure this week. Members may use some postcloture debate. However, we will remain and complete action on this measure before the weekend.

ECONOMIC GOOD NEWS

Mr. FRIST. Mr. President, I will take a moment to comment on the economic good news that does continue to roll in. After weeks of positive indicators, the latest economic reports show that the economy is steadily expanding. Specifically, new jobs are coming online and unemployment continues to fall. According to the latest payroll survey, 112,000 new jobs were created in January, the largest monthly increase since December of the year 2000. Fully 366,000 new jobs were added over the last 5 months.

The national unemployment rate continues to decline. In general, the unemployment rate reached a level of 5.6 percent. That is the fastest 7-month decline in over a decade. In fact, unemployment is now lower than it was, on average, during the 1970s, during the 1980s, or the 1990s. It is still too high and we will continue to work aggressively to lower that unemployment rate. However, with the fastest 7-month decline in a decade, the trends are moving in the right direction.

The Council of Economic Advisers has other good news. On Monday, the Council released the latest economic report of the President. They anticipate the economy will create millions of new payroll jobs by the end of the year. They also emphasize that America is on a path to higher sustained output for years to come.

A survey released in January by the U.S. Institute for Supply Management found, for December, new orders booked by industry increased at their best rate in 50 years. The bottom line is the economy is growing. America is moving in the right direction. Contrary to its critics, President Bush's tax cuts are working.

By passing the tax cuts, we were able to reduce the unemployment rate by nearly 1 extra percentage point. We have increased the number of jobs available by as much as 2 million. And we have increased real GDP by as much as 3 percent. But there is still much to be done.

As we consider these positive numbers, we must also work to enact policies that help every American who needs a job to find a job. We must use the tools at our disposal to create the conditions which lead to job growth. That is one reason passing this highway bill is so crucial.

Every $1 billion we invest in transportation infrastructure generates more than $2 billion in economic activity. It also creates an additional 47,500 new jobs. Our roads, our ports, and our railroads are vital to America's economic success. Indeed, it is estimated that the highway bill will add a whopping 2 million jobs to the economy. That is 2 million reasons to pass this bill this week.

Today and Thursday, Federal Reserve Chairman Alan Greenspan is scheduled to deliver his monetary report to the Congress. Chairman Greenspan has expressed confidence that the economy will continue to grow and to grow more jobs. While he does his important work at the Fed, we must continue to do our work in this Chamber to bolster the economy and help create jobs. Lowering health costs, reducing the downward drag of frivolous lawsuits, ensuring affordable energy, cutting redtape, and opening new markets, all of these progrowth policies will help keep America moving forward.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

EXPORTING U.S. JOBS

Mr. DASCHLE. Mr. President, 2 days ago President Bush sent to Congress his annual report on the State of America's economy. Contained in that report is a statement that was quite remarkable. After presiding over the loss of 2.6 million jobs, after claiming for 3 years that stopping the job hemorrhage was one of their top priorities, the Bush administration now says that exporting American jobs to China and India and other low-wage nations is good for the American economy.

I read that, and I must have read it two or three times thinking there had to be a catch, thinking there had to be some caveat, there had to be some condition. But there is no condition. The

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

statement from the report could not be more clear. This administration believes that exporting jobs to China and India and other low-wage nations is good for America's economy. They seem to want to turn a jobless recovery into a hopeless recovery.

The President's report is proof that there are those in this administration who simply do not understand what is happening to this economy and how deeply concerned people are about their economic future.

People who think shipping American jobs overseas is good for the economy need to talk to people such as Myra Bronstein. She is not a statistic. She is not an abstract concept on computer models.

Sometimes we focus so much on corporate stock earnings or the Dow Jones Industrial Average, we lose sight of the challenges that real Americans are actually facing. Myra Bronstein knows all about outsourcing. She has a degree in electronic engineering and 15 years of experience in the information technology industry.

Four years ago, she left a good job with AT&T in New Jersey to take a new job with a software development company called Watchmark Corporation in Bellevue, WA. She was one of about 20 software testers at Watchmark.

One Friday last April, Myra came to work. She and other software testers were called into a meeting. They were told that they were being replaced by workers in India, that their jobs would be gone as they finished training their replacements, and that if they refused to train the new workers they would be ineligible for severance pay, unemployment insurance, or health insurance through COBRA.

Then they were told that the new workers were flying in over the weekend and would be there on Monday. Most of her coworkers just had to train one new person. Because Myra Bronstein was working on the highest priority projects, she actually had to train two replacements. The whole while she was trying frantically to figure out where she was going to find a new job in the midst of the "dot-com" bust and a jobless recovery.

Myra Bronstein is not alone. According to a new national survey that is just being released today, nearly one in four information technology workers said his or her company has offshored jobs. Incredibly, almost one in five reported they themselves had lost a job after training a foreign worker. Ninety-three percent—nearly all—expressed concerns about the impact of offshoring jobs on the IT industry and how it would impact their communities, the economy, and this country. One-third of the workers surveyed said the trend toward outsourcing and offshoring jobs is contributing to layoffs. And more than half said it was pushing down wages and benefits.

When textile manufacturing jobs started to move offshore in the 1980s, workers in those industries were told that the change was good for America's economy. They were told that all they had to do was to learn some new skills, train for some "new economy," and they could get better paying jobs in the technology and service industries.

Workers held up their end of the deal. They got the training. Many did get jobs in the computer and IT industries, in health care and financial services, and other so-called new industries. Now these new jobs are being shipped overseas.

We are offshoring America's future. We are exporting some of our Nation's most promising research and development jobs. These are the jobs that support middle-class families. They are the jobs that enable people to own their own homes and put their kids through college.

Sixty-eight percent of IT workers have a college degree or higher. Half have annual salaries between $75,000 and $125,000. Their jobs are being offshored to people who will earn less than $10,000.

This is not just happening in Seattle or Silicon Valley. It is happening in Sioux Falls and St. Louis and cities and towns all across America. Now the Bush administration tells us that exporting American jobs is actually good for the economy.

Shipping good jobs overseas may boost the quarterly earnings of some companies. It may make some CEOs look smart and make some quick profit for some investors. But how can it be good for the economy to export America's best jobs? How can it be good for the economy to offshore the jobs that support middle-class families and sustain strong communities? How can exporting jobs create opportunities for Americans?

It is not just the jobs that get outsourced. When American companies ship jobs offshore, they also send tax returns, medical records, credit card numbers, financial statements, and all kinds of other sensitive and confidential consumer information.

America has lost 2.6 million jobs on this administration's watch. That is more jobs than the last 11 administrations put together. Nine million Americans are now out of work. Long-term unemployment is at a 20-year high.

Eighty-thousand workers are exhausting their unemployment benefits every week because Republican leaders refuse to support extending the Federal emergency unemployment benefits.

The Economic Policy Institute recently found that in 48 States jobs are shifting from higher paying to lower paying industries.

In his State of the Union Message, President Bush said he understood, finally, that we have a jobs problem in America. He promised his administration would do more to help people find and train for jobs of the future.

A few days later, a professor from the University of Texas wrote an op-ed in the Washington Post about what she said was a model job training program in Austin. Many of the students at the center do not have the advantages that Myra Bronstein and many other IT workers have. They do not have graduate degrees. What they do have is a fierce desire to make a better life for themselves and their children. Many of them have two jobs. They catch a bus to their classes, where they learn about computer programming and spreadsheets and other supposedly marketable skills.

The professor wrote that one woman who showed her proudly how she "uses MapQuest.com to get directions to the houses that she cleans on her hands and knees, 7 days a week, 12 hours a day, for a pittance," was just lucky to have a job at all.

She wrote:

> Before they learned these skills, the trainees thought that it was their lack of computer skills that prevented them from getting good information-age jobs. They thought something was wrong with them. Now they know something is wrong with our job market.

There is something wrong with the job market, and the Bush administration's cavalier endorsement of shipping American jobs overseas can only make matters worse. The administration owes the American people an explanation and an apology. More than that, they owe this Nation a plan that will actually create jobs, not export them to China, to India, or other low-wage countries but to create jobs here.

I ask the President to renounce this report from his economic advisers and assure all Americans that the Federal Government will not be taking steps to export these jobs overseas.

Mr. President, I ask unanimous consent that my leader time not be taken from the morning business allocated to the Democratic side.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time, so much as remains for the majority leader, will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee.

The Democratic leader.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, I would be happy to yield to the Senator from Illinois for a question.

Mr. DURBIN. Mr. President, I would like to ask the leader a question under leader time, not under morning business.

The PRESIDENT pro tempore. The leader's time has expired.

Mr. DASCHLE. I inform the Senator from Illinois, through the Chair, that we still have a half hour of morning business time allocated. We can use that time. I will take such time as may be required to respond to the Senator's question.

Mr. DURBIN. I will make my question very brief.

ECONOMIC POLICY

Mr. DURBIN. I commend the leader for his statement this morning and ask him the following: If the Bush administration is now telling us that tax cuts for the wealthy are good for America, if they are now telling us that outsourcing jobs from the United States to other countries is good for America, and they are now cutting overtime pay for American workers and refusing to give unemployed workers in our country the benefits they need to keep their families together, I would like to ask the Senator from South Dakota and our leader on the Democratic side if he believes this is the right economic policy to move America forward out of this recession and into prosperity?

Mr. DASCHLE. Mr. President, I would simply say that if you judge how good an economy is by the number of jobs created, this policy has been a failure. If you judge economic policy by the kind of fiscal position we now hold—we have a $600 billion deficit and a $3.5 trillion debt; a $9 trillion swing as a result of the tax cuts—this policy is a failure. If you judge by how one pays and rewards work rather than wealth, by this administration's position on overtime, this position and policy is a failure.

I think as we debate the economic circumstances we face in this country these failures ought to be front and center because they are the focus of every American family today.

Ms. STABENOW. Will the leader yield for a question as well?

Mr. DASCHLE. I am happy to yield to the Senator from Michigan.

Ms. STABENOW. Mr. President, on behalf of the men and women of Michigan I thank the Democratic leader for his comments this morning. We read headlines every single day of jobs being lost to other countries, outsourcing, plants that are leaving. It is clear to me we have an administration more focused on wealth than valuing work, as the distinguished Senator from Illinois indicated, with a whole series of policies that do not reward work.

I wonder if the leader might comment on the fact this is a race to the bottom. What they are saying to Americans is they should work for $2.50 an hour or $1 an hour or instead of being a computer programmer here, earning $50,000 a year, if you earn $15,000 a year, maybe we won't outsource your job. Isn't this a way to eliminate the middle class? How do they, in fact, purchase the cars and the refrigerators and computers and have the quality of life they want, send their children to college, be able to afford a quality of life as Americans, if this is a race to the bottom?

Would the leader agree this is now a race to the bottom and a threat to the middle class and their way of life?

Mr. DASCHLE. Mr. President, I respond to the Senator from Michigan by saying she has characterized this situation very accurately. It is a race to the bottom.

I had a conversation not long ago with a worker at a grocery store chain who was commenting that they are currently in negotiations with this particular chain. He noted over the last 30 years, as negotiations have been evolving, at every juncture, all through the 30 years, the question was: How can we make improvements; how can we improve wages; how can we improve benefits; how can we continue to stay abreast of the current fiscal and financial challenges every family faces? That was the goal, to advance the benefits, the wages, to take into account the dramatic changes in their own circumstances.

He said for the first time in 30 years, their only goal this time is to hold on to what they have so the company doesn't take away benefits, the company doesn't take away wages.

He said: Those on the other side are arguing, we are going to take away some of your wages and some of your benefits because that is what is happening with the competition. In order to be competitive, we have to reduce your wages and reduce your benefits.

I will not accept that for this country. We can't possibly accept the fact we have to move backward. If we are a progressive society, we have to recognize these families have to continue to move forward with regard to their benefits and wages or, you are absolutely right, we will have a race to the bottom, a disparity between those at the top, who get the tax cuts the Senator from Illinois referenced, and those at the bottom, who get not only no tax cuts but now are losing their jobs, benefits and wages, and their overtime. What is that going to do to this country? We are going to have the biggest chasm in all of our history soon between those at the top and those at the bottom. That is unacceptable.

I thank the Senator for her question.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Would the Chair announce how much time is left for morning business on this side?

The PRESIDENT pro tempore. Twenty-four minutes 37 seconds.

Mr. REID. Mr. President, the distinguished majority leader announced today the tax cuts were working. My question to him and everyone within the sound of my voice would be: Working for whom? As has been indicated, we have staggering deficits. We have a staggering debt that was not there when this man took the office of President a little more than 3 years ago.

I have been reading a book the last couple days, "The Price of Loyalty," by Ron Suskind and Paul O'Neill. In that book, quite clearly, Paul O'Neill was extremely concerned about the deficits and brought it up at a Cabinet meeting. He was cut off very quickly by Vice President CHENEY, saying: President Reagan proved that tax cuts are good and that deficits don't matter.

I believe deficits do matter. I believe we have a situation developing that is going to cause untold misery and harm, as indicated by the budget we have been given today. We will talk about that during the next few weeks as the budget negotiations and debate go forward.

I am happy to yield 10 minutes to the Senator from Iowa.

The PRESIDENT pro tempore. The Senator from Iowa is recognized for 10 minutes.

Mr. HARKIN. Mr. President, I thank the assistant majority leader for yielding me 10 minutes in morning business. I rise to follow up on what the Democratic leader was talking about in terms of the statement of the chairman of the President's economic advisers saying: Outsourcing of jobs in this country is a good thing.

I read the followup comments by White House spokeswoman Claire Buchan, who said: The President's view is that American workers are the best workers in the world and he is committed to free and fair trade. He is committed to a level playing field.

That all sounds very nice, but is it level when you have a worker in China making 61 cents an hour and a worker in America making $12 or $13, $14 an hour? What kind of a level playing field is that? As the leader said, this is a race to the bottom.

You can always find someone someplace who is lower down on the totem pole, who is more hungry, more destitute, willing to work for less than you. If that is what we are looking for, we might as well go back to slavery.

If you want to talk about efficiency, that is what they are saying: When a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically. That has to do with efficiency, they said.

Efficiency? Is that what we as human beings are now looked upon, as a machine, how efficient a machine we are or is there more to life than that.

When I hear words like that, I say people have some sterile view of economics that counts people as just so many cogs in a wheel or so many units we can depreciate, use up and throw out on the trash heap after a while. It disturbs me greatly, the positions of these people in making such statements.

I recognize free trade or fair trade is good for everyone as long as it does not lower people's standard of living but tends to raise people up to ours. That is what we ought to be involved in—not lowering our standard of living to others but trying to help them raise theirs.

Couple that with this dance of the administration that outsourcing jobs, shipping jobs overseas is good, somehow good for our country, with the budget we have now in front of us and what it spells is a disaster for this country and especially for our young people.

We have had the first recovery from a recession in modern time. There are still about 3 million jobs lost out there. This budget continues on that way. We have tax cuts for the wealthy. It does not create jobs. We have this proposal to eliminate overtime pay Senator DURBIN brought up. Now we are going to create jobs in India and China and places such as that by outsourcing all of our jobs.

Then you look at the budget, and the budget we have will continue deficits as far as the eye can see. It will increase deficits. What that means is we are now going to be paying a debt tax. As this administration increases the national debt, they increase the share of the Federal budget that goes to pay the interest on the debt. So every dollar we spend on interest is a dollar we are not spending on education or construction or health care, rebuilding our economy. This is the hidden tax in Mr. Bush's budget. He says he wants tax cuts, mostly for the wealthy. He wants to make them permanent. That will cost us another $1 trillion. But what about the hidden tax, the debt tax that is going to be put upon our workers and our children to pay the huge interest charges on this national debt that is running up?

Right now interest payments are about $4,367 a year for a family of four.

By 2010, because of these huge budget deficits, this debt tax rises to more than $8,000 for a family of four. That is just the interest every year. That means every family of four in America will be paying about $8,000 a year in additional taxes just to pay the interest on the national debt. Again, this is a formula for utter disaster.

The baby boomers are on the verge of retirement—1946 being the first year of the baby boomers. They will retire basically at 65, so that brings us to the year 2011. When they start retiring, we will be in the hole with huge budget deficits. President Clinton set us on the right track to reach 2010 with zero national debt, in great fiscal shape to begin to finance the baby boomers' retirement and their health care. That inheritance from President Clinton, being on the right track and erasing the total national debt, has been squandered—squandered by tax cuts for the wealthy, squandered by the outsourcing of jobs to other countries, and destroying jobs in America. So we are going to reach 2010 with a crushing debt burden, higher interest rates, a weaker economy, and the baby boomers just retiring.

We know we are mortgaging our future, stealing from the next generation. Why? So that the wealthiest can have a tax cut of $155,000 a year. This is not wise and it is not fair. The consequences are going to hit us right now, not just in the year 2001. Just look at the budget. It shortchanges No Child Left Behind by $7 billion. The budget cuts funding for local police by $1.7 billion. It cuts funding for firefighters by $800 million.

There you have the essence of the Bush economic plan: huge tax cuts for the rich, skyrocketing deficits and debt, cuts in programs that serve children and working Americans, and outsourcing of our jobs to other countries, thus reducing the overall income of middle-class Americans.

It is time for the Senate to come together and demand a change of course, demand fiscal sanity, fiscal integrity, and a change in our economic program. I believe this is the single biggest test we face in the year ahead. Quite frankly, I believe President Bush is out of control in demanding even more tax cuts. The House of Representatives basically will do whatever the White House says. So I say to my colleagues it is up to us.

Quite frankly, if the Senate doesn't step in and provide some adult supervision in Washington, then nobody will, and we will, in fact, march down this path of huge deficits, bigger and bigger deficits, higher debt, more interest payments on the debt, and the increasing outsourcing of our jobs to other countries. It is time to stop this downward spiral. I believe only we in the Senate can do it.

Mr. REID. Mr. President, I yield 10 minutes to the Senator from Illinois, Mr. DURBIN.

The PRESIDENT pro tempore. The Senator from Illinois is recognized.

PROTECTING THE TROOPS

Mr. DURBIN. Mr. President, last night a group of Senators went out for dinner at Walter Reed Hospital with the soldiers who have returned from Iraq and Afghanistan, many of whom are undergoing important medical treatment and rebuilding their lives and strength to return to their families, and some to return to service to our country. These are our best. These men and women with whom we had the good fortune to eat dinner last night are really some of the finest people you could ever meet. They have given more to this country than any of us will ever give, and they have done it with a sense of loyalty and a sense of patriotism that all of us admire.

As I talked to these soldiers and asked them about their experience, I asked them about their injuries: What happened when you were in Iraq?

The story that comes back more often than not is that these soldiers—many of them—were in Humvee vehicles, which is our modern jeep, traveling in Baghdad and other cities and localities in Iraq, when their vehicle was struck by a rocket-propelled grenade or a homemade bomb that was detonated. Many of them were seriously injured. One brave soldier from South Dakota lost his right arm. The Army captain in the next Humvee was killed, and he believes he was lucky to escape alive. I asked him what Congress could do to help.

He said: We are getting good medical treatment, and our families are being treated fine. But can you do something about those Humvees? The Humvee doesn't have armor plating on the sides, armored doors to protect us and other soldiers.

You think to yourself, of the billions of dollars we have spent in Iraq, we don't have armored doors on the Humvees so that these soldiers can come home safely?

I asked the Secretary of the Army: What is this problem? He came back to me and reported that there are 8,400 Humvees in Iraq that don't have armored doors. The soldiers, last night, said they would improvise. They would get sheets of steel and cut them and place them on the sides of the Humvees so they are not vulnerable in these areas.

We should do better. I said to the Secretary of the Army: Isn't this a priority? He said: It is our highest priority to build the 8,400 doors for these Humvees. He told me that many will be made in my State at the Rock Island Arsenal. I visited the Rock Island Arsenal and saw the first sets of doors come off for the Humvees, and the workers were so proud. They knew they had done something significant.

I said to the commander at the arsenal: How long will it take us now? We need 8,400 sets and we are also doing them at Anniston. He said: We are going to get these doors built in one year.

One year? In World War II, we were building bombers in 72 hours and ships in 30 and 60 days, and we need 1 year to make the armor-plated doors to protect the Humvees so that fewer of our men and women in uniform will have to go to Walter Reed Hospital for prosthetic devices and medical treatment.

I said: Why is it taking one year? He said: Because there is only one steel-fabricating plant left in America, and it is in Pennsylvania. It makes the steel that we can convert into the armor plating for these doors. We are using everything they produce as fast as they produce it.

So when the issue comes up about loss of manufacturing jobs, and loss of American jobs, and loss of our industrial base, it is more than a cold discussion of statistics; it is a discussion about the reality of our economy and the reality we face. Whether you live in North Carolina, where we have lost textile jobs, or you live in Illinois, where we have lost steel jobs, the fact is, as we lose these jobs, we lose our capacity. When it comes to something as basic as steel, that capacity plays out so that our soldiers in Iraq today are more vulnerable to enemy attack because we cannot produce the steel in America.

So we asked the administration: What should we do about all these jobs going overseas? What should we do about the loss of the industrial base? Is this a challenge we need to face and deal with?

Our answer came back this week in a report from the White House. This is a headline from the Los Angeles Times of yesterday: "Bush Supports Shift of Jobs Overseas."

It goes on to say:

> The loss of work to other countries, while painful in the short term, will enrich the economy eventually, his report to Congress says.

Like many colleagues, I read this headline and I said: It cannot be true; clearly, this is a mistake. I cannot believe the Bush administration would say that shifting jobs overseas is good for America.

Then we looked at other newspapers around the country, not just the L.A. Times. In the Seattle Times, the same report was analyzed. Their headline reads: "Bush report: Sending Jobs Overseas Helps U.S." The Pittsburgh Post-Gazette: "Bush Economic Report Praises 'Outsourcing' Jobs." The Orlando Sentinel: "Bush Says Sending Jobs Abroad Can Be Beneficial."

Yes, as we read the report, that is exactly what was said.

Mr. N. Gregory Mankiw, chairman of President Bush's Council of Economic Advisers, said:

> Outsourcing is just a new way of doing international trade. More things are tradable than were tradable in the past. And that's a good thing.

Is that a good thing, President Bush and Mr. Mankiw? Would you like to go to Walter Reed Hospital and explain to the soldiers who have been victimized by the loss of steel production in America that this is a good thing? It is not a good thing.

I am one who supports trade. I believe globalization is as inevitable as gravity, but I also understand we need economic leadership from the top, from the White House and the President on down that says we will enforce trade agreements; we will build America's economic base; we will not surrender American jobs willingly.

This report from the Bush administration says that they not only surrender these jobs willingly, they do it with applause. What a good thing it must be that the President's report says to Congress that we have lost so many jobs overseas—jobs to China, jobs to India, and it continues.

In technology, there was a time when we were king; Silicon Valley ruled, and they should—all the ingenuity and creativity that came up with these dramatic advances in technology. What is happening today? A large and growing number of computer-related jobs are already leaving America.

IBM, for example, announced in December it is going to transfer 4,730 programming jobs from the United States to India, China, and other countries. Insurance giant Aetna likewise decided early in the year to begin sending 20 percent of its application outsourcing work to India.

From the viewpoint of President Bush and his economic advisers, this is great news: IBM is sending jobs to India and China; Aetna is going to outsource 20 percent of its jobs to India. From their point of view, from the statement they sent to Congress, we should applaud this: what a great development, that all of the programmers and electrical engineers who work for these companies will now be out of work and someone overseas will take their jobs for a fraction of the pay they were receiving.

That is not good news in my home. It is not good news in Illinois. And I don't think it is good news for most working families across America.

The President yesterday appeared in a plant in Missouri and said: Our tax cuts for the wealthy are working; they really turned this economy around. I am sorry to say to the President that he has the dubious distinction at this point in his Presidency of having lost more jobs as a President of the United States than any President since Herbert Hoover in the Great Depression.

This President has watched these jobs leave, and for a time you would think it troubled him and for a time you would think he was trying to bring these jobs back to the United States or protect the jobs we have. But the report to Congress this week says it is part of a designed plan—a plan by the Bush administration that happens to believe in their wrongheaded way that tax cuts for the wealthiest people in America are good for our future; that happens to believe outsourcing jobs to India and China somehow is positive for America; and that happens to believe Americans who are out of work don't deserve unemployment benefits and those who are working shouldn't be paid for overtime.

That is the economic policy of the Bush administration, and that is why we have elections in America. American families who have seen these jobs go overseas are going to reject this wrongheaded Bush economic policy.

The PRESIDING OFFICER (Mrs. DOLE). The Senator's time has expired.

Mr. DURBIN. Madam President, I think we are going to find soon the American people will respond in resounding terms to this report to Congress.

I yield the floor.

Mr. REID. Madam President, how much time is remaining?

The PRESIDING OFFICER. Four minutes seventeen seconds.

Mr. REID. Madam President, before my friend from Illinois leaves the floor, I would like to propound a question to him. I say to my friend from Illinois, the majority leader was on the floor today, and I think the Senator from Illinois heard me remark earlier that he said the tax cuts are working. I have thought about that since I spoke 20 minutes ago, and I think he is probably right, they are working for the elite of this country, people who are in the upper income brackets.

Does the Senator from Illinois know of anyone else who is receiving a benefit from the tax cuts?

Mr. DURBIN. Madam President, I say to the Senator from Nevada, yes. I will tell the Senator who will benefit from the tax cut: the countries that are loaning money to America to finance the debt that these tax cuts have created. Specifically Japan, which is loaning over $500 billion to the United States to pay for our debt, and China. China, in loaning money to the United States, is earning interest. So the Japanese and the Chinese benefit from the President's tax cuts and economic policy because they are earning interest on this massive debt, a deficit larger than any President has ever created in the history of the United States of America. The winners, as I see it, would be the overseas investors, as well as the wealthiest people in our country. They are the winners.

Mr. REID. Madam President, has my friend reviewed the text of the book, "The Price of Loyalty"?

Mr. DURBIN. I read this book.

Mr. REID. The Senator does recall in that book where Vice President CHENEY, when Paul O'Neill said we should take a look at these deficits that are building up, and does the Senator recall—this is almost a direct quote—Vice President CHENEY interrupting the meeting and saying: President Reagan proved deficits don't matter?

Can the Senator from Illinois comment on that statement, "deficits don't matter"?

Mr. DURBIN. I remember it. In addition to some other comments in the book, it was the most graphic illustration that this administration is insensitive to the deficits and debt they are creating.

I also recall in that same book Paul O'Neill, then-Secretary of the Treasury, was recommending to the Bush administration to put triggers in the tax cuts so that if the surplus disappeared, then the tax cuts would not continue and drag us even deeper into debt. That was rejected by Larry Lindsey, the former head of the Council of Economic Advisers, the predecessor to the man who came up with this delightful equation that says losing jobs overseas is good for America.

What we have had is a wonderful parade of economic extremists in the White House who advised this administration into the current mess with our budget and with our economy.

Mr. REID. Is that the same Larry Lindsey who was fired because he said the war in Iraq would cost more than $100 billion?

Mr. DURBIN. That is right, he misspoke and, as a result, he was returned to the private sector. Now we see his predecessor, Mr. Mankiw, who now has misspoken, but we have his report. President Bush sent his report to Congress and he said outsourcing American jobs is good for America. I am sure we are going to hear a correction before the Sun goes down in Washington today.

The PRESIDING OFFICER. The Senator from Texas.

ORDER OF BUSINESS

Mrs. HUTCHISON. Madam President, has the Democratic side used all their time in morning business?

The PRESIDING OFFICER. They have 20 seconds remaining.

Mr. REID. We will be happy to donate that to the Senator from Texas.

Mrs. HUTCHISON. How generous. I thank the assistant Democratic leader very much.

Madam President, how much time do we have? Was it 30 minutes on the other side, or did they have some other time?

The PRESIDING OFFICER. There are 30 minutes remaining on the majority side.

Mrs. HUTCHISON. Thirty minutes and twenty seconds, Madam President.

The PRESIDING OFFICER. Correct.

Mrs. HUTCHISON. Madam President, I will ask the distinguished Senator from Colorado to allocate our time. There will be another speaker coming, but I would like to yield to the Senator from Colorado this 30 minutes 20 seconds.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the Chair.

THE ECONOMY

Mr. ALLARD. Madam President, I wish to talk about the economy. We can sure tell this is an election year. The false rhetoric that is going on about the economy is amazing. The fact is, the economy is recovering and our tax cuts have made a significant difference in the fact our economy is recovering.

I heard the previous speaker on the floor talk about the jobs we are losing, but this President and this Republican Congress inherited an economy that was going in the dumps when he went into office.

It was headed downhill. The stock market had been down for 9 months and the recession was just beginning when he was taking his oath of office, so one cannot blame this President for what has happened in the economy. We need to look back at what happened during the Clinton administration. We had one of the highest tax increases in the history of this country. Everybody who follows the economy knows it takes a while for tax policy to take effect. What has happened under the Bush Presidency, with a Republican Congress, is we put some tax cuts in place to get the economy recovered. It has worked. Now it did not start working immediately, but after a year or two we began to see the results. We are seeing the results today.

The Members of the Senate who come to this floor and say we ought to raise taxes, that will do nothing more than destroy the economic recovery process we see taking place right now.

I have a report from the Joint Economic Committee. The chairman of that committee happens to be Senator BENNETT. It is made up equally of Members of each party from the Senate. There are five Republicans and five Democrats on the Joint Economic Committee. They have published a rather promising report. It is time we take a look at what they say about the economy. There should not be any doubt that the economy is recovering and a lot of it has been done due to the tax cuts. We should not allow a tax increase to occur that would destroy this economic growth.

They report the economy is strong and there is sustainable growth going on. The recovery continues at a strong pace. Payrolls increased by over 112,000 jobs in January as activity in the manufacturing and services industries accelerated. Last year closed with the economy growing at a 4 percent annual rate and productivity growing at a 2.7 percent annual rate, well above the long-run averages. Despite all of this, inflation remains benign. It is not growing, allowing the Federal Reserve to maintain short-term interest rates at historical lows. Recent tax relief continues to benefit consumers and businesses. Forecasters see continued robust growth, low inflation, and accelerated job gains throughout this year. That is pretty good news.

The payroll employment increase of 112,000 jobs in January was the largest monthly gain since the year 2000. The unemployment rate fell to 5.6 percent. I remember when I took economics in college in the 1960s. Five percent was considered full employment. We were spoiled a little bit and it was definitely an aberration, as a lot of economists described it, when we got down to 4 percent, but 5 percent is still considered a full employment figure. The unemployment rate fell to 5.6 percent in January, well below its recent peak of 6.3 percent last June. Five straight months of job gains have now added 366,000 jobs to U.S. payrolls.

5.6 percent is good news. The economy grew at a robust 4 percent annual rate in the fourth quarter of 2003. Forecasters see continued growth of around 4 percent throughout this year. Productivity—this is output per hour of labor—grew at a 2.7 percent pace in the fourth quarter, above historical averages. I continue to believe the workers in this country are the best educated, the best motivated, and nowhere in the world is their productivity exceeded. They are the ultimate. I think we should be proud of that and recognize it is all that individual effort that makes a difference and what keeps this economic engine growing.

The Federal Reserve has kept short-term interest rates unchanged at 1 percent, which is good for individuals who want to buy homes, for example. The administration worked with me to pass legislation called the American Dream Down Payment Act to get people into homes. I see now they are reporting that home ownership is at an historic high. It has never been higher in the history of this country than what we are seeing today as far as homeownership. That legislation, working with the administration, is the type of effort that is making the difference.

The household survey, used to calculate the unemployment rate, showed employment gains of almost 500,000 in January. The gap between the household and the payroll measures of employment continues to widen, confirming initial labor market improvements and continuing jobless claims for unemployment insurance benefits are trending downward.

I like to rely on the household survey because I think the household survey tells us something the payroll survey does not. What it tells me is a lot of our Americans are saying, look, now is the time for me to start my own business. When they start their own business they start out small so that means they start out of their home, they contract to do their labor. Then as demand grows for their service they begin to expand out from there. The household survey reflects that.

We have seen tremendous growth in the household survey. The payroll wage survey misses that particular parameter. That has been good news for some time, and the Joint Economic Committee has shown evidence this continues to grow. This is the small business sector of this country. It is the small business sector where one sees economic growth happen because this is where new ideas develop. This is where small companies have an opportunity to grow into larger companies like we have seen many of our high-tech companies do.

Last night I had dinner with a number of executives from high-tech companies, and they are bullish on our economy. They think things are doing pretty well. They told us, well, maybe there have been a few jobs that have gone overseas, but nearly all of our jobs are growing in America. This is where our job growth is happening.

Again, this is a political year and a lot of this false negative rhetoric is not telling the full story, and that is what I want to get across this morning. The economy is recovering and that is due to our tax cuts. Gross domestic product and productivity have grown at a very strong and sustainable rate. Real gross domestic product, often referred to as the GDP, grew at a solid 4 percent annual rate in the fourth quarter, following the third quarter's remarkable 8.2 percent rate. Amazing, the third quarter of last year had a 8.2 percent growth rate.

In the second half of 2003, the economy grew at the fastest 6-month pace in almost 20 years. Over 2003, as a whole, gross domestic product grew at a robust average of 4.3 percent. By way of comparison, the economy grew at an average of 3.7 percent during the expansion of the 1990s. Even when we had unprecedented economic growth in the 1990s, it was only 3.7 percent. We saw a much higher growth rate last year. Productivity also advanced, growing at a 2.7 percent annual rate in the fourth quarter, and in excess of 4 percent for the second consecutive year, well above historical averages.

Forecasters believe the gross domestic growth will be sustained at around 4 percent throughout this year. That is all good news. Our tax cuts are working.

Let's look at business activity. Business activity continues to strengthen. Increases in average weekly hours of work and moderation of job losses in manufacturing indicate rising activity. Confirming this trend, the Institute for Supply Management manufacturing index has risen since May to its highest value since 1983. The ISM services index has also been rising and, in January, was the highest in its history. Index value over 50 means the relevant sector is expanding. Current values of well above 60 indicate vigorous expansion in manufacturing and service.

The economy is recovering and our cutting taxes is making the difference. Consumer confidence and spending grew. The University of Michigan's consumer sentiment index rose in January to its highest value since 2000. The Confidence Board's index rose to the highest in 18 months.

After tax income also continues to grow, boosted by tax cuts. Most Americans, after filing their taxes, are going to get more money back from the Government than they have in previous years. Improved sentiment and incomes have boosted consumer spending, which grew at a 2.6-percent annual pace in the fourth quarter after hearty spending in the third quarter. After tax incomes will improve further as taxpayers receive higher refunds.

What does it look like as far as the Fed? They are holding monetary policy steady. It is unchanged. This means they kept short-term interest rates at the five-decade low of 1 percent but changed their policy statement to set up flexibility to raise rates if they see signs of inflation. So they are prepared to act if we start to move into an inflationary cycle. Many measures of inflation are at their lowest since the 1960s, a key reason the Fed has accommodated strong growth without raising rates.

I continue to point to the housing market where we had huge amounts of growth in home ownership because interest rates are low. All of a sudden, individuals who could not make a downpayment on a home found that, by gosh, with the interest rates down, it is easier for them to come up with the payment. It means their monthly payment will be less because interest rates are lower. Home ownership is good for the economy. It creates jobs.

The housing market remains robust. Remarkably strong home sales have boosted the home ownership rate to a new high, and that new high is 68.5 percent. Many signs point to more strength in housing in the near term. Mortgage applications have increased again on a renewed dip in mortgage rates.

Housing starts rose in December to the highest rate in about 20 years and permits for home construction were up for the fourth quarter. This is all good news. The economy is recovering. It has been due to those tax cuts that we implemented earlier in the President's term.

Ministers from major industrial countries met last weekend to discuss currency issues, including the dollar's recent decline and China's dollar peg. The dollar fell 10 percent against Japan's yen and 17 percent against the euro last year, making U.S. exports less costly in world markets and imports more costly. Ministers again called for flexible, "orderly" exchange rates.

This is all good news. I recall at the first of last year and in 2002 manufacturers were coming to me and complaining about their inability to compete in the international markets because the value of the dollar was so much higher than what it had been historically. Those of you who are listening understand, when the value of the dollar is low, it means the cost of your goods and services are much higher and it is harder for you to be competitive against the yen or euro, for example. Now that is changing. The value of the dollar has dropped down so this means our manufactured goods are going to be able to compete overseas against those products that are already provided.

I feel good about what we can look forward to. I am disappointed that we have to resort to all this negative rhetoric because we are in a campaign. I have shared with my colleagues here, and the American people, some real facts about what is happening in the economy. I don't think anybody, when they look at these facts, can disagree that our economy is in a state of recovery. Obviously, you can take the facts and pull them over two decades and you can distort them and try to make the President look bad as far as the economy is concerned.

But the fact is, President Bush has had a strong growth policy for the economy, and it is working. It included cutting taxes and holding the growth in interest rates down, working with the Fed. Economic indicators have shown positive growth and the economy is going to continue to do that.

I cannot understand why the opposition party has decided they are going to make the economy their issue. It is a losing issue because the economy is recovering. The American people are beginning to realize that. My State, for example, is a diverse State. We don't like to put all our eggs in one basket, so we have manufacturing, we have tourism, in the State of Colorado we have agriculture, we have natural resources, high technology, telecommunications and research and development. We realize things need to be done to encourage that, something we need to encourage throughout the country, to make sure we stay competitive. And that is educations. The company executives I met with last night said, yes, education is important. We need to be sure that we have our workforce, our citizens, well educated.

The President has pushed to improve education. No Child Left Behind is certainly a sincere effort to try to improve our educational system. I happen to think it is going to work.

We are improving our educational system. The economic figures are looking good. We should all be positive about the outlook, as far as America is concerned.

I am proud to be American. I am proud of my small business roots. I had an opportunity to start a business from scratch as a veterinarian and I worked hard to see that grow. It gave me an opportunity to contribute to my community as a small businessman, and to provide an opportunity for my children to get an education. They got their education. Now they are raising their families. I want to see my grandchildren have the same future that I have enjoyed, and my children have enjoyed.

I think what the President is doing to hold down taxes creates lots of opportunity for young people to get their own business started. That is the strength of America, our small business sector. That is where innovation starts and that is where growth begins.

Madam President, I am curious to know how much time we have left on this side.

The PRESIDING OFFICER. The Senator has 11 minutes 56 seconds.

Mr. ALLARD. I want to talk a little bit more about the housing issue. As our economy was going through an unprecedented decline, we saw housing stay up. That was the one part of our economy that actually sustained us.

It was a pleasure for me to be able to work with the President on the American Dream Downpayment Act, to allow for young people in all areas of the country to begin to be able to make that downpayment on that first home.

In studying what was happening in the last several years, even though we had dropped interest rates and it was easier to qualify for loans, there were a lot of people who should have but did not own their own homes. Historically the barrier was that downpayment. So the American Dream Downpayment Act provides a way for families who run up to this barrier, where they look at their rental rates they are paying that are exactly the same as what their mortgage payment would be, this provides them an opportunity to get past this downpayment barrier in order to own a home.

It is working. It is going to work. As it moves forward—it is just getting started—it is going to do even more to create home ownership.

I am proud of this President. I am proud of his economic policies. I am proud to be able to work with him in a partnership in cutting taxes and encouraging the economy to grow.

As a small businessman, I know how that works. If anything affects a job, or growth, it is when taxes get too high and rules and regulations take over your business. As a small businessman, I have had to suffer through down economies. I have had to lay people off because our small business was not doing very well because of a down economy. It is not fun.

But we always recovered and after we recovered we were more productive and we were more efficient and we generally provided a better service. I think that has happened in this country. I think a lot of companies have taken the downturn and streamlined their operations, improved their services.

The bottom line is that we are going to have more jobs in this country. Our economy is going to continue to grow. The bottom line is the consumers in this country are going to be better served.

This President has done the right thing for America. It is unfortunate that, in an election year such as this, the political rhetoric gets so negative because it really does not reflect what has been going on. To repeat, unemployment rates have dropped to 5.6 percent. The gross domestic product is growing at phenomenal rates. Job growth is happening. It is occurring today.

Other countries have looked at what we have done in America to create jobs, and they are updating.

Competition is going to be tough in the international market, and we need to be prepared to compete. Trade restrictions is not the way to do it. We historically have been able to compete throughout the international community without trade restrictions. In fact, the trade agreements we pass actually make it possible for the United States to cut down the trade tariffs that are applied against American products.

One of the things that gets thrown out here is the trade deficit. The trade deficit has been the worst in this country during the Depression and during the recession we had at the end of the Carter years in the 1970s. When our economy goes down, trade deficits get better. When our economy goes up, trade deficits change because consumers are buying more goods. When you have them buying more goods, it creates more jobs. I don't see where the trade issue is one that really reflects what is happening in the economy.

I shared these issues with you this morning because that is really what is happening in the economy. Employment is rising, unemployment rates continue to fall, gross domestic product and productivity continue to grow strong and at a sustainable rate, business activity continues to strengthen, consumer confidence and spending grows, the Fed is holding interests rates at a steady 1 percent, and the housing market looks really good. It has been good for a while and continues to look good. When you compare the dollar to the yen or to the euro, its value is going down, which is good for exports. It is good for business. It means we will be able to move our products overseas. I think it looks good.

I am proud of this President. He has the right solution, and it is working.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 2285, in the nature of a substitute.

Warner modified amendment No. 2286 (to amendment No. 2285), to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I commend the Senator from Colorado, Mr. ALLARD, for his remarks on the economy. I want to get into the pending amendment. At that point, I hope the managers will allow me to continue and talk about this seatbelt amendment.

I commend my colleague from Colorado, Senator ALLARD, for his comments. Tax cuts are working because individuals, families, and small businesses have greater freedom. They are investing. More jobs are being created, and there is more economic activity which makes our country more competitive.

Our tax laws and regulatory policies—and any policy we have in this country—needs to ensure that there is more investment and more jobs in America. We ought not ruin opportunities for businesses to provide their employees with broad-based stock options. The People's Republic of China has technology companies that promote themselves because they have stock options for their employees. I hope in America we would not deny that opportunity. Internet taxes matter. We need not be imposing higher taxes on access to the Internet, particularly broadband. Energy is important. We need to have energy sufficiency and reliance, domestic production of natural gas or clean coal or oil, as well as advancements in new technology. And this highway bill is a part of that, it is also for infrastructure, jobs, and the movement of people to and from work with less congestion. I hope we will get to it.

In the midst of this, we have an amendment. I have a tremendous amount of admiration and respect for my colleague, the senior Senator from

Virginia, Mr. WARNER. His service to Virginia and to our Nation makes him a true American hero, in my view, and a great patriot. It is an honor to serve and partner with him.

However, I am compelled to voice my opposition to an amendment that Senator HILLARY CLINTON and he have proposed to the underlying highway bill. The amendment that is before us, while certainly well-intentioned, should not, in my view, be the purview of this body or the Federal Government. The proponents argue that it is a good idea to wear seatbelts. In most cases, that is true. But there is really no assertion nor persuasive reason that has been proffered for Federal jurisdiction in this case. This certainly is not interstate commerce. Without a Federal interest, I think this cause or this claim or this idea ought to be dismissed in the Senate and remanded to the place where this ought to be adjudicated; that is, in the State legislatures because this is clearly a State interest.

Beyond the lack of Federal jurisdiction, I have long detested nannyism that emanates from the Federal Government. I believe legislating common sense is an ill-fated course that will result in countless mandates and directives imposed upon the American people.

No one in this body or around the country will argue that wearing a seatbelt is not a good idea. I wear them. I make sure my kids are buckled up. Of course, there are laws that have to do with children, but we are dealing with adults with this amendment.

The point is whether or not the Federal Government or any government ought to be legislating or coercing sensible behavior. There will be all sorts of ideas where people will say: Gosh, it is in government's interest—not just seatbelts but, gosh, you should not be drinking hot coffee, you should not be talking on the cell phone, and you should not be changing the radio station or trying to find your Alan Jackson CD while driving. You should not be eating a hamburger while driving. You ought not be looking at your Blackberry and replying while driving.

If there are going to be laws in this area—which I do not advocate—it ought to be at the State level.

Any of these examples I cited, obviously, endanger not only the driver but others.

I thank my colleague from Missouri, Senator BOND, for his great leadership on the highway bill, and also his support for the principles I will continue to espouse to my colleagues on this mandatory seatbelt dictate amendment.

I don't think this body wishes to dictate mandates on a lot of things because they make good sense. Let's look at law enforcement. I am sure there are some in law enforcement officers who like this idea of primary enforcement rather than secondary enforcement. In my view, law enforcement has a lot of important things to do, especially on safety of the highways.

For example, there is a driver on the road without his or her seatbelt on but otherwise driving the speed limit in their lane safely, not impaired by drugs or alcohol; meanwhile, law enforcement stops them, pulls them over, and it takes 20 to 30 minutes for them to cite someone who undoubtedly will be miffed by such pestering. At the same time, down the same stretch of highway there could be a drug-impaired or alcohol-impaired driver weaving down the road undetected because the sheriff's deputy or the State trooper or the police officer is bothering someone who is otherwise driving safely.

This amendment clearly tramples on the rights, the prerogatives, and the jurisdiction that have long been the purview of the people in the States. I don't believe mandates such as this initiative should come from any level of government. I was not for it as a State legislator or a Governor of the Commonwealth of Virginia. However, if governments are to be making a decision on this, it ought to be the State governments, not the U.S. Congress.

The logical regression is that somebody could make an argument that people riding motorcycles are safer wearing helmets than not having helmets. There are many States that do not have helmet laws. It is the right of the people of South Dakota, or whatever State it may be, to have such helmet laws. The logic, of course, would be that the Federal Government could say all motorcycle riders have to wear helmets.

In my view, our State legislatures provide a much closer representation of the views, the beliefs, and the will of the people in their respective constituencies, in their respective States all across our country. I am a firm believer that the laws of a particular State do reflect the principles and the views of its constituents and how they want to be governed.

I hope my colleagues realize that many States do not have primary seatbelt laws. In fact, 30 States do not. While New York and New Jersey have primary enforcement, as do Maryland, Delaware, and California, there are 30 States, from Maine to Virginia, to South Carolina, to Florida, to Missouri, to Nevada, Idaho, Arizona, and Alaska, that do not. If such seatbelt laws are desired, the citizens in these States will elect representatives and State legislators who share this belief and who want to pass such a petty law.

A minority of the States currently have the primary enforcement of seatbelt laws. I am sure it has been considered by State legislatures. It has been considered in Virginia for many years and debated as to the benefits of primary seatbelt statutes. Never, though, has it been agreed to be the law of the Commonwealth of Virginia. In fact, just last week the Virginia House of Delegates Transportation Committee tabled a measure that would have established a primary seatbelt law.

Again, I am often puzzled by the scant Federal nexus on this issue. Is it that State roads go through other States? For the Federal Government to usurp State authority on an issue that does not concern the safety of the public but only the individual in my view is Federal meddling at its worst, especially when coupled with repressive extortion.

When these issues are decided by State legislatures, all sorts of interesting things come up. There is naturally the libertarian streak, which my good friend, the senior Senator from Virginia, and I will discuss from time to time. That is an issue. But, interestingly, some other issues will come up. Last year in the debate in the Virginia General Assembly and the House of Delegates, Delegate Ken Melvin of Portsmouth, VA, voiced his opposition to a primary seatbelt law, stating: I know what happens when you are stopped by police, as a black man in this country and in Virginia, in particular. He explained how his son was harassed and pulled over numerous times for no apparent reason.

So we end up with concerns of driving and persecution of people on account of their race. That is something to be decided in a State legislature. I am not sure if every State has it. I am sure most places in Virginia do not have this problem. Nevertheless, that is the discussion that was held on the floor of Mr. Jefferson's capitol in the Commonwealth of Virginia.

The Virginia Legislature and the legislatures of other States, from Alaska to Florida and South Carolina, can discuss the impact of this on the people of their States rather than have the Congress hold hostage desperately needed funds for highways to make them comply with the one-size-fits-all edict and agenda.

Proponents will say this initiative provides States with supposed options. The reality is, by withholding highway funding, it is a de facto mandate. I do not believe in blackmailing the people of the 30 States, or any State with primary seatbelt laws for funding that their citizens have paid into the Federal highway trust fund.

I have watched this debate very closely on the reauthorization. We have heard the vast majority of Senators, thank goodness, laud the potential of this measure to create thousands of jobs in their States and obviously alleviating aggravating congestion in metropolitan and suburban areas of our country. If that is the case, why should we, as a Federal Government, withhold any portion of this funding, given its great prospects for jobs and also its ability to improve the quality of life? Our Commonwealth of Virginia would lose tens of millions of dollars until enacting a primary seatbelt law or convincing the federal government ninety percent of Virginians are wearing seatbelts.

Given the congestion in Hampton Roads, northern Virginia, and the number of Virginians seeking employment, I cannot support a measure that would reduce the amount of benefits available to Virginia.

I commend my friend and partner, Senator WARNER, on what he has been able to do over many years in getting Virginia's share of Federal dollars up from 79 cents to 80 cents to 90 cents and, in this measure, up to 95 cents. But Virginia is already paying in more than we get back. In addition, punishing the people of Virginia by withholding until they are coerced in the legislature into passing a primary enforcement of a seatbelt bill, to me, is wrong.

I know what they will have to do; they will have to pass it, just as they had to pass in all the States raising the beer drinking age and the .08 blood alcohol content maximum. The latter did not have an impact in Virginia because as Governor I advocated .08 and we enacted into law.

States need the funds for roads and transit. It is contrary to the best interests of Virginia to force primary seatbelt mandates in exchange for funds. We ought to be making the most funding available for highways rather than returning less of Virginia gasoline taxes to them until they pass such an officious measure as this.

There are more effective ways to convince Americans to wear seatbelts when driving or traveling in an automobile or pickup truck. But meddling into every aspect of our citizens' lives, usurping the authority of the people through their legislatures, holding hostage infrastructure funds that are so needed, to me, is not the appropriate method to realize these salutary goals.

As I said, I have a great deal of respect for Senator WARNER. I know he cares passionately about this issue, but I don't believe this is in the best interests of the Commonwealth of Virginia or 49 other States. In my view, it continues a dangerous precedent that allows the Federal Government to further encroach on an issue traditionally determined by the States by withholding these infrastructure funds. This is simply not an issue for the Senate. It is not an issue for Congress to decide. It is clearly properly reserved to the people in the States.

I hope my colleagues will join me in opposing this amendment, tabling it, however it comes before the Senate. I certainly do not want to play the role of "father knows best" or senatorial nanny to coerce or reverse the decisions clearly made by my State's legislature or, for that matter, 29 other States.

Let there be no mistake. I strongly support greater seatbelt usage. I believe it can save lives on our roads and highways. But I do not support that usage coming as a result of a dictate and blackmail from "Federales" here in Washington, DC.

Let's not meddle with the laps of drivers driving safely down the road as adults. Let's trust free people to make these decisions and their State legislatures as to what they think the laws and enforcement ought to be, whether it is helmet laws or whether it is seatbelt laws. Let's also pass this otherwise beneficial bill that will help reduce congestion and help create jobs in our country.

Mr. WARNER. Mr. President, will the distinguished Senator, my dear friend, yield for some questions?

Mr. ALLEN. I would be happy to.

Mr. WARNER. I think as the two of us are here on the Senate floor, I am reminded that when Ben Franklin emerged from the Constitutional Convention, a reporter asked him: Well, what have the delegates to the convention rendered America? He said: A republic, if you can keep it. And this is the very essence of the Republic, if we can keep it, because here we are, two of the best of friends, proud to represent the Commonwealth of Virginia, and 90 percent of the time we are aligned. Yet our system allows the two of us to debate opposite positions on a piece of legislation I offered. I think that is magnificent, not only for our State but for the country.

Mr. ALLEN. If I may, I would much rather be debating this issue with your colleague on this, the junior Senator from New York. It would be much more enjoyable than with someone who is such a great partner. I yield back.

Mr. WARNER. I believe there would be somewhat greater notoriety, but I think some of the folks down in Virginia would be rather amused that here we are, the two elected Senators, having an honest and forthright debate, and in a friendly spirit.

But I picked up on one or two of your words. I know you love that word, Congress being the "nanny." But, first, I ask my junior Senator, have I ever been a nanny toward you?

Mr. ALLEN. Of course not.

Mr. WARNER. Fine.

Mr. ALLEN. I wouldn't allow it, and you wouldn't either.

Mr. WARNER. So be it. Let's put that to one side.

Mr. ALLEN. I would say for the record, Mr. President, no, the senior Senator from Virginia has given me guidance but never in a sense of being an officious nanny whatsoever.

Mr. WARNER. Nor will I ever because I have tremendous respect for the Senator. We come to the Senate with different career backgrounds: You, a very distinguished State legislator, then Governor, and now U.S. Senator. How well I know that. I campaigned as a U.S. Senator when you were a State legislator, when you were running for the governorship, and then for the Senate. I am privileged and delighted that the Senator is here.

But you used one word I have to ask you to reconsider: This will establish a dangerous precedent. I ask my good friend—Virginia has the .08 drinking law, which has been very effective. It has saved lives. That is the purpose of this legislation, to save lives. To me, a little less concrete, a little less asphalt, and we may save a life, and we may save thrusting expenses on the local communities—whether it is the small community of Hopewell, VA, or the large community of Richmond. When an accident happens, they are the ones who bear the cost of sending out the police, the rescue squads—fortunately, Virginians volunteer in many instances—to attend to the wounded, the sick, and, indeed, the dying as a consequence of the accident.

That is costly, and it is clearly documented that we save lives with the increase in the use of seatbelts. The Secretary of Transportation, on behalf of the President, wrote this body a letter, addressed to the distinguished chairman, Mr. INHOFE, which is in the RECORD. It explicitly says the increase in the use of seatbelts saves lives. I do not think throughout this debate—I have been here throughout this debate—not one single Member of the Senate has taken the floor and addressed this legislation that it does not save lives. That is a given.

So let's go back to the .08 law. Is that not a direct precedent for this piece of legislation? This legislation is drawn, sentence by sentence, comparable to the .08 law. That was my objective.

Mr. ALLEN. I say to my colleague, the senior Senator from Virginia, it is similar in some respects.

Let me make a few points. Talking about cost—local rescue squads, volunteer fire departments, and so forth, having to work accidents—well, it is not as if the State legislatures do not care about these costs because, after all, if it is State police or if it is local supervisors or whoever it may be, they all care about that as well. And that is the proper forum for this because I think the people in the States do care just as much if not more and are much more in tune with what they would like to do in their laws than the Federal Government.

The difference on .08—I did allude to it, and it is a good, probative question—the .08 blood-alcohol level for drunk driving, or driving while under the influence of alcohol, is something that I advocated when you were alongside of me campaigning for Governor in 1993. There was opposition to that. But I thought, as well as you do, that at .08

most people are going to be impaired and, therefore, a danger, in that case to themselves, but what I cared most about was the danger to others.

In the case of somebody's lap, whether they are wearing a seatbelt or not, if it is a danger, it is only a slight increase in danger to themselves. It is not a danger to others on the road. Whereas, for somebody who is a drunk driver, clearly it is going to be a danger to themselves, but what might they do to an innocent pedestrian, somebody else driving on the road? So even .08, while we had it—and so the dictate and the extortion, whatever term you want to use on .08, it did not matter to Virginia because we had already passed that law, imagine that, without the wisdom of Washington. We actually did that. The point is, in this case, unlike a drunk driver, not wearing a seatbelt is not a danger to others, while a drunk driver is. And that is a distinction I would make.

But in either case, just personally—this is just philosophical to me, and maybe it is because of my experience serving in the State legislature and as Governor—I think the people in the States are perfectly capable of making these judgments themselves. And to restrict or take away funds unless you follow the dictates of the Federal Government in something that while desirable is not really the proper jurisdiction of the Federal Government, to me, is just wrong.

Mr. WARNER. Mr. President, I say to the Senator, I full well know, having had the privilege of working with you throughout much of our public service careers, your strong feeling about States rights. And I have mine also. But I have to tell the Senator, the facts do not bear out the assumption that that individual driving without the seatbelt is of minimal danger to an innocent person, be it a pedestrian or one in another car, for this reason: It is very clear that if an accident occurs with an individual driving under the restraint of a seatbelt, he or she has, in that split fraction of a second, better control over the car than one who is totally jostled out of the driver's position and loses the ability to operate the controls of the car because of the absence of a restraint to keep that individual in the position of the driver.

Now, the record is replete with those facts. Secondly, yes, you think the people of Virginia—and we love them dearly and they will be on your side, not on mine; they will be on your side—should make the decision. But, tragically, for children, 6 out of 10 die who do not have the seatbelt put on them.

By the driver putting on his or her seatbelt, there is more of an inclination, then, to do the same with the other passengers in the car. The death on our highways today cuts into the young people, the younger generation coming along behind us far more deeply than our age group. The main category of deaths in this country, on the highways, is between the ages of about 17 and 30. There is the preponderance of deaths.

How well you know and I know when we were that age, you know: The laws be damned; we can handle anything.

That is the magnificence of youth, the exuberance, to meet the challenges, whatever they are, and "don't tell me." I always admire that flag of New Hampshire that says: Don't tread on me. But now and then we have to tread ever so lightly upon our citizens to induce them to take those fundamental steps, not only to protect themselves but to protect that innocent victim on the streets or in another vehicle.

This formula is drawn up, yes, that some funds are withheld if the State does not go ahead. We only lost by one vote in the Virginia General Assembly on two occasions to get this very piece of legislation. You acknowledge that fact.

Mr. ALLEN. It has failed for many years.

Mr. WARNER. One vote. All I am saying to you is, if you just require the State, all right, if you don't do it, you will have to give up a little asphalt, a little more concrete, but in return we are saving lives, not only the lives of the young people in that car but the innocent victims, the passengers of another vehicle, or the pedestrian. For a very few cubic yards of concrete and asphalt, we may well save a life.

Mr. INHOFE. Mr. President, may I make a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Oklahoma.

Mr. INHOFE. Which of the two distinguished Senators from Virginia has the floor?

The PRESIDING OFFICER. The junior Senator.

Mr. WARNER. I can answer that, the distinguished junior Senator has the floor.

The PRESIDING OFFICER. The distinguished junior Senator.

Mr. INHOFE. I thank the Chair.

Mr. ALLEN. Mr. President, I imagine the manager of this measure, the chairman, Senator INHOFE, may want to speak on this. I will just say I very much enjoyed listening to the arguments of my esteemed senior colleague from Virginia, Senator WARNER. I was just thinking, this is the sort of argument that ought to be made in Mr. JEFFERSON's capital. If you look at all the rest of the States, folks care about kids. There are laws requiring children under certain weights and ages to be in car seats and they do have to be buckled up.

Here you have the States of Maine, New Hampshire, Vermont, according to the Advocates for Highway and Auto Safety, Massachusetts, Rhode Island, Pennsylvania, West Virginia, Virginia, Ohio, Kentucky, Tennessee, South Carolina, Florida, Mississippi, Arkansas, Missouri, Wisconsin, Minnesota that don't have primary enforcement of seatbelt laws, they probably have secondary enforcement laws like Virginia. Additionally, North and South Dakota, Nebraska, Kansas, Colorado, Wyoming, Montana, Idaho, Nevada, Utah, Arizona, and Alaska.

Those folks, if they want to pass these laws, I guarantee, none of them have anyone as articulate and persuasive and passionate and caring about this issue and America than John Warner. I am not suggesting the Senator join a State legislature. But those folks can come to these conclusions. They can look at their statistics. They also could make these decisions.

In addition to that, to say States that are sending Federal gas tax money up to Washington are going to get less back unless they comply with an issue that is their purview, I think is wrong. It is an honest disagreement, a difference in philosophy. I very much respect and appreciate Senator WARNER's true and sincere beliefs. I still respect him and always will. This will probably be a close vote. It is just to me a place we should not be dictating a course to the States in matters that are rightfully their prerogative.

Mr. WARNER. Will the Senator yield for one further point?

Mr. ALLEN. I surely will.

Mr. WARNER. He enumerated a number of States that still do not have it. If you go back, as I have done, and studied the .08 law, it was vigorously resisted here on the floor of the Senate repeatedly for the very same reasons you have given. But once it was passed and it became mandatory, suddenly the States joined up. There are now 49 States that have the .08 law as a direct consequence of the Congress having given the impetus for those additional States that were hanging out, all of which you just enumerated; in this instance they joined.

Lastly, I think it is also important in the debate to mention your own personal experience of an individual who was concerned that it would begin to have cars pulled over by virtue of race. But one of the most interesting individuals who attended a press conference the day before yesterday was a black legislator from Arkansas who is chairman of the National Conference of Black State Legislators. He brought with him that organization's endorsement of this bill. So I do believe there is some legitimate difference within one minority with respect to the question of how this law will be felt.

Five States had 21 minimum drinking age, when President Reagan, your idol and mine, signed that into law. So I am just telling you, .08 is an example of how Congress finally acted, and then all the States, save one—I won't mention the one; somebody can do their homework; it is rather curious which State it is—have accepted the .08 law.

I say to my good friend, we have had a marvelous debate. I have enjoyed it. My respect for him as a consequence of the debate has increased, my dear friend.

Mrs. CLINTON. Will the distinguished Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. ALLEN. What is the question?

The PRESIDING OFFICER. The Senator from New York is asking the Senator to yield for a question.

Mr. ALLEN. I will yield, but before I do, I want to make a statement. After that I would be happy to answer a question.

This is the fundamental difference. On .08, as Governor, as a candidate, I thought it was a great idea. The reason all the States have the .08 but for one is because you are withholding or the Federal Government is saying we are going to withhold some of your highway funds for it. It is blackmail. It is extortion, raising the beer-drinking age in Virginia because of that. Ronald Reagan is my hero. He is the one who motivated me to get into organized politics. I think he was wrong to do that. I think for people who are 18, the States can make these decisions. They can enter into binding contracts. They can vote for President, vote for Members here, and they can also theoretically be drafted to fight and potentially die for their country. I think the people of the States can make those decisions.

On this issue, in particular, the .08, I am with you. I am for it. I think that should be done at the State level. The mandatory seatbelt law and primary enforcement is something that when I held Mr. Jefferson's seat in the House of Delegates I voted against. So if I have voted against it and was opposed to this nannyism when I was in the State legislature, I know the air is more rarified up here, but I still have some of those senses. I certainly do not want to do something in the Senate I would not want to do as a legislator and, moreover, tell the folks in other States to do it.

With that, I yield to the junior Senator from New York.

Mr. WARNER. If I could just make one reply to my colleague and then we will yield the floor. This bill is carefully crafted, that, yes, there is a withholding of those yards of concrete and asphalt, but once the State complies, what has been withheld by way of funds comes back to them to go right into the mainstream of their funding, not unlike .08.

Mr. ALLEN. Understood. I yield to the Senator from New York.

Mrs. CLINTON. With respect to this legislation that I am a proud cosponsor of, along with the key sponsor and advocate, the senior Senator from Virginia, I ask unanimous consent that Senator CORZINE be added as a cosponsor as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. With respect to the debate that has been occurring, I understand the concerns raised by the Senator from Virginia, but under this amendment States would have the option of either enacting a primary seatbelt law or bringing their seatbelt usage rates up to 90 percent without such a law. Therefore, it is an option provided today. Would the Senator from Virginia agree that the lack of seatbelt usage causes up to 30,000 people a year to die in automobile accidents that occur on our highways and byways in this country?

Mr. ALLEN. Mr. President, I say to the junior Senator from New York—her question was do I agree that not wearing seatbelts causes 30,000 deaths? No. Not wearing them doesn't cause death; death is caused when somebody is drunk or impaired by drugs, not paying attention, or speeding, or taking a turn too quickly. The sole fact of not wearing a seatbelt is not the proximate cause of the death. Whereas, if you look at the statistics, impaired driving is clearly the No. 1 cause of fatalities, and not just of drivers but also those who are not.

Having said that, I do think it is a good idea to wear seatbelts. I have no objection to it. I think airbags are a great invention. There were those in previous years wanting to dictate to the manufacturers to put airbags on their cars. People realized that airbags could save lives. Whether somebody is wearing a seatbelt or not, of course, the maximum safety is the airbag. Car manufacturers are using that accessory as a selling point rather than a Government dictate. But not wearing a seatbelt does not proximately cause death.

Mrs. CLINTON. Mr. President, I clearly have a fundamental disagreement with the views of the junior Senator from Virginia. I hope our colleagues will look at the facts. The facts are that failure to enforce seatbelt laws, to make it absolutely clear that there are penalties associated with not wearing seatbelts, causes deaths from accidents that would otherwise not cause fatalities.

This amendment will help us encourage States to adopt stricter seatbelt laws. We give them an option. I hope our colleagues will join with us in voting for this very important safety measure.

I thank the Senator for yielding the floor.

Mr. ALLEN. Mr. President, I do yield the floor.

AMENDMENT NO. 2311

(Purpose: To express the sense of the Senate concerning the outsourcing of American jobs)

Mrs. CLINTON. Mr. President, I also rise today to offer an amendment that is a sense of the Senate on an issue I spoke briefly about on the floor yesterday. I know the majority leader and several others touched on it this morning. It is regarding the issue of jobs and the administration's economic policies.

This sense-of-the-Senate amendment is on an issue that is of critical importance to New Yorkers and all Americans, the loss of jobs in our country. We have lost 2.2 million jobs since the beginning of this administration. This sense of the Senate is not about cutting or raising taxes; it is about protecting the jobs that Americans have today, because these 2.2 million people are not statistics; they are factory workers, office workers, laborers, engineers, radiologists—people holding down jobs in every sector of the economy throughout our Nation.

Why are they losing jobs? Because this administration has failed to provide the leadership or put forth an economic plan that inspires confidence in our markets and inspires investments by our companies in the United States.

So where are these dollars and investments going? They are going overseas, where companies don't have the same environment and labor standards, and where they don't have to pay the wages that are necessary to support a middle-class lifestyle in America.

Now, these lost jobs are a tremendous concern to those of us in this Chamber. I hear about it everywhere I travel in New York. You would think if there could be a consensus on anything in this Nation, it would be on how we keep jobs in America, how we prevent jobs from being outsourced, sent overseas. But apparently there is no consensus. That is what is troubling me.

According to the Los Angeles Times yesterday, "Bush Supports Shift of Jobs Overseas." I did a double take. I could not believe that was the headline. The L.A. Times wasn't the only newspaper surprise. The Seattle Times headline read: "Bush Report: Sending Jobs Overseas Helps U.S." The Pittsburgh Post-Gazette reported: "Bush Economic Report Praises 'Outsourcing' Jobs." The Orlando Sentinel said: "Bush Says Sending Jobs Abroad Can be Beneficial?"

Where did this come from? It came right from the White House. According to Gregory Mankiw, the President's chair of the Council of Economic Advisers:

> Outsourcing is just a new way of doing international trade. More things are tradable than were tradable in the past. And that's a good thing.

I know the Presiding Officer shares my concern about lost jobs. He sees it in his State, as I see it in my State. I don't think losing American jobs is a good thing. The folks at the other end of Pennsylvania Avenue apparently do. Maybe that is because they have no real strategy of creating jobs in America. Maybe that is why in this budget they have sent up they are gutting investments in workforce training and dislocated worker help, and they are not pushing for stricter standards in trade agreements on labor and the environment. They are really coming forward with no plan to help control health care costs or pension costs facing American companies.

The only economic policy they have is to cut taxes, cut taxes, cut taxes. The more, the merrier. Give those CEOs and wealthy folks at the top even more money to take jobs and move them out of our country.

It is all starting to make sense. The administration thinks moving jobs overseas is a good thing. This is part and parcel of a set of economic policies that are out of touch with the needs of America's working people.

I now send this amendment to the desk. I hope this Congress will take up this issue as quickly as possible, because we need to send a clear message to Americans of all political persuasions, in all regions of our country, that we care about jobs. If the administration doesn't have a strategy, then this Congress will have a strategy. I ask for immediate consideration of this amendment, and I ask that Senator Bingaman be added as a cosponsor.

I yield the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mrs. Clinton], for herself and Mr. Bingaman, proposes an amendment numbered 2311.

Mrs. CLINTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE CONCERNING THE OUTSOURCING OF AMERICAN JOBS.

(a) Findings.—The Senate finds that—

(1) the President's Chairman of the Council of Economic Advisors recently described the outsourcing of American jobs overseas "as a good thing" and said, "outsourcing is just a new way of doing international trade";

(2) the President's economic policies have either failed to address or exacerbated the loss of manufacturing jobs that our country has experienced over the last 3 years;

(3) American families are facing an economy with the fewest jobs created since the Great Depression;

(4) 2,900,000 private sector jobs have been lost since January 2001, including 2,800,000 manufacturing jobs;

(5) on several occasions the Senate has supported reforming our tax laws to eliminate policies that make it cheaper to move jobs overseas; and

(6) job creation is essential to the economic stability of the United States and the Administration should pursue policies that serve as an engine for economic growth, higher wage jobs, and increased productivity.

(b) Sense of the Senate.—It is the sense of the Senate that the Senate should—

(1) oppose any efforts to encourage the outsourcing of American jobs overseas; and

(2) adopt legislation providing for a manufacturing tax incentive to encourage job creation in the United States and oppose efforts to make it cheaper to send jobs overseas.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2286

Mr. WARNER. Mr. President, yesterday I had an opportunity to offer the amendment which is now pending before the Senate and to engage in debate with my colleagues on the important issue of increasing the use of seatbelts in this country.

At the request of my colleague, the manager of the bill, Chairman Inhofe, my amendment was modified last night to give States a full 2 years before it takes effect.

I wish to take a few moments to summarize this amendment and be sure that my colleagues understand precisely what this amendment is and what it is not.

To the point, this amendment is not a mandatory seatbelt law.

This amendment sets as our national policy that States are to reach a 90-percent seatbelt use rate by 2006—a full 2 years from now.

States can meet this goal in two ways. First, they can meet this goal by any means or programs they devise. They can implement new programs or modify their existing occupant protection programs. Funding is also provided to assist States with implementing or expanding their existing programs. This language is identical to the provisions recommended in the administration's bill, but it is not included in the bill before us.

States can also meet the requirements of the amendment by enacting a primary seatbelt law.

This 90-percent belt use rate is not a number that I have invented. It is the figure recommended in the President's highway reauthorization bill.

Wearing seatbelts is a critical public health and safety issue. For the first time in a decade, highway deaths are on the rise. In 2002, nearly 43,000 persons were killed on our highways and over half of these deaths involved people who were not wearing their seatbelt.

If for no other reason to support this amendment, we must protect our Nation's youth. Today, automobile crashes are the leading cause of death for Americans age 2 to 34.

These tragic statistics are reversible if we take action today.

That is why over 130 organizations are endorsing this amendment. The support includes major national organizations such as the American Medical Association, law enforcement officials, major insurance companies, the Alliance of Automobile Manufacturers, Mothers Against Drunk Driving, and the list goes on.

These are the people who deal every day with the wasteful and avoidable deaths on our highways. They are on the front lines in responding to a crash. They are in our hospitals providing care to those who have sustained serious injuries because a seatbelt was not worn. They are the ones who see ever-increasing insurance costs for all Americans because seatbelts are not used. They are the ones who know that safety devices in our cars—such as air bags and enhanced bumpers—are less effective when seatbelts are not worn.

My colleagues who do not support this amendment have read letters of concern from State groups and others. That is no surprise. At every turn in our Federal transportation policy for the past 15 years these same groups have opposed every public safety initiative. They opposed raising the minimum drinking age to 21, they opposed the zero tolerance for minors alcohol program, and they opposed the .08 BAC drunk driving level.

My only interest is to ensure that this critically important legislation contains some meaningful protections for drivers and passengers.

In TEA-21, there was a 40-percent increase in construction funding, which I proudly supported, to make our roads safer. Yet, traffic deaths are increasing. In SAFETEA, there is a $65 billion increase for highway construction, yet inadequate protections for our drivers. No engineering features of our roads will protect against reckless driving behavior. That is what causes a majority of our accidents.

Unbelted drivers, speed, and alcohol remain the three biggest safety problems on our roads—not unsafe roads. We are taking meaningful steps to get tough on those who irresponsibly use alcohol and drive. Now it is time to do what we know works to address the other major problem—unbelted drivers.

For the benefit of my colleagues, let me summarize the amendment. States are to achieve a 90 percent belt use rate by 2006—2 years from now—or have a primary seatbelt law enacted.

If a State does not meet either of these two provisions, 5 percent of one category of their construction funds are transferred to their highway safety programs. The purpose of this transfer is to provide States with additional funding to dedicate to their own programs to encourage drivers and passengers to wear their seatbelts.

If by 2008—4 years from now—a State has not met the 90 percent belt use rate or has not enacted a primary seatbelt law, 2 percent of a portion of their construction funds are withheld. For each of the following years, 4 percent of a portion of their funds are withheld.

States will receive any funding that is withheld when they reach the 90 percent belt use rate, or enact a primary safety belt law. This is the same provision that is law today for the .08 BAC drunk driving standard. Since it was enacted in 2001, 47 States now comply.

There is a solution to the tragic deaths that are occurring on our highways every day. This amendment is the beginning. Let's do what we know works to save lives on our highways.

Let's not pass the buck by believing that it is the responsibility of others to take action. It is our responsibility. I urge my colleagues not to support the motion to table.

Mr. INHOFE. Mr. President, as always, the Senator from Virginia was very courteous yesterday to modify his amendment to give States more time to comply with the requirements of his amendment. I sincerely appreciate his willingness to do so. Unfortunately, my underlying concern with imposing sanctions still requires that I oppose the amendment.

Two days ago, the U.S. Department of Transportation released a statement on sanctions and withholding Federal funds from States which do not have a primary seatbelt law. The statement reads as follows, and I quote:

> The Bush Administration's continuing efforts to increase local enforcement and education have boosted safety belt use to the highest level in U.S. history. The Administration opposes sanctions and withholding state funds, both of which would jeopardize important state-level safety programs and infrastructure maintenance programs already in place.
>
> The Administration is working hard to help pass primary safety belt laws throughout the country, and we're seeing results. Twenty states and the District of Columbia already have primary laws. And many other states, including Florida, South Carolina, Ohio, Arizona and Virginia are currently considering primary laws—with our help, not with mandates.
>
> The Administration calls on Senator Warner to join us in helping Virginia state legislators understand the need for a primary safety belt use law.

As I said yesterday, I support the use of seatbelts, and I would suggest that instead of threatening the states with a stick the better approach would be to induce them to achieve better performance in this area with some kind of incentive. Title IV, Surface Transportation Safety, of the pending substitute, contains an incentive grant program. As proposed by the Commerce Committee, this $100 million per year incentive grant provision would go a long way to achieving the goals that I believe my colleague from Virginia is trying to accomplish in his amendment.

Offering incentive grants to States that pass a primary seatbelt law or increase their seatbelt use rate is a much better approach to this problem than combination of mandates and penalties. History has also shown that so far, no State has been able to achieve the benchmark level of a 90 percent seatbelt use rate without enacting a primary law. Ultimately we all know that the decision to pass a primary law is up to each state individually. Although neither a sanction, nor an incentive approach is guaranteed to prod every State to produce results, the incentive method is the much better option. In a bill where money is tight, I am grateful that the Commerce Committee saw fit to apply some of those limited funds to this purpose. With that in mind, I question what the benefit would be of having both an incentive and a penalty, where just an incentive would do.

Currently, only 20 of the 50 States meet the requirements laid out in the mandate offered by the good senator from Virginia. I can't get over the fact that 30 States would be immediately thrust into noncompliance and subject to a possible cut in Federal funding under this plan.

As I have said before, my home State of Oklahoma is already in compliance with the requirements proposed in this new sanction, but I fundamentally oppose any imposition of new sections. As much as I personally agree with using seatbelts, I have to recognize that the only proper place for this decision to be made is in each State legislature, not in Washington, DC.

Mr. President, I move to table the Warner amendment No. 2286, as modified, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 2286, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—57

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Byrd
Campbell
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Domenici
Dorgan
Ensign
Enzi
Feingold
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Jeffords
Johnson
Kohl
Kyl
Leahy
Lott
Lugar
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Reid
Roberts
Rockefeller
Santorum
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NAYS—41

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Cantwell
Carper
Chafee
Clinton
Corzine
Dayton
DeWine
Dodd
Dole
Durbin
Feinstein
Fitzgerald
Frist
Hollings
Inouye
Kennedy
Landrieu
Lautenberg
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Sarbanes
Schumer
Sessions
Shelby
Smith
Stabenow
Warner
Wyden

NOT VOTING 2

Edwards
Kerry

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. ALEXANDER. Mr. President, on rollcall vote 9, I voted nay. I intended to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. BOND. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Missouri.

Mr. BOND. Madam President, I rise to discuss a second-degree amendment that I intend to offer. It deals with a very important problem in the national interest—assuring that rental and leasing car operations can be performed in all 50 States.

Right now there are several States which have something called unlimited bicarious liability. Under this, if a leasing company leases a car or a vehicle to a person who appears to be a reasonable and responsible driver who meets all of the requirements, and that person goes out and has a horrendous accident, in a few States the victims and the personal injury lawyers are enabled to sue the leasing company which had no control over the car or truck or van and had no evidence of negligence or shortcomings in their procedures in leasing that vehicle. There have been hundreds of millions of dollars of judgments.

We have seen in a small number of States liability being imposed on rental and leasing companies without fault.

It has cost car and truck renting and leasing companies more than $100 million annually. The problem is these costs don't just come out of the pockets of those in that State; they are paid nationally.

When any of us go to rent or lease a car, we are paying far more than we otherwise would because they have had to cover the costs of outrageously high judgments imposed by a few States which allow this bicarious liability language and bicarious notion to apply.

In other words, if you are in New York, for example, and you have leased a car, if you go out and hit somebody, it doesn't matter whether the leasing company is at fault. The leasing company is the one that is sued. If there is $100 million judgment against that company, guess who pays for it. Not the people who lease the car in New York but all of us as consumers who may go out to lease a car in all of the 50 States.

Therefore, the amendment I am proposing says provided there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle by reason of being the owner of such motor vehicle.

In other words, if the owner of the vehicle hasn't done anything wrong—there has been no negligence, no criminal wrongdoing—but the person who leases that car goes out and has a horrendous wreck, the person who has leased the car is the one who ought to be held responsible.

We should not have to finance jackpot judgments against leasing companies that pass those costs on to all of us across the Nation whenever we go to lease or rent a car or a van. Consumers nationwide are being hurt by these higher rates—not just consumers in the bicarious liability States.

These laws apply where the accident occurs. It does not matter whether the car or truck was rented or leased. Since companies cannot prevent their vehicles from being driven to a bicarious liability State, they cannot prevent their exposure to these laws, and they have to raise their rates for all of us accordingly.

In addition, we have also seen that these higher costs drive many small companies out of business. Actually, a small company trying to engage in the business of renting or leasing may find itself caught in one of these bicarious liability States and wind up with a judgment that puts them out of business. This is a death knell for small businesses in the leasing and rental business. That is why we have to do something about it.

Accident victims in bicarious liability States would not be left out in the cold. They would be compensated according to the same standard used by the vast majority of States which do not have bicarious liability laws.

More importantly, accident victims in the same bicarious liability State would no longer be treated differently based solely on whether a vehicle involved was rented or leased instead of individually owned. In other words, if you are hit by a negligent driver in any State, file suit against that driver and collect a judgment against that driver logically to be paid by the insurance company of that driver, or if it is self-insured then that driver would have to pay out of his pocket.

That same standard still applies. What we are saying is you can't reach out and bring in somebody who had nothing to do with the accident and was not at fault. When we do that, we are going to provide relief for small businesses. We are going to provide relief to the people who lease cars and rent cars and vans across the Nation.

This provision would not allow a company to escape liability if they were at fault or negligent in an accident in any way.

I ask that it be supported by my colleagues.

AMENDMENT NO. 2327 TO AMENDMENT NO. 2311

Mr. BOND. Madam President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2327 to amendment No. 2311.

Mr. BOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit liability with respect to the owners of rented or leased motor vehicles)

In lieu of the language proposed to be inserted, insert the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

"(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

"(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

"(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

"(d) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

"(2) OWNER.—The term 'owner' means a person who is—

"(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

"(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

"(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

"(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

"(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

"30106. Rented or leased motor vehicle safety and responsibility.".

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise today to talk about the 2.4 million jobs that have been lost in this country. As we discuss investment in infrastructure, we need to keep in mind that investment in human infrastructure is just as appropriate. There are families out there who are continuing to struggle to put food on the table, make sure they can take care of their mortgage payment, and make sure they can take care of individual hospital and insurance needs. I ask my colleagues to put themselves in the position of working men and women who have lost their jobs and now have no means to take care of their family needs.

We have been before this body dozens of times now in the last several months asking for an extension of unemployment benefits because the economy has not truly recovered—certainly has not recovered from the 2.4 million jobs that have been lost. Yet dozens of times my colleagues on the other side of the aisle have objected. They have objected to this extension because they say we are in fine economic shape.

I will bet you that families trying to figure out how they meet those mortgage payments would disagree with the kind of shape my colleagues think the economy is in.

In fact, in December, 90,000 people per week started exhausting their unemployment benefits and had no Federal program to pick them up. That is ½ million people who have gone without aid since the program stopped accepting new applicants. Put yourself in that position and understand that if unemployment benefits are not extended—and the economy grows at a very slow pace—by the end of the year, 2 million people will be cut off from this program. For people without a paycheck or an unemployment check, that means their families will continue to be forced to make very tough decisions.

A recent poll showed that over one-half of the unemployed adults found they had to postpone medical treatment or cut back on food. One in four has had to actually move out of their house because of the cuts in unemployment extension programs. More than one-third have had trouble paying gas or electric bills. I am sure in my State the number would be more than one-third, given our high energy rates. My amendment reinstates the Federal Insurance Unemployment Benefit Program and provides 13 additional weeks of benefits to all States, carrying us through June.

My colleagues ask, Why should we do this? The economy is recovering. If we look at the facts and figures and compared them to the last time we had a recession, this point where we are in our economy is still very disappointing. Last Friday, economists came out, for example, with a report on our job growth and said it was "well below market expectations," and confirmed that jobs in the markets in the United States are still weak. While the economy created about 110,000 jobs last month—and that is a step in the right direction—it is a pretty small step in the direction we need to go.

My State of Washington, obviously, has faced a lot of downturn because of Boeing, because of high tech, and because many workers throughout the State have been laid off as subsidiaries to those large corporations and interests.

I hear colleagues on the other side of the aisle saying once the economy starts to recover, that is when we need to cut off unemployment benefits because people can still find jobs. The point is during the 1990s, we had an extension of unemployment benefits to take care of the downturn we were facing in the economy, both started by the first Bush administration and then by the Clinton administration, to help take care of unemployment problems.

During that time period in the early 1990s recession, we were offering unemployment benefits for a 27-month period of time. During that 27-month period of time, we actually saw an increase in 2.9 million jobs. The program worked well as the economy continued to rebound and add more jobs. In the 1990s, under two administrations, a Republican and a Democrat, we said, let's extend unemployment benefits for 27 months. The net result was 2.9 million jobs were created and we curtailed the benefit program.

We have had this recession and downturn and we have only been going for 22 months of this program. We have only been giving people who have been affected by this downturn in our economy 22 months of unemployment extension. During that same period we have actually seen a net loss of 2.4 million jobs.

My colleagues on the other side of the aisle say when the economy picks up, we should curtail this program. What they should really ask is how many jobs have we created during this time period, and are Americans finding jobs? If they are not finding jobs, how can we cut them off from unemployment benefits that are actually a stimulus to the economy in helping to pay the mortgage payments, covering health insurance, keeping families in their home, and not deterring us from economic growth? Every dollar spent on unemployment insurance generates an additional $2 into local economies.

Let's look at it a little differently during this time period of unemployment benefits. The line on this chart during 2002 continues to go down into the red. This is where we are thinking about cutting off unemployment benefits. Yet we have had no job growth. Juxtaposed to what we did in the 1990s, we continued to increase the unemployment benefits as the economy grew and we did a better match of keeping Americans with some paycheck or unemployment check, thereby keeping our economy at a more steady rate.

I say to my colleagues on the other side of the aisle, it is time to stop denying working Americans who have lost their jobs, through no fault of their own, from some sort of help and assistance when they can actually find no jobs.

I will point out a few of my constituents who have written to me. One from Camano Island said he cashed out every dime of his 401 saving plan, with significant penalties, and does not know how he will make his mortgage payment, does not know what he is going to do, as the benefits are expiring. Another constituent from Everett, WA, in the manufacturing area, applied for over 200 jobs and received 4 interviews in the last year. They are trying to find opportunities but they do not exist. Another technology worker from Seattle has 25 years' experience and has been laid off since 2001 and is unable to find a job. Another worker from Seattle was working at a print company and over 500 people were laid off in 2 years as their company was sold overseas to a multinational company. In his individual situation he has tried to cover both the health insurance for himself and his wife. Unfortunately, he had some very severe health problems and had to get a kidney from his wife and ended up with some severe health problems and he does not know how he will address those problems in the future because of these benefits being curtailed and his inability to cover health insurance.

Many people in my State ask what we are going to do about these unemployment benefits and whether we are going to remember the working men and women in our State who have continued to deal with this issue.

There are many constituents who ask, what will it take to get the other side of the aisle to own up to the responsibility that there are not jobs being created at a fast enough pace to put Americans back to work. Our past bipartisan efforts by two administrations, a Republican and a Democratic, did far better in addressing this issue than we are doing today.

I ask my colleagues to support a temporary emergency employment compensation program through June. It is the only responsible thing to do, to recognize that men and women of this country would rather have a job than an unemployment check. Without a check and without opportunities for jobs, we are doing neither them nor our economy any service. We need to do the responsible thing and put them back to work. That is why I am asking my colleagues to do the fair thing and expand this program through June with 13 weeks going to each State. Until then, we will not have the necessary tools to help Americans. Let's help them with the unemployment benefits and put them back to work.

I ask unanimous consent we lay aside the pending amendment and consider this amendment.

The **PRESIDING OFFICER**. Is there objection to laying aside the pending amendment?

Mr. **INHOFE**. Reserving the right to object, could you repeat this unanimous consent request?

Ms. **CANTWELL**. I move the pending amendment be set aside and that this amendment be considered.

Mr. **INHOFE**. I object.

The **PRESIDING OFFICER**. The objection is heard.

Ms. **CANTWELL**. Madam President, let me be clear to my colleagues what just happened in the Senate. That is, that for about the dozenth time now, the Senate is not going to consider unemployment benefit extensions. We are not going to consider whether working men and women in this country who have been unemployed, through no fault of their own, but a general downturn in the economy, many who have been impacted by September 11, many who have been impacted by the recession hit by many companies that have been impacted by September 11, are not going to get our help in the extension of this program, that if these same men and women happened to have been unemployed in the 1990s, their plight would have been different. They would have gotten help from the administration. They would have gotten help from my colleagues on the other side of the aisle.

So what we have done today is continue to say to unemployed Americans, while the economy is just barely beginning to produce jobs, we expect you now to move out of your house, deal with not being able to cover health insurance, not being able to meet your family obligations, while we continue to struggle to find jobs in this country.

I think it is irresponsible. I think my colleagues should make sure we have a vote on this amendment. We will continue, on this side of the aisle, to offer this amendment until we get a vote on it.

I yield the floor.

Mr. INHOFE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, most of us who had an opportunity to get home to our own States and perhaps travel around the country recently have found a number of concerns of working families. It is pretty uniform. I certainly have found it so in my travels in the State of New Hampshire and Iowa, out in the Southwest, Midwest, over recent weeks.

One of the enduring issues, I find, that is uniform across the country is the state of our economy. It is reflected in a variety of different ways. It might be reflected in one family which finds that increased college tuition is putting an extreme burden on a family budget. Maybe another family has the high cost of prescription drugs that is putting an extraordinary burden on those under Medicare and Social Security and the savings of other members of the family. It may be those who have lost jobs and have gotten back in the job market and actually found a job, but they are concerned because their incomes are generally 23, 24, 25-percent less with the new job than the old job.

By and large, the state of our economy is an ongoing concern, and it doesn't have to be this way. We have seen when we have had strong Presidential leadership—and the most recent case was with President Clinton where we had extraordinary economic growth, price stability, virtually free from inflation, and we had the creation of 22 million jobs. I don't think an administration can continuously say that jobs are going to be better, that we are having a military conflict, we inherited a recession, and there is nothing more we can do. I reject that, and I think most economists do, and many political leaders do as well.

We have to look at what we can do in a very temporary way in the Senate. One of the mechanisms that we can provide is to extend the unemployment compensation for men and women who have paid into that fund over the years, and now we are seeing that Republicans are blocking having even a temporary extension of unemployment compensation funds, even though the fund itself is in surplus of some $17 billion. That is being rejected.

As a matter of fact, we are seeing parliamentary gymnastics being used on the floor of the Senate to even prohibit a vote in the Senate to get accountability by Members of the Senate on this issue. Those on the other side say: No way; we are going to use the parliamentary gymnastics so you will not even get a vote, Senator CANTWELL, on your unemployment issue, and, no, Senator CLINTON, on one of the glaring economic policy issues of this administration, and that is shipping jobs overseas. Can you imagine that? The administration's spokesperson said shipping jobs overseas is to the advantage of the American economy.

Why don't we debate that on the Senate floor and find out who on the other side wants to defend shipping jobs overseas? You cannot travel around this country and go to any community and not hear workers' fear about outsourcing and shipping jobs overseas. You cannot do it. Here, the Senator from New York wants to get a debate and discussion about what we ought to do about that. Members of this body have ideas on what we ought to be doing and they want to express their views. But, no, they are cut off. No. No, you cannot do it. We are going to use the rules of the Senate to prohibit that kind of discussion and debate and prohibit some kind of resolution, some accountability by Members. Maybe there are those who want to do it.

I think the American people would have more respect for us if we vote up or down on that resolution. But, no, our Republican friends say, no, we don't want to—I say this—embarrass our Members by having to take a tough vote on it. I don't blame them. But it is poor solace to those workers when they find out at last what the economic policies of this administration are and they value sending the jobs overseas. That is what we are going to attempt.

Madam President, I want to review what the job situation has been over the period of these recent years and measure where we are with what was actually predicted by President Bush and the Bush administration. I think by looking at this at least we can begin to understand why the Senator from Washington, Ms. CANTWELL, wanted to have an extension of the unemployment compensation. Ninety thousand workers a week are losing their unemployment compensation.

I don't know how they get by. You are going to see that real wages have gone down. Most families are having a tough time, and they live from paycheck to paycheck. They are paying the mortgage, putting food on the table, and clothing their children, perhaps putting something aside for higher education. How are they going to deal with the fact that when they lose jobs, through no fault of their own, they are going to be denied a helping hand to deal with the cyclical factors that impacted our economy?

Look at what this chart shows. This says: "Every year, job growth falls short of the Bush promises." This goes back to the year 2001. The difference between what this administration promised in 2001 and where we are today is represented by 5.2 million jobs. Do you understand that? The promise in 2002 was that we would have 5.2 million jobs more than we have today. We missed the prediction by 5 million jobs. Now, in 2003, the President makes a different judgment about where we are going to be in 2003. He is only off by 2.5 million jobs for 2003. This line represents what was predicted by the Bush administration in 2002. This line here is what they predicted in 2003, and this orange line is the reality.

Let's look at it in another way. This chart shows a purple line, what was actually predicted by the Bush administration for 2002 promise. These are the number of new jobs predicted. We heard the other day about the administration predicting new jobs. All you have to do is look at their predictions over time and you can see how much value we ought to give those predictions. Here it is: 2001 is the purple line, and 2002 is the green line, 2003 is the blue line, all going up there. The actual jobs are represented by the red line, showing that we have lost 2.5 million jobs. Those are the facts.

As a result of the fact that we have lost those 2.5 million jobs, let's just look at what has happened in terms of the average wages for the jobs that we have retained in the United States. The jobs gained do not pay as much as the jobs lost, this chart says. This is the average wage—the national average for 2001, which was $44,570. Today, it is $30,410. That is a reduction of 21 percent for average wages for workers in this country.

Not only have we seen the loss of jobs, but even for the jobs that have been retained, we have seen the income going down, headed south. Not only is this the reality of what is happening in the job market, but also our Republican friends want to eliminate any opportunity for these families to gain additional funds with overtime. That is what is happening out there across this country.

Now we hear, well, we have had a recession, but we have come out of the recession and everything is going to be OK. Everything is just going to be hunky-dory in terms of the labor market area and wages for American workers.

Look at this chart. If you compare what happened in the 1990s, up through 1998, and to the year 2000, in the fourth quarter of each of the recessions that took place during that period of time, you will find in the last quarter of the recession during that period of 8 to 10 years, the job was paying $18.30 an hour. The old jobs were paying $16.31 an hour. Now in this last recovery that this administration says is so great, look at this: The average job was paying $16.92 an hour, and the new jobs are paying $15.65 an hour. The new jobs are paying a good deal less. It says just what the other chart says.

So not only are we not reaching the job goals, they missed it by 5 million. Even the jobs that are being created, the pay is 20, 25 percent less.

Let's look at what has happened in terms of the number of those who are long-term unemployed. Look at this chart. Compared to what it was in January 2000, when we had 680,000 people unemployed, it was 1.9 million people in January of 2004. These are the long-term unemployed. These are the men and women who have been looking for jobs, trying to get jobs. This doesn't even measure the number of people who have become so discouraged, they are not even looking any longer.

We have an enormous number of people who are looking for jobs. This chart is probably more reflective of the problem. From 1973 to 2003, the average number of unemployed in January: 151,000. That is through good times and recessions. Today it is 375,000. These figures are from the Center for Budget and Policy Priorities. It is 375,000, more than double the average. That is why we are asking: Why can't we reach out to these workers? These are hard-working Americans who paid into the fund over a long period and are entitled to those payments.

The fund is $17 billion in surplus. The proposal of Senator CANTWELL would cost $7 billion. We have 90,000 workers a week who are losing out on this amount. Look at the contrast between this administration and the previous administration on unemployment compensation to workers. Let's look at the difference.

In the early 1990s, when we were facing a recession, coming into 1990, 1991, and early 1992, we had an increase in unemployment. The previous administration, the Clinton administration, kept the extension on unemployment compensation until we had grown 2.9 million jobs. Then they terminated it, as they should; we were in a period of very significant expansion.

Look at where we are now. We have lost 2.4 million jobs, and we have terminated unemployment compensation.

Do you see the contrast between the two administrations and how they reached out to working families? Nonetheless, we are denied the opportunity to even consider an amendment that was going to be offered by the Senator from Washington to permit some 6 months and have the temporary workers.

This is what is happening as a result: We have a decline in purchasing power for workers; we have an administration that is against overtime, an administration that is against extending unemployment compensation, against any kind of increase in the minimum wage.

There are 7 million Americans who would benefit from an increase in the minimum wage, and this is what has happened:

More than half of the unemployed adults have had to postpone medical treatment—that is 57 percent—or cut back on spending for food. That is happening in America. They had to postpone important medical treatment or cut back on food. One in four has had to move to other housing. We are talking about workers who have worked hard, played by the rules, struggled for their families, and this is our answer to them: Let's do a parliamentary trick so you can't have a vote on extending unemployment compensation. That is the answer of the other side. We are not even going to give you a vote on the issue.

This is what is happening to fellow Americans: 38 percent have lost telephone service; 22 percent are worried they will lose their money; more than a third have trouble paying gas or electric bills. These are real problems. The list goes on.

What is the impact? We have been talking about dollars and cents, but we haven't talked about the quality of life of these workers and what they go through: 77 percent of unemployed Americans say the level of stress in their family has increased. That is understandable. We don't think about it. I don't know how you put a dollar figure on that.

Two-thirds of those with children have cut back on spending on their children. This is an issue not only for workers, it is an issue for their children as well. It is a children's issue. It is a family issue. We heard a great deal on the other side about family issues, family values. We have one right here on unemployment compensation. This is a children's issue, a family issue.

Twenty-six percent say another family member had to start a job or increase hours; 23 percent had to interrupt their education. That is nice, isn't it? The children of these workers had to drop out of school because a member of their family—their father or mother—has been laid off and cannot get the resources to go to school.

We hear a good deal from the other side: Senator KENNEDY, you don't just understand. We have a recovery. It is on the way. It is taking place today. You just don't understand it. These problems will all be resolved. Right? Wrong.

Look at this chart. The Bush economy corporate profits ballooned compared to workers' wages. Look in the early 1990s—this chart is 1993—when we were recovering. When we had the recovery, workers' wages represented 60 percent of the economic expansion during this time. The percent that went to corporate profits was 39.74 percent; 60 percent for wages, 39 percent for corporate profits.

We all heard at the time of the President's State of the Union Address those descriptions about how the economy was doing so well, profits were up, expanding the American economy. Look at today's recovery: 87 percent in profits, 13 percent in wages.

I don't know how many other indicators we need to understand what is happening to workers in America. They are hurting, and hurting badly. Many of them need the kind of help that unemployment compensation provides.

At other times, with different administrations, with a Democratic administration, we were prepared, particularly when the fund was in surplus and particularly when these workers have paid into the fund—we were willing to extend that unemployment compensation. There have been 11 times in the last few weeks that Members of this body on this side of the aisle have requested we have an extension of unemployment compensation. The House of Representatives voted for it, including 39 Republicans. But this Republican leadership says: No, no way; fill up the tree; get all kinds of procedural blocks to make sure we don't even bring it up and we don't have a vote.

American workers ought to understand this point. That is against the background of the leading economic advisers explaining to the President of the United States that we are better off if we ship more jobs overseas. And this institution, that should be debating national policy, is being shut down by those who don't want to hear the debate and don't want accountability. That is a great mistake. It is a mistake, most of all, for our workers and their families, it is a mistake for our economy, and it is a mistake for our country.

I join with others who will say these issues are not going away. You may be able to get a little block here and a little block there, but we are going to bring these issues up time and again.

We have that responsibility to these workers and their families, and they should recognize that we are not going to retreat; we are not going to step back. We are going to do everything that is necessary to make sure we are going to get the economic justice these workers deserve.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

INDEPENDENT COMMISSION TO INVESTIGATE IRAQ INTELLIGENCE

Mr. REID. Mr. President, I was relieved that the President decided he was going to appoint an independent panel to review what took place in our going to Iraq, but after he made the decision to do that and appointed the panel, it was obvious it was just a hoax. This panel is laughable—if it were not so serious. All one needs to do to understand how this panel is not serious is to look at who is the cochair of this panel. One of the most partisan people in all America is a man by the name of Judge Silberman. Judge Silberman is a person who proudly wears the label of a partisan, even though he hides it as often as he can from the public.

As I said, I was glad President Bush realized we needed a commission to investigate what went wrong, although I would have preferred that Congress appoint members to ensure its independence. If this commission is going to do its job, it must be free of political influence. It must be above even the appearance of partisan bias. Throw those things out the window because there is not only the appearance of partisan bias, there is political and partisan bias because the cochair of this commission is a man by the name of Laurence Silberman.

He is a long-time political operative in the far right of the Republican Party. He has served in a number of different capacities over the years. He has been involved in many partisan matters over the years. To show how well reasoned and thinking people feel about this man, I quote a professor of law at American University by the name of Herman Schwartz:

> He [Laurence Silberman] is fiercely partisan, pugnacious and very political. He is an odd choice for a panel that is supposed to be above suspicion on a matter that is very important and potentially very partisan. Picking Silberman verges on the brazen. It is a thumb in the eye to those who were looking for a real investigation.

That is who we have as cochair of this independent commission, a man who is politically partisan and the appointment is brazen. As I indicated, he is a long-time political operative, far right of the Republican Party. He served in many capacities. He was an aide in the Reagan-Bush campaign. One of his assignments then was to serve as liaison to the Islamic regime in Iran where Americans were being held hostage. There is some question as to whether a deal was made that the crisis would not end until after the election. One can read lots of information about that, but as soon as the election was over and the hostages were released, it is interesting to note that Laurence Silberman was appointed by the President to the Court of Appeals in Washington, DC.

It speaks volumes to indicate that one of his early decisions came in the case of LTC Oliver North, a principal figure in the Iran-contra affair, which involved the release of Iranian hostages. There is the documentation of many meetings of Silberman with the people in the White House, including Colonel North, prior to this all taking place. Even though North and Admiral Poindexter were convicted of lying to Congress, their convictions were voided in 1990 by Judge Silberman.

It is also interesting to note that another one of the appointees there on that court, who joined with Silberman in overruling the North and Poindexter convictions, Mr. Sentelle, who became a judge, was largely responsible for the 1994 decision to remove Whitewater prosecutor Robert Fiske and replace him with the more partisan Kenneth Starr as an independent investigator. We know that investigation cost $60 million or $80 million and accomplished nothing.

Silberman worked as an attorney in the Justice Department. He took the No. 2 job under President Ford when Rumsfeld and Cheney had top jobs in the White House of President Ford. I repeat, in the fall of 1980 when Ronald Reagan was running to unseat President Carter—and this is from the L.A. Times, a direct quote:

> . . . Silberman and two other Reagan advisors met secretly with a man who claimed to have ties to the government in Iran, which is holding 52 American hostages. The brief meeting later led to unproven allegations that Reagan's aides sought to delay the release of the hostages until after the November election.

Well, it is interesting to note that he had not done enough, it appears. In 1987, when Reagan was under investigation by an independent counsel, Silberman did away with the Independent Counsel Act, saying it was unconstitutional. Of course that one was followed up on by the Supreme Court, which overwhelmingly reversed him just a month later. But Silberman had the last word. His opinion, joined by fellow Reagan appointee David Sentelle, voided North's conviction and also spared Reagan's National Security Adviser, John Poindexter.

During the Clinton years, Silberman was one of President Clinton's most aggressive tormentors. In 1998, he was part of a Federal appellate panel that rejected the administration's claim of executive privilege to block the Secret Service from testifying about Clinton's relationship with former White House worker Monica Lewinsky. Silberman's opinion, to say the least, was very political. He ripped the Attorney General for acting in the personal interest of President Clinton and questioned whether the President, by allowing aides to criticize independent counsel Kenneth Starr, was "declaring war on the United States." Not very judicious, I would think.

There was a book that was a best seller called "Blinded by the Right," written by David Brock. It is a very interesting book. It talks about how this young man, who was a student at one of the universities of California, decided to join with the far right, and he made it through even working for the Washington Times. In his book, he explains how that was an interesting experience and how unfair they were in almost everything they wrote. But David Brock, during his tenure as a spokesperson for the right, and writing all these very damaging, misleading articles and even books, said in the book, "Blinded by the Right," that his adviser, the person who directed him where to go, what to say, and even went through books and articles he had written to proofread them to see if he could be more hard-hitting than Brock was, this is the man who is going to be the cochairman of the independent commission. The term "independent commission," used along with Laurence Silberman, is like many of the things in George Orwell's book, "1984." Many of the things are just the opposite. Laurence Silberman cannot be independent. The commission cannot be independent as long as he is there.

As Brock indicated, he wrote articles about President Clinton, an article on Travelgate, which was charges by Arkansas State Troopers about the former Governor Clinton and extramarital sex. Silberman was, and I quote, "his faithful advisor."

"The judge," according to the LA Times, Brock said, "encouraged him to be aggressive, and even on one occasion, suggested a specific tip involving the President's sex life to pursue."

When David Brock, at the direction of many in the right wing, wrote critically about the late Senator Paul Simon, he sent an advance copy to Judge Silberman's home. Brock wrote that Silberman was "ecstatic about the case he made against Simon. . . ."

During this period of time, Brock said he was introduced to leading conservatives who met regularly in the judge's home even with him and his wife. They were friends and close companions of Vice President CHENEY and his wife.

Mr. President, people have a right to be as partisan as they choose but not if you are a judge. Judges not only have to do away with what is wrong, but with what appears to be wrong. Just with the little bit I set forth here, doesn't it seem wrong that this man, Laurence Silberman, is the cochairman of a bipartisan, independent commission when it has been acknowledged by most everyone that this is one of the most partisan people in our community? An American University law school professor says:

> He is fiercely partisan, pugnacious and very political. . . . He is an odd choice for a panel that is supposed to be above suspicion on a matter that is very important and potentially very partisan. Picking Silberman verges on the brazen.

I agree with that, the "brazen." Let's see if that means what I think it means, "brazen." I have a little dictionary here. Let's see what it says.

> Brazen: Boldness.

Yes, he is pretty bold.

For the President to pick this man to be cochairman of this commission is, as Professor Schwartz says, "brazen." I continue the quote.

> It's a thumb in the eye to those who were looking for a real investigation.

This is no real investigation. This is going to be Judge Silberman, in an aggressive way, making sure that nothing gets out of hand. He is there to protect the President, not to get fair information. He is there to protect him.

Sitting judges are not supposed to do what Silberman does. But he has a lifetime appointment and the canons of judicial ethics mean nothing to him. He is bold, he is brazen in what he does. He does not hide his partisanship. But, in spite of that this administration, knowing everything there is to know about this man, selects him to be the cochair of this independent commission.

Brock says, in his book: "Larry"—that is Laurence Silberman—"would often preface his remarks to me with the wry demurrer that judges shouldn't get involved in politics. 'That would be improper,' he'd say—and then he'd go ahead . . ." and give this information that was partisan and, even, according to Silberman, would be improper. But he would just go ahead and do it anyway.

Most recently, to show his partisanship, after a lower court unanimously ruled that Attorney General John Ashcroft had exceeded his authority in assuming broad wiretap powers, Silberman was the judge involved in the decision that overturned it. By engaging in partisan activities while he was a sitting judge, Silberman has raised questions about his impartiality, and that is an understatement.

So I hope we continue to talk about the need for an independent, bipartisan commission because as long as Laurence Silberman is attached to this commission, it will be tainted. This crucial investigation as to what went wrong with our intelligence operations cannot be tainted with any hint of bias or prejudice—and it is. It is not tainted, it is smeared with partisan prejudice because of this man.

There is already a distrust of the intelligence gathering surrounding weapons of mass destruction. The Silberman appointment only makes matters worse.

I call upon the President to replace Judge Silberman on this commission. There are many respected Republicans in public service who have demonstrated an ability to put their ideological and partisan views aside when it comes to what affects our Nation. Silberman cannot meet that. This is such an issue and demands such a person. Laurence Silberman is not such a person.

To show how skeptical the country is about our intelligence-gathering operations, even Bill O'Reilly—even Bill O'Reilly, reports Reuters News:

> Conservative television news anchor Bill O'Reilly said on Tuesday he was now skeptical about the Bush administration and apologized to viewers for supporting prewar claims that Iraq had weapons of mass destruction.
>
> The anchor of his own show on Fox News said—

This is Bill O'Reilly—

> he was sorry he gave the U.S. government the benefit of the doubt that former Iraqi leader Saddam Hussein's weapons program posed an imminent threat, the main reason cited for going to war.

Appearing on TV, O'Reilly said:

> I was wrong. I am not pleased about it at all, and I think all Americans should be concerned about this.

We have a committee, a commission appointed by the President, in the guise of being independent, in the guise of being bipartisan. It simply is not true. As long as Laurence Silberman has anything to do with this, it cannot be a fair, independent, bipartisan commission.

The scope of this so-called independent commission was determined by the President through Executive order. There was no discussion with the legislative branch of Government; it was just a fiat. Despite the fact that numerous questions have been raised about the actions or statements of both the intelligence and communications community in the days before the war, the President's Executive order specifically rules out an examination of the administration's actions.

Can you believe that? Instead, his Executive order makes clear the only issues the commission can address are related to the performance of the intelligence community, precisely the same issues, in many cases, that the Republican-controlled intelligence committees in the House and Senate are already exploring. Unfortunately, this will not be a real commission that can answer the main question we believe needs to be addressed; namely, the administration's role in all of this.

On top of all this, they have appointed Laurence Silberman to cochair. This is a gross mistake. I can't imagine how the President and his people think he can get away with this.

Mr. DORGAN. Mr. President, I wonder if the Senator from Nevada will yield? I wonder if he would yield for a question?

Mr. REID. I am happy to yield to my friend. He and I have had discussions. I would just preface it for this——

The PRESIDING OFFICER. The Senator from North Dakota is not recognized. The Senator from Nevada yields for a question.

Mr. REID. I would say through the Chair, the Senator and I have discussed this on many occasions off the Senate floor.

Both agree that this issue has to be talked about publicly.

This is a disgrace to a determined, independent, bipartisan commission. It is just wrong.

I would be happy to yield to my friend from North Dakota for a question.

Mr. DORGAN. Mr. President, I have visited the Senator from Nevada and others following the announcement of the cochairs of this commission.

First of all, I believe there should be an independent commission. I believe very strongly that the question of intelligence—both the gathering of and use of intelligence—is critically important to this country because it, and only it, will provide protection for this country against the next terrorist attacks. We have to get it right.

When Mr. Kay comes before a committee and says it was all wrong, it was wrong and it failed the President—it also failed the Congress and the American people—we had better figure out what happened, what was wrong. There needs to be a commission. But it needs to be an independent commission.

Now what we have is the President announcing a commission to investigate the intelligence. But more than that, the point the Senator from Nevada just made about the cochair, Mr. Laurence Silberman, a judge—I read this book from a while ago, "Blinded By the Right." I was aware when I read this book by David Brock of Mr. Silberman's activities in other venues as well.

I must tell you that having read this book and seen that a sitting Federal judge was involved in the sort of things Mr. Brock says he was involved in with respect to a series of things that it seems to me would go well beyond what would be acceptable activities by a Federal judge, I think it is just Byzantine that the President would appoint a cochair to this commission who doesn't meet the test of objectivity or the test of common sense at all. There can be nothing independent about a commission that is cochaired by a sitting Federal judge whose discussions and activities in this book disclose that there is nothing at all impartial about this judge.

I will not read into the RECORD these passages. I assume perhaps the Senator from Nevada has. I know many of my colleagues are talking about the same thing.

I ask the Senator from Nevada: Can there be a presumption of impartiality by a cochair of this commission, appointed by the President to investigate this issue of the executive branch—by the way, without subpoena power or anything of the sort—when the President has chosen a very strident, aggressive, partisan supporter as the cochair?

Mr. REID. Mr. President, I do not understand how the President and the people around him could do this. Do what? Have a commission with an outline that is very weak and won't contribute very much to find out what our intelligence community did or did not do. But maybe he could get by with it a little better by not having a person who has been proven to be one of the most partisan people in all of America as cochair of this commission. Here is a man who is violating the canons of judicial ethics and responsibilities that judges have. Yet he is on this commission as cochair. I have trouble articulating how irresponsible and unfair and brazen this is.

Mr. DORGAN. Mr. President, again, inquiring further of the Senator from Nevada, aside from the fact that this is not an independent commission, it is not what is needed to be done at this point to evaluate and investigate the "failures" Mr. Kay described in our intelligence. This so-called commission cannot possibly be a commission held in much respect if the selection as the cochair is a fierce partisan whose exploits are described at least in part in this book.

Incidentally, I think the question should rest with the judicial system. Why has this not been investigated? I know of no investigation in the judicial system with respect to what is alleged with respect to the activity of Mr. Silberman.

This country needs an impartial, independent, aggressive investigation of what happened with respect to our intelligence.

As I indicated, our safety and security depend on intelligence getting it right with respect to protecting us against the next terrorist attack. That is why this is so important.

I personally plan to support and aggressively speak in favor of a truly independent commission. I am assuming one will be offered by perhaps Senator CORZINE who has offered it on the floor of the Senate. We will have this debate at some point. We need a commission. It needs to be independent. It needs to be cochaired by people who do not have a partisan agenda. That is simply not the case with the independent commission that has been announced now by the President.

I ask the Senator from Nevada: Is that not the case?

Mr. REID. It is absolutely the case.

I also ask the Senator from North Dakota, through the Chair, to respond to a statement by David Kay given to me yesterday. He said there should be an examination of how the intelligence was used by the administration—not simply the failings of the intelligence community.

Will the Senator agree that David Kay is right, there should be an examination of how the intelligence was used by the administration—not simply the failings of the intelligence community?

Mr. DORGAN. Mr. President, if I might respond, there is no question that any evaluation of this should be an evaluation of what kind of intelligence existed and how it was used. That is not an attempt to put any one person under a microscope; it is an attempt to evaluate what happened here. What on Earth happened?

Again, I say there are some who want to say nothing happened. They want to allege nothing has happened. Clearly, something has happened.

The top weapons inspector came back to this country and said our intelligence community has failed the President, and in fact the intelligence community failed, and we now believe that to be the case. The Secretary of State went to the United Nations and he said: We know, we know, we know, on point after point after point, slide after slide, intelligence pictures, satellite photos, we know this, we know this, we know this. It turns out we didn't know that.

This is important business. This country needs to act on what we know—not what we think we know. If our intelligence community failed us, as Mr. Kay indicates it did, and he says failed the President—I say failed all of us—then the question is, Why? How did that happen? How was intelligence gathered? Where did that failure exist? And how was that intelligence used? I believe only an independent commission will get to that answer. I think it is urgent that we get there.

As you know, in England they are now having such an investigation, with an end date I believe of July. They understand the urgency. They are saying let us do it, and let us do it quickly but thoroughly.

In this case, we have a so-called independent commission, cochaired by a strident partisan, and at the same time we are told it is fine to have that commission report sometime after next year. I just do not think that is the right thing.

Mr. INHOFE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator yield for a parliamentary inquiry?

Mr. REID. I am happy to yield for a parliamentary inquiry.

Mr. INHOFE. Will the Senator yield for a question?

Mr. REID. I have the floor. I will yield for a question.

Mr. INHOFE. I think we are in a highly charged political season right now. Everyone is talking about this, and the subliminal picture that is trying to be painted here is that somehow this President may have not known something he should have known or knew something and he didn't act appropriately.

Let us remember what David Kay said. He said, when he came in, we all thought there were weapons of mass destruction. We acted accordingly. And, quite frankly, I contend there were weapons of mass destruction. I asked him that question. I don't think either one of the two Senators in the Chamber—I am about to finish my question—were at that hearing.

I asked him this question: I said, If in January, 13 months ago, they found 11 chemical rockets with a capacity of a warhead of 140 liters, and they had enough VX on hand to do that, and that one chemical rocket with 140 liters of VX could kill a million people, and subsequent to that, 3 months later, they found 36 more—that is 47 weapons of mass destruction that were found—I asked him: Aren't they truly weapons of mass destruction? He said: Well, yes, if they put the chemicals in the warheads.

The other thing people keep talking about, What did they know or what did they not know about a connection between Saddam Hussein and Osama bin Laden. That should have been put to rest about a month ago when there was a leak to the Weekly Standard. They specifically drew that connection and said, yes, in fact, there is a connection. In fact, two of the passports of the pilots were gotten by Saddam Hussein and his people.

Just this morning in the New York Times there is an article stating the connection is there. This is the New York Times, not a Republican operation. It says: "Found, Smoking Gun." That is the name of this article.

We are enjoying this very much, but the political season is on us. I hope we will keep cool heads and do the best we can to improve our intelligence.

Right after September 11 we had the bicameral commission look at this. We came a long way. I ask the assistant leader if that is not correct.

The PRESIDING OFFICER. Before the Senator from Nevada responds, the Chair feels constrained to remind all Senators, Senators may yield for questions but not for speeches.

The Senator from Nevada has the floor.

Mr. REID. Mr. President, I know the Senator from Oklahoma says this is political season. We are in the Senate. Every day of our life is political season. That is what we do. That is what we do for the American people. That is what we do for the people of the State of Nevada, the people of Oklahoma, the people of North Dakota, and the people of Missouri.

I agree with my friend's statement, there is no showing of weapons of mass destruction. True. The point is, this is serious business. This is not trying to determine what happened at half time at the Super Bowl. This is looking at the situation involving the security of this Nation and actually the security of this world. We should have an independent commission, bipartisan in nature. Everyone agrees with that.

I personally do not like the parameters of what the President set forth. It does not establish what needs to be done. But the purpose of this discussion today with Senator DORGAN and this Senator from Nevada is the commission, as set up as an independent bipartisan commission, is tainted. As I indicated earlier, it is not only tainted, it is smeared. Why? Because the President chose as the cochair of this commission a man who is one of the most partisan zealots in the history of this country. So this commission can never render anything of substance that will be accepted in this country because of this man being the cochair. I suggest, get him off. If he had any care about this country, he would resign.

The Senator from North Dakota hit the nail on the head: Where is our judicial system? There could be hearings and proof established, for example, that David Brock went into this man's home, time after time after time while he was sitting on important cases. What was Brock doing—getting advice as to how he could berate, denigrate, lie, cheat about the President of the United States?

These are facts.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. DORGAN. Let me respond briefly to my friend from Oklahoma, and I will phrase it in the form of a question to the Senator from Nevada. There is no question the world is better off because Saddam Hussein was found in a rat hole and no longer runs the country of Iraq. The world would be better off if Kim Jong Il were not running the country of Korea. That is not the issue. An interesting point, but not the issue.

The issue is, the top weapons inspector says that which we said we knew, which we told the world we knew, was not the case. Why? Because he said our intelligence system failed.

No one here should sleep quite as soundly as they used to sleep, understanding that our intelligence system failed.

We all ought to demand on an urgent basis to understand what happened and how it happened. That is the point the Senator from Nevada and I are making. I hope the Senator from Oklahoma believes in the urgency of this, as well.

I ask the Senator from Nevada if it is not the case that the question by the Senator from Oklahoma about the September 11 commission moving in the right direction, is it not the case that yesterday we saw this headline: "9/11 Panel Threatens to Issue Subpoenas for Bush's Briefings"? In fact, they have already had to issue subpoenas. This commission investigating the September 11 attacks had to issue subpoenas against the FAA and others and is now threatening to issues subpoenas against the White House and said this morning they had more cooperation.

Is it not the case that any administration, Democrat or Republican, ought to say to this commission and any commission: Here are our records. They are open. We want you to get to the bottom of this.

Mr. REID. I say through the floor to my friend from North Dakota, the Senator makes the point. The other body which is doing the investigation, no one raises any question about the Members of that commission. They are Democrats and they are Republicans. Very conservative Congressman Tim Roemer is part of that. But no one questions what they are trying to do to get to the facts of this matter.

My point is, and the point of the Senator from North Carolina is, this so-called bipartisan independent commission can never render anything the American public will accept because of the person that is cochairing it. Laurence Silberman is a partisan zealot.

Now the New York Times article the Senator pointed out is a group of people, including Tim Roemer, and Governor Kean of New Jersey. No one questions his integrity. He believes we should move forward and get this done as soon as possible.

I repeat, the independent commission President Bush has appointed to look at the failure of intelligence in our country will never, ever be accepted for a number of reasons, not only the breadth and scope of the investigation but because of the cochair, Laurence Silberman.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, let me reiterate how important this bill is to our country's infrastructure and our country's economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. This bill will provide desperately needed funds to rebuild decaying roads and bridges and to improve transit systems across the country. It will pump billions of dollars into real, lasting improvements in physical infrastructure.

In the process it will provide new, quality jobs for hundreds of thousands of people. These are jobs that cannot be outsourced. I repeat—these are jobs that cannot be outsourced.

The President says that this bill is too expensive. He also apparently believes that outsourcing American jobs is a good thing. He is wrong on both counts.

If we can spend billions rebuilding Iraq's physical infrastructure, surely we can find the money to maintain America's transportation infrastructure. Without well-maintained roads, bridges, and transit systems, our economy will inevitably suffer.

Let's keep the big picture in view here. This bill spends money to pay Americans for work done in this country. This work translates directly into improved roads, bridges, and transit systems. Better infrastructure reduces transaction costs and makes the economy more efficient. This is an economic fact.

This bill also reduces congestion on our Nation's roadways by enhancing public transportation and promoting intermodal solutions to regional transportation problems.

As we all know, less congestion means shorter commute times. Shorter commute times means more time for productive activity. This too is an economic fact.

But this bill goes far beyond simply improving the infrastructure in this country. It also enhances our ability to move goods across our borders in trade with Canada and Mexico. By enhancing freight capacity and improving binational transportation planning efforts, the bill reduces the transactions costs associated with cross-border trade.

That means that American consumers will pay lower prices for imports from Canada and Mexico. It also means that our exports will be less expensive for Canadian and Mexican consumers, and that's good for American manufacturers. This too is an economic fact.

Finally, as several of my colleagues have noted, this bill will also enhance safety on our Nation's highways. With improved safety we can reduce injuries and loss of life from highway accidents. That's obviously good for the American people in a deeply personal sense. It is also good for the country as a whole because it reduces the social costs associated with injury and loss of life.

Our country needs this bill and it needs it now. I urge my colleagues to help pass this bill before the Senate concludes its business this week.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, yesterday when we were discussing the seatbelt law, quite frankly, I was opposed to it. I am opposed to any kind of mandate. I cannot find anyone in this body who has either been a former Governor or mayor of a major city that won't oppose mandates. Of course, that would have been a great one, with three penalties. That is behind us now.

During that time, the assistant minority leader had a suggestion that we might want to consider what they have done in Nevada. They had this requirement just for the babies and small children, which was interesting. I commented that I am very familiar with that, having 11 grandchildren. I know all about the seatbelts and all these little requirements they have and how expensive they are. In an attempt to outdo me, as sometimes happens on the floor of the Senate, the Senator from Nevada commented that, yes, you have 11 grandchildren, but I have 14. I got a phone call after that and found out that I in fact have 12 now. So I want to get the record straight that we are still working on it and we are going to catch the Senator from Nevada. A new Swan will be born; that happens to be my daughter's name.

Mr. REID. If the Senator will yield, I say to my friend that under the rules the distinguished Senator from Oklahoma has established, he is counting those children who are in gestation and not having been born. If that is the case, I can still up him one. I will have 15 because we have a new baby who will be born a month from now. So I am still two ahead of him.

Mr. INHOFE. Reclaiming my time, I observe we are both still working on that, and when they are conceived they are babies.

Mr. TALENT. Will the Senator yield? I hope the Senator's child and in-law have already announced this expected occasion and you have not revealed it to the Senate and the world.

Mr. INHOFE. I did get that permission. I made that mistake once. I was commenting back when a little boy was born to my older son and his wife. My older son is James Mountain Inhofe II. He kept having baby girls. The years went by and they kept cranking the girls out. I always wanted to have a boy, selfishly, James Mountain Inhofe III. So we found out—and this happened a couple years ago—that in fact my daughter-in-law was unexpectedly pregnant—Jimmy's wife. I respond to the Senator that what we did is for 8 months we prayed every day it would be a boy. I figured if Abraham could do it, I could do it. Sure enough, we were up in the waiting room and the nurse came in while I was doing a 30-minute talk show with Ollie North. Right in the middle of that, she came in and said, "Senator, how did you know? You are the only one who knew it was going to be a boy." I said, "Ollie, James Mountain Inhofe III has been born." On the way back it occurred to me they had not yet named that child, and I announced the name on the radio. So I learned that lesson.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I am sure sons and daughters-in-law have been forgiving proud grandparents of a lot worse things than that. I congratulate the Senator from Oklahoma and the Senator from Nevada on the additions to their families.

We are really talking about a subject today that is important to all of our families. That is why we are here. That is why those who have worked so hard for transportation, including my friend from Oklahoma, have done what they have done. I am here to rise in support of the bill, and also in support of an amendment I am now offering at this time with my friend from Oregon, Mr. WYDEN, and also on behalf of Mr. CORZINE and Mr. COLEMAN.

This is an amendment that has broad support within the community of those who are particularly interested in transportation, including the support of the American Association of State Highway and Transportation Officials, Associated General Contractors of America, Chamber of Commerce, National Heavy and Highway Alliance, which represents the labor unions, operating engineers, carpenters union, iron workers union, cement masons, the teamsters, and bricklayers, and many others. We call it the Build America Bond Act of 2003.

We think it is one of the most important things we can do on behalf of the Nation's transportation infrastructure. I am here to explain the amendment and the idea and argue on behalf of it.

First, however, I want to say thank you to my friend from Oklahoma, Senator BOND, Senator REID, and Senator JEFFORDS for their efforts on behalf of the underlying bill. Those efforts have been heroic. They have done a great job to get the level of spending in the bill up to where they got it. I am going to make the point in a couple minutes that it needs to be a lot higher than that. In making that point, I don't wish to be understood as criticizing them for their work. They have done the best they can do with the traditional methods of funding.

I would also like, before I begin discussing the amendment, to thank my friend from Oregon, who may or may not make it to the floor this afternoon to talk about this amendment. I know he wants to. We have had the pleasure of working together for almost a year now on the Build America Bond Act. For me, it has been a personal as well as professional pleasure to renew an acquaintance and working relationship we had together in the House during our years when we were there together.

I thank our friends who are handling this bill, especially my senior Senator, KIT BOND, for his great work on behalf of the underlying bill. I am pleased they have gotten the measure to where it is right now. Yet I have to tell the Senate the measure is not big enough. I say that because it bothers me when critics of this bill say it spends too much. The truth is it does not invest enough. It bothers me when critics of the bill say spending on transportation infrastructure is irresponsible, when actually the opposite is the truth. Not spending enough on transportation infrastructure is what is irresponsible, because we have a transportation deficit in this country. It is growing every day we fail to take the necessary steps in the Congress.

The Department of Transportation studied the Nation's highways, bridges, and transit systems, and reported back to Congress. They filed a long report and concluded we needed a highway bill that was about $375 billion. This is the report of the expert agencies on behalf of the Federal Government. It says $375 billion, not $311 billion. I am glad we got it to that point, but it will not take $311 billion, not $300 billion, not $280 billion, not $250 billion, but $375 billion—or something close to it—if we are going to begin paying back the transportation deficit we have.

I don't believe what I am saying about the status of our Nation's transportation system is seriously contested by anybody. A lot of people don't want to remedy it and pay what we need to pay to do something about it, but they are not contesting that there is a serious problem.

Thirty-two percent of the Nation's roads are poor or mediocre; 36 percent of our urban roads are poor; 37 percent of our bridges are obsolete. We lose $67 billion a year in wasted time and wasted fuel costs because of congestion caused by inadequate roads. We lose 4.5 billion man-hours from people around this country who are stuck in traffic. Those are hours they are not at the office or the factory producing things. Those are hours they are not at home with their families.

We spend $49 billion a year on extra vehicle repair costs because maintenance costs are higher than they should be because the roads are no good. Those are the overall statistics. And everybody has their own anecdotal stories about the shocks they had to replace because of the potholes, the time they lose getting to work in the morning.

There are so many examples of poor infrastructure that my friend Senator BOND and I could give. I called back to Missouri and asked for a picture of the bridge over the Missouri River leading into Hermann, MO. Don Kruse, who is the editor of the Advertiser-Courier in Hermann, did me a favor and went out and took a picture of it. This is a bridge not over some small river or not over the Missouri River where the river begins where it is narrow. This is over the Missouri River in east central Missouri. This is the bridge you take to get into Hermann, MO, which, by the way, is a great town. It is a bustling town, a town with a future if we can get the proper infrastructure.

I don't know if most Members of the Senate can see this picture or if the people in the Galleries can see it that well, but the rails are rusted. We can see how narrow the bridge is. That is a Mack truck coming one way, and that is a car trying to go the other way. You don't have to be a transportation expert, you don't have to work for the Department of Transportation to say: I don't think that bridge is adequate. It isn't.

You have to either laugh or cry over it. When I drive over it, I say: We ought to tell Hollywood if they ever want a crumbling bridge or a poor bridge to use in a movie, they don't have to build one; come here and use this one outside Hermann.

We have blood alleys all over Missouri. I have driven on them—roads that are so dangerous people regularly die because the roads are no good. We also have interchanges in our growing communities, such as Springfield, the I–44 and I–64 interchange that are inadequate.

There are many opportunities around Missouri for economic growth of which we cannot avail ourselves because the transportation system isn't what it should be.

North Missouri has been in economic trouble for a long time, long before the existing recession. It is not because of the people there. They are productive people with a vision. A big part of the reason is the roads are not good enough.

If we could turn Highway 36 in north Missouri into a four-lane road, it would link up Hannibal to St. Joseph, which links up Chicago to Kansas City, and the jobs would follow that corridor. We don't have the money.

There are too many first-tier, urgent projects in the State of Missouri and in States all over this country that are not being done, not because they shouldn't have a priority, but because there isn't enough money. So they get pushed further and further behind, and we are all familiar with that situation.

We are all familiar with the departments of transportation saying: We are going to do that; we are going to widen that road; we are going to do the system maintenance; it is on the books for 2020. Everybody in the communities knows what that means. It is never going to be done.

If that isn't enough—and it should be enough—in Missouri, we lost 1,028 people to highway fatalities in 2002 alone. The statistics show that one out of three accidents are related to the fact that the roads are no good.

When you travel around Missouri, one of the things you notice—and I wonder if they have this in other States. I should ask some of my colleagues; I never have. But the highway department allows people, grieving families to put little white crosses on the side of the road where they lost a loved one, and they will write the names of those loved ones on the crosses, sometimes the age. You might see "Jennifer, age 7" as you whiz by and see that little white cross.

Every one of those people who died on one of those roads has a family who loved them. Tell those families that this highway bill is too big. Tell them we don't need to spend more on transportation infrastructure. Tell them that.

What can we do about it? We can do something. We have a mechanism available that is used in States and localities all over this country, a mechanism that will produce dollars immediately to help us remedy this transportation deficit. We can do it responsibly. It has the support of groups involved in transportation from all over the country. It is bonding, and that is why the Senator from Oregon and I in the spring of last year sponsored the Build America Bonds Act.

We argue that it is the only way we can address this issue quickly, in combination, of course, with the traditional methods of funding that we also support. This is a way to jump-start this effort. This is a way to make up for this deficit in transportation, for this work that we should have done in the past and did not.

Basically, the amendment, if and when we get a chance to offer it, would create a federally chartered nonprofit corporation that would raise $56 billion in tax credit bonds that could be immediately invested in transportation infrastructure. According to our amendment, $40 billion could go to highways, $10 billion to public transit, and $6 billion to rail. It could be invested right away, not even over the life of the bill, the 6 years, but as fast as we can raise it and get it out to the States, and the work could be done in the course of the next year or two.

It is a great job creator. Every billion dollars in transportation investment creates about 47,000 jobs. Build America Bonds have the potential to create over 2 million jobs. It is one of the reasons the trade unions are so strongly in support of it, because their members have to drive on these roads and use this transportation system, too. Our amendment also has the potential to generate over $300 million in economic activity.

There is a feature to it that my friend from Oregon and I particularly like. The amendment would require that a percentage of the bonds be issued in small denominations, $25, $50, so that moms and dads and grandmas and grandpas could go out and buy a Build America bond and give it to their kids or their grandkids for their birthdays and know that they were investing their moneys in American roads and creating American jobs and protecting the future of their kids as they grow up in this country.

The bill has the potential to save us up to $67 billion that we now spend or waste in traffic congestion and the $50 billion spent in extra vehicle repair.

This kind of financing is done all over this country. The funny thing is, there is a certain irony to it. This Government will borrow—and everybody here is going to vote for this highway bill or has voted for one at one time or another—hundreds of billions of dollars in long-term debt to pay for operating expenses. Nobody else in the country does that. Yet unless this amendment passes, we will not borrow money for long-term capital expenses, which routinely happens all over the country in public and private life. We will not borrow the money for the items we should finance—investments in capital goods that pay off over time.

What is the cost? The way we have set this mechanism up and given the international bond markets and their sophistication, we estimate that under current market conditions, the total cost to the taxpayers would be $2.5 billion a year, for 30-year bonds. It would be $2.5 billion a year. For that we get about 2 million jobs. We actually get this bill up to the level which the Department of Transportation says we need to really begin remedying this transportation deficit. It is, quite simply, the cheapest way of addressing the problem.

What is the most expensive way?

Mr. WYDEN. Mr. President, will the distinguished Senator from Missouri yield for a question?

Mr. TALENT. I will be happy to yield to my friend.

Mr. WYDEN. Mr. President, I so appreciate the Senator's leadership on this issue and opportunity to be a bipartisan partner in this effort. Isn't it fair to say the Federal Government is now essentially the only entity on the planet that isn't going with the kind of approach that the Senator from Missouri has been advocating? It is being done at the State level, it is being done at the local level, and it is being done through various private initiatives.

It seems to me what the Senator has identified is essentially a case for saying the Federal Government ought to join the rest of the world in its approach to this logical way. Would the distinguished sponsor of this amendment, my partner, address that briefly?

Mr. TALENT. I thank the Senator for his question. He is absolutely correct. I have been to ribbon cuttings and ceremonies in Missouri, and I bet the Senator has been to them in Oregon, where localities have financed local bond issues in order to do transportation infrastructure, because there is not enough money coming from the State and Federal Government. States also do this.

The Senator and I are not talking about shifting over to bonding as a way of replacing other highway dollars, or taking over the job of financing transportation, because we do not want that. But bonding should be part of a package that will give us the ability to do the big projects, the one-time projects. We are not suggesting the States should build this into their regular maintenance budgets because this money is going to come in and is going to be invested. It is not a regular stream. It is part of an overall financing package absolutely, and it is done all over this country. Given the deficit transportation situation we are in, the fact that we have this terrible problem with transportation, I think it is foolish of us not to consider it.

It is one of the reasons I have appreciated so much working with my friend. I say to my friend, through the Chair, what is the most expensive way of dealing with this? If we were looking for the most expensive and risky way to pay for the transportation problem we have to fix the roads, rail, and transit that we need in this country, what would we do? We would wait. I submit that is what we are proposing to do with this bill, as heroically as the sponsors have worked to get it up to the level where they have gotten it up to.

If one were a homeowner and had a hole in their roof, they would consider how to fix it. They might try to do it out of their current income. They might take another job to fix it, which would raise their income. They might decide that the best thing to do would be to take out a home equity loan and pay for it that way.

What they would not do is say: "Well, this is optional. I am going to let this go because it would be irresponsible for me to spend on this. I would be mortgaging my kids' future if I took out a home equity loan to fix the hole in the roof." They would know eventually they were going to have to fix this hole, because if they waited, what would happen? Was the problem going to get better? No. Holes in roofs do not get smaller if they are not fixed, they get bigger, and if one waits long enough, the roof collapses, and then they do have to spend some money, don't they?

My wife called me the other day about this cold weather we have been having in Missouri, as well as in Washington. We have had ice storms and the driveway has been under ice because I did not get out quickly enough to scrape it off when the snow and the ice started, which she and I had a little discussion about. But she is noticing now that some of it is melting, that part of the driveway is beginning to chip. She is upset about it, and so we are going to fix that and seal that driveway. What would happen if we waited and we did not do that? The cracks in that driveway are not going to get any better. They are going to get worse.

This highway bill is a lot bigger than the last highway bill—if we can get the number my friends from Oklahoma and Missouri have worked so hard to get. It is a lot bigger. It is 30 percent higher than the last highway bill we passed. It is a lot bigger because the problems have gotten a lot worse.

One thing I will guarantee is, if we do not do something decisively to fix this problem now, we are going to have a highway bill 6 years from now and it will be even bigger. It will be much bigger. The gap between the size of the bill and what we will need to do then to fix the problem is going to be a lot bigger, too. We are trying to bail out a boat and we do not have a big enough bucket. Bonding will fix that. We have a chance to do that in this Congress. We have strong bipartisan support.

This is one of the few things we may be able to do on a real bipartisan basis. We have support from the transportation community. We have support from the bonding community. There is precedent for this all over the country. The cost is extremely small relative to the gain and relative to the risk of doing nothing, because if we do not do this now, we are going to pass the bill for our poor transportation system on to the next generation. Let's not kid ourselves that we are doing them any favors by not investing. We are passing it on to them and we are guaranteeing that their bill is going to be a lot bigger than it needs to be. The economic growth they are going to need to be able to pay that bill when we give it to them is going to be undermined if we do not act now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Before my friend from Missouri leaves, I again say how much I have enjoyed working with him on this legislation. I think it is fair to say that nothing important in the Senate gets done unless it is bipartisan.

What the Senator from Missouri has done is lead the Senate in an area that I think is bold and innovative. In my view, it is an opportunity to provide a real turboboost to our economy. I represent a State that consistently is suffering high unemployment, loads of working-class families facing extraordinary economic hurt, and as we have talked about now for a good part of the day, there is no initiative before the Senate that will do more to create good-paying jobs than this particular legislation.

I think it is important for the Senate to say on this bill, at this critical time, that we are not going to stand pat, that the status quo is not good enough. Let's not have a business-as-usual transportation bill. I like the idea of getting our citizens excited, for example, about buying a child or a grandchild a Build America bond, something where kids can save and families can engage in an effort to strengthen our country's infrastructure, rebuild our critically neglected transportation systems, as the Senator from Missouri has noted, and particularly get the American people involved in the exercise.

I have just come from a round of town meetings at home across Oregon and talked about Build America bonds. As we have said, this is to supplement the good work that has been done by the Senator from Vermont and the Senator from Oklahoma and all of the Senators who have been part of our leadership. This is not to supplant existing funds; it is to supplement them, and to supplement the transportation sector at a very critical time.

I have long believed we cannot have big league economic progress with little league transportation systems. The pictures that have been shown today by the Senator from Missouri could essentially be pictures that could come from any of our communities, the communities of Vermont or New Hampshire or any of our individual States. In my State, there are traffic jams and backlogs in communities where no one could have even dreamed there would be a traffic jam even a few years ago. So it is for that reason that the Senator from Missouri and I come to offer a bipartisan and fresh approach involving a tax credit and an opportunity to address our country's transportation needs.

I will say to my colleagues that we are very much aware of the situation on the Senate floor with respect to this topic and the administration's views on it. My own belief is that at the end of the day, when the Senate and the House get together, led by the distinguished Senator from Vermont, Mr. JEFFORDS, and the distinguished chairman of the Environment and Public Works Committee, Senator INHOFE, when they are in that room at the end of the day negotiating between the Senate and the House, I think they are going to be looking for opportunities to do a lot of good in the transportation area where the pricetag is pretty modest. When you use that as a definition in a conference committee, where you are trying to wring out the maximum in terms of value for job creation in meeting our country's infrastructure needs, if that is your measure, I think the legislation that Senator TALENT has authored, with the help of myself and Senator CORZINE and Senator COLEMAN of Minnesota—we have been very pleased on our side to be joined by Senator DURBIN and Senator DAYTON and others—I think when the Senator from Vermont and the distinguished whip, Senator REID of Nevada, and others are in that final set of discussions with the House, this proposal is going to look pretty darned good. It is going to look very attractive compared to a tax increase, which certainly some have debated. It is always a noncontroversial topic to discuss tax increases in the Senate.

But I think to go with an approach like this, the Build America Bonds Initiative, where, as I learned in the course of the discussion, and the Senator from Missouri has just confirmed, the Federal Government is the only entity now that has not figured out how to do this, it seems to me we have an opportunity to address that deficiency and to do it in a responsible way.

The administration has indicated they want to cut the Senate bill. That has certainly generated concern in many quarters. It seems to me, when we can find hundreds of billions of dollars for various kinds of international challenges and concerns around the world, we can do some rebuilding here at home. I think this bonding proposal is a very innovative approach to, in effect, think outside the trust funds, think outside the box, and because of the various opportunities for transportation services to be addressed, this legislation lets the country think outside the gas tank.

As we have indicated, we call on this legislation for issuing federally backed bonds to pay for new transportation construction projects. A very broad coalition of groups has come together, groups representing business organizations, labor organizations, and all of them are united around the proposition that at a time when workers and communities are reeling from layoffs and getting pounded economically, we ought to look for opportunities to responsibly get the dollars that are needed for the transportation sector.

The Build America Bonds Program is a stimulus that will generate funding for our economy today. It is a chance for the Federal Government to hold up its end of the bargain with our States. I am hopeful Congress will finish the critical work on this legislation quickly, but more than anything, let us pass a transportation bill that is not business as usual. These are not standpat times. This is not a time, based on the meetings I just had in Oregon, where folks will say let's just keep doing what we have been doing and we can stand pat because everything is hunky-dory. I think they are looking for bolder and more creative ways to get our citizens and our economy going where we need to go.

The legislation Senator TALENT and I have sponsored will help America get going in the right direction by providing additional funding to meet our country's transportation and economic needs.

I understand the situation with respect to the floor and the Senate today. I hope our colleagues will continue to work with Senator TALENT and me as we go forward in the Senate, as it is debated with the House, because I am absolutely convinced that in the last hours of this discussion, when the Senate and the House are looking for a way to meet this country's transportation needs and looking for a way to do it in a cost-effective fashion, they will say the legislation that Senator TALENT and I have put together is an opportunity to do a lot of good in a fashion that is fiscally responsible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I am not going to inflict myself much more on the subject, but my friend spoke so eloquently on it, and I wanted to add a little bit to what he was saying, particularly with regard to cost.

The thing he and I emphasized that I believe is so important is that these problems we have in transportation are problems that are not going to go away if we don't do anything. If the Federal Government were a private company and its capital infrastructure were in the condition that America's capital infrastructure is in, you would have to list that somehow on the books as affecting the valuation of the company. I am no expert on these things, but that inadequate capital infrastructure of that company would be an ongoing obligation of the company. It would be a debt that the company has to pay because everybody in the commonsense world, if I can say that, understands that eventually you have to deal with this issue.

It is also common knowledge, uncontested, that in particular with regard to transportation, when you delay, costs go up a lot because there are so many inputs to transportation costs: Material costs; wages, of course, go up, one hopes, periodically; costs of right-of-way can go up. There are a lot of things affecting those costs. Everybody knows it is dangerous to put off projects because costs can escalate far beyond the rate of inflation, far beyond what you are earning on the money you are not spending because you didn't want to pay for the transportation.

Under current market conditions we estimate this proposal of ours would cost about $2.5 billion a year, which is about, not 1 percent, but one-tenth of 1 percent of the entire Federal budget. It is considerably less than other proposals which have been made for new kinds of spending, and which I have generally supported, but which were not paid for by any other new stream of revenue. For example, the global AIDS bill, which received wide support in the Senate and which I certainly supported, costs more every year than this costs.

This kind of spending empowers us. This kind of spending gives us the opportunity to create jobs. The Senator from Oregon and I have not even talked about the dynamic impact of transportation investment. But if you Members don't believe that investment in roads and highways and rail and transit has a dynamic impact, go and talk to the economic development people in your State—in the urban areas, in the smaller towns. They are all for this.

I remember when I was traveling around Missouri in support of Build America Bonds and I went to Springfield, one of our dynamic cities in Missouri. I had a meeting at the Chamber of Commerce. The head of the chamber came rushing up to me and he said: "You know, I like the tax cut. But this," he was waving the one page we had for Build America Bonds, "is a jobs stimulus."

He understands that.

This is a proposal whose time has more than come. I want to reiterate what the Senator from Oregon said. I know the problems the bill faces. We certainly do not want to imperil the underlying bill for this. I would not do that. I don't want to suggest that those supporting this bill have not done great work. I am looking forward to supporting this highway bill. But at some point in this process we need to be able to confront this because this is not a problem that is going to get any better if we don't do anything about it.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOBS MOVE OVERSEAS

Mr. HOLLINGS. Mr. President, I will address the most important subject we have confronting us in this country. It is brought about by a headline yesterday in the Los Angeles Times. "Bush Supports Shift of Jobs Overseas." I know the distinguished Presiding Officer, as well as this particular Senator, was shocked to see that. But it is the truth. It is unfortunate because of the policy of this particular body, the Senate, we are as guilty as the President of the United States.

I hear my colleagues weeping and wailing, how could he say such a thing? Heavens above, how could you pass fast track? It's just shipping jobs overseas faster. There's all this free trade, free trade whining; all of this level the playing field, level the playing field but we're shipping jobs overseas.

What really happens is the distinguished President—I don't know what his situation is with respect to being AWOL in the National Guard, but I make a categorical statement—and many others are AWOL from the trade war. Now let's talk about the Afghanistan war, the Iraq war, the terrorism war, but more than anything else, a trade war.

Senator, let me tell you how to start one. It was in the earliest States, the colonies that are great forefathers started. That is the greatest generation. We sit around here, a few of us, veterans from World War II being called the greatest generation. But the real heroes are not here. The real greatest generation was Madison and Jefferson and Washington and Hamilton and Adams. That was the real great generation of our time.

The colonies had just won their freedom when the mother country corresponded back and proposed exactly what we hear today, economists running around all over the land yelling "comparative advantage." Today, we read in the Los Angeles Times article about the comparative advantage. But the doctrine started with David Ricardo, when the British suggested what to do is trade back to the mother country what you produce best—your comparative advantage—and they will trade back with you what they produce best. Free trade, free trade, free trade.

Alexander Hamilton wrote a little booklet, "Report On Manufacturers." I say to the Senator, there is one copy in the Library of Congress. I have been allowed to make a copy of it, but that is the only original copy I know of. But, in any event, rather than wasting the time of putting it in the RECORD here, in a line, Hamilton told the British: Bug off. We are not going to remain your colonies, shipping to you the rice, the cotton, the indigo, the timber, the iron ore, and the natural produce of the land, and continue to import the manufacturing.

There was a law before we won our freedom that you could not erect a manufacturing plant in the Colonies. It was against the law to produce. Oh, yes.

So how do you start a trade war? On July 4, 1789, the second measure that passed the Congress in its history—the first was the Seal of the United States—but the second, on July 4, 1789, was a tariff bill. It was protectionism. It was a 50-percent tariff on over 60 articles. That is how we started to build up our economic strength.

Our economic strength, I say to the Senator, is the vital leg in the three-legged stool of a nation's security. You have the one leg of a nation's values. That was unquestioned until we started preemptive wars. But we are known the world around—they do not hate us. They do not like this policy, but they do not hate Americans. I have traveled the world for the last 37 years, and I can tell you they love America. They revere our stand for individual freedom, democracy, and human rights.

We have sacrificed the world around; and we still are. We have, counting in Afghanistan and Iraq and Kuwait, 14 peacekeeping forces around the world right now. So we have sacrificed.

But there is no sacrifice for this war in Iraq back home, and there is no sacrifice in this Congress. We need a tax cut so we can get reelected. So we tell the poor fellow in downtown Baghdad: We hope you don't get killed. And we really hope you don't get killed because we want you to hurry back so we can give you the bill.

But, in any event, the second leg is the military, unquestioned as the world's superpower. We have the fine soldiers we have deployed in both Afghanistan and Iraq and elsewhere in those peacekeeping outfits. More particularly, the economic leg, that third leg is what has been fractured.

Now how did we build it up? How do you build an economy? Every country in the world is engaged in this trade war. You have to compete. You have to protect your economic interests.

After the forefathers came Abraham Lincoln, the father of the Republican Party. When they came to President Lincoln and said: We are going to build the transcontinental railroad, and we are going to get steel, he said: We are not going to get the steel from Britain. We are going to build our own steel mills. When they were completed, they not only had a transcontinental railroad but a steel capacity under Abraham Lincoln.

In the darkest days of the Depression, Franklin Delano Roosevelt protected America's agriculture. It is still the envy the world around. But we put in import quotas, subsidies for agriculture, and they should be protected unless we want to lose that. They jump all over poor Trade Representative Zoellick. He finally got a free trade agreement with Australia. There were exemptions—dairy exemptions, farm exemptions. You get what you can. We don't have just one agreement and that is the end of the world. If you cannot get an agreement with Australia, our best ally—and their standard of living, they have labor rights, environmental rights galore in Australia—if we cannot get a free trade agreement with that group, we are not going to get a free trade agreement with anybody. So we got it. I would support that because we have the same standard of living.

Not only President Roosevelt, but Dwight David Eisenhower was a protectionist. He put on oil import quotas—back in the mid-1950s.

And John Fitzgerald Kennedy—he had import quotas on textiles. He had a seven-point program to protect textiles. I helped write it. I can see me down in the press room now with Pierre Salinger and Andy Hatcher, the assistant in the press room in the White House. I will give you an original copy of the seven-point program. But we saved, with the multifiber arrangement, textile production in America until we started giving it away willy-nilly in yarn. We gave away $2 billion to Turkey in Desert Storm. We gave away $1 billion here and $1 billion there. They continue with the African, the Caribbean agreements, and everywhere else.

President Reagan came down to South Carolina, and he committed to protect textiles. We passed the textile bill through the House and the Senate just to enforce the multifiber agreement. He vetoed it. We passed it under "Papa" Bush through the House and the Senate just to enforce the multifiber agreement, and "Papa" Bush, who had committed to textiles, vetoed it.

They keep coming in to Greenville, SC, promising, promising anything during an election. I have to come up here to Washington and watch them go back on their promises. So don't give me any of this stuff about protectionism.

Let me tell you, fair and square, we are in a trade war. That is how you build up your economic strength. Before you open your front door, I say to the Senator from Vermont, for "Jeffords Manufacturing," you will need to pay minimum wage, Social Security, Medicare, Medicaid. You will need to have clean air, clean water, plant closing notice, parental leave, safe working place, safe machinery—I can keep going down the list.

So what happens? You can go to China and open a plant for 58 cents an hour—and none of that, none of that. Still, let's talk "cents." If your competition goes, you have to go. If you continue to work your own people, you go bankrupt. So, you see, they have given dignity to this dilemma with this headline: Supports the Jobs Overseas. We in the Congress are responsible for setting the trade policy. We are the guilty parties around here. We have to change the culture and say: Don't worry about this free trade and that you might start a trade war. We are in the war.

We started unilaterally disarming for a wonderful purpose after World War II.

Let me tell you where we were before World War II. This is the most interesting thing because this is not a politician speaking. This is none other than the famous author Edmund Morris in "Theodore Rex." I will just read you a few short paragraphs about where we were at the turn of the century. I am quoting from "Theodore Rex":

> The first year of the new century found her worth twenty-five billion more than her nearest rival, Great Britain, with a gross national product more than twice that of Germany and Russia. The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history.
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> Indeed, it could only consume a fraction of what it produced. The rest went overseas at prices other exporters found hard to match. As Andrew Carnegie said, "the nation that makes the cheapest steel has other nations at its feet." More than half of the world's cotton, corn, copper, and oil flowed from the American cornucopia, and at least one third of all steel, iron, silver and gold.
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> Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of the world markets. Current advertisements in the British magazines gave the impression that the typical Englishman woke to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California figs, Maxwell House coffee, commuted in a Westinghouse tram (body by Fisher) rose to his office in an Otis elevator and worked all day with his Waterman pen under the efficient glare of Edison lightbulbs. "It only remains," one Fleet Street wag suggested, "for [us] to take American coal to Newcastle." Behind the joke lay real concerns. The United States was already supplying beer to Germany, pottery to Bohemia, and oranges to Valencia.

Now we import all of it. And why? Because at the end of World War II, in order to prosper, we had to spread prosperity, the Marshall plan. We sent over not just the money of the Marshall billions, we sent over the expertise, the equipment. And it worked. We industrialized Europe and the Pacific rim and capitalism has defeated communism. So it worked. But in that 50-year period, we more or less unilaterally disarmed.

I can remember back as a young Governor in 1960, I testified before the old international tariff commission, and Tom Dewey was the lawyer for the Japanese. He was chasing me around, and I was attesting to the fact that if this continued, with imports of textiles, 10 percent of the American consumption in textiles would be represented in imports. Over two-thirds of the clothing I am looking at now is imported, not 10 percent. Over 86 percent of the shoes are imported. And so it goes with automobiles and steel and hand tools and everything else.

I have been watching Lou Dobbs. He has had a series on how the world is sending us their architects; then they are sending over medical personnel, and doctors in America are sending mammograms to be read in India. And then I find out that my utility in South Carolina—SCANA—was administering my light bills in downtown Bangalore, India, and my Food Stamp Program at the State capital in my home State had moved to India. I said: Heavens above.

The other night I turned on the series, and now we are moving our law work to lawyers abroad. Instead of hiring paralegals for $75,000 to $80,000 a year in New York to do the background work on a brief or an appeal—they are moving the work to lawyers overseas. They are going to move everything overseas except politicians. We are already too cheap, I can tell you that. They will be importing everything except us politicians. And we keep sitting around whining and beating the desks and showing charts how we are leveling the playing field.

How do you think you level the playing field? You raise a barrier against a barrier and then remove them both. This proposition of the Golden Rule doesn't work in business, I can tell you that.

Mr. REID. Will the Senator yield for a question?

Mr. HOLLINGS. Yes, sir.

Mr. REID. I would like the Senator to comment on the Los Angeles Times headline: "Bush Supports Shift to Jobs Overseas."

Mr. HOLLINGS. Show that to the viewing public, please. That is the theme here.

Mr. REID. You are aware, of course—that is why you are here—of "the loss of work to other countries, while painful in the short term, will enrich the economy, his report to Congress says." This is the man who succeeded Lawrence Lindsey, who had such a great career in the Federal Government. You are familiar with Lawrence Lindsey, are you not?

Mr. HOLLINGS. I surely am.

Mr. REID. This is his successor. I think he will maybe fit in the same shoes as Lawrence Lindsey did. So the Senator doesn't think this is such a good philosophy, that we are shipping all the jobs overseas?

Mr. HOLLINGS. I tell you, it has been ship, ship, ship. And who is financing this extravagance we have going? Let me bring you up to date. In 2003, as of the end of November, the Chinese had borrowed, in the People's Republic $143.8 billion and at Hong Kong $55.5 billion. So they have financed your and my extravagance to the tune of $199.7 billion—they are financing our debt.

Treasury Secretary John Snow goes to China and he says: How about floating your yen here so we can do away with that advantage you have? And the fellows in Beijing say: Bug off, boy. Go on back home. We might start selling your bonds rather than buying them, if you don't think that will wreck your economy and get the Democrats elected in November. That is what they told Snow. And Snow put his tail between his legs and came home. This is what controls the trade policy. We don't control it because we abdicate. Just like President Bush is AWOL in the trade war, we have been AWOL in the trade war—we have, this Congress.

Article I, section 8, of the Constitution reads that the Congress of the United States shall regulate foreign commerce. What do we do? We bug out. We want the money from the big guys and the rich guys and the multinationals, so we bug out and say, oh, no, you take it. Mr. President, we will give you fast track so we cannot even amend trade agreements and you have the responsibility. With that responsibility, he goes AWOL. Here is the headline. And we are AWOL.

You have the candidates running all over the land weeping and wailing about jobs. Let me tell you one thing, Mr. President. If you are going to try to rebuild an economy, you have to do one thing. I am going to give you our jobs omnibus bill and we will draw it up and I will get the distinguished Senator from Vermont to look at it and see what he thinks of it.

No. 1, what we have to do is immediately quit financing the move of jobs overseas. I will never forget. I called Walter Allen Drissi. In Lexington, SC, I helped him with the water and sewer lines. He went out and got himself organized and started a high-tech company, Avenax. He got involved with Bill Gates and MCI. So 4 or 5 years ago, when his stock was up, I called Walter out in California and I said: Now, when you expand, I want a plant somewhere in South Carolina. We were good to you and you still have a home in Columbia.

He said: I will keep my home. I love South Carolina, but I don't make anything in this country. He said: I got my research and sales out here. He said: I go right to China for my product. I get a year-to-year contract. I don't have to build a plant. They have the plant and the workforce. I got a quality man and I am sitting here with the Internet. I watch it every day. My good and trusted man watches the quality. I make two or three visits a year. At the end of the year, I have made a wonderful profit. If I haven't, I haven't lost anything really because I don't have to renew the contract. If I have done better than expected, I get another contract. It is a sweetheart deal.

That is what is going on with American business. Do you know who the enemy within is? The enemy within is our best organizations—the Business Roundtable, the Conference Board, the National Association of Manufacturers, the U.S. Chamber of Commerce, National Federation of Independent Business. They are running all over the floor saying: free trade, free trade, free trade. Are you for free trade? And we jump like monkeys and say, yes. I am for free trade, but I want to level the playing field. This is nauseating. I have been watching this for years.

Even the newspapers are against it. They make a majority of their profits on retail advertising, and the retailers buy all their products overseas.

I used to sit right where the Senator is standing, talking about how retailers have 100,000 articles at Christmastime, and when they run out of supplies and need another 10,000 dozen quick they would get it from New Jersey. But now they make a way greater profit on the imported article than on the New Jersey production. So the retailers make all their profits on the imported articles, and they advertise and they call up and they give the already canned editorials to the newspapers, so all the newspapers are hollering free trade, free trade, saying it creates jobs. It loses jobs.

I have lost 58,000 jobs since President Bush has taken office. Come on. My State is in trouble. That is why all the candidates were running around there making promises. They started a movement. But they have to understand that we have to change the culture.

How do you change the culture? You change the culture by, No. 1, quit financing them, and letting them keep the profits they make overseas. They don't have to pay income tax. That has to stop. We have a bill in that takes those benefits from overseas production and gives it to the particular domestic manufacturer that continues to work his own people.

No. 2, we have to start enforcing our laws. I have worked with the private community over the years in customs law and enforcement of trade laws, and it has been left to the manufacturer and the private entity to enforce it.

I will never forget the final climax of this so-called enforcement in customs laws occurred back when President Reagan was President. If you had a problem, you had to go first before the International Trade Administration, prove a dumping violation, come before the International Trade Commission and prove an injury, and then go to the U.S. Supreme Court and prove the legality; and then you have one final step, where the President of the United States, on national security provisions, can vitiate the whole thing.

In the Zenith case, they won it all. They won before the Trade Administration and the International Trade Commission. They won before the Supreme Court. Then the Cabinet was gathered around the table and they agreed unanimously to enforce the finding. In walked President Reagan and he said: I have talked to Prime Minister of Japan and we are going to have to reverse that. That was the end of it—three years, millions of dollars, all kinds of motions and pleadings and everything else, and it didn't get anywhere.

So the real trial bar in trade cases has just about disappeared because it is not worth the billable hours to go through the exercise. We need an Assistant Attorney General on textile laws. We have an Assistant Attorney General on antitrust. We need an Assistant Attorney General on trade laws and on dumping.

We ought to start enforcing our dumping or selling lost leaders below cost. That is against the law in the domestic economy and the capitalistic society that we have, to have lost leaders and sell below cost. That is exactly what they are doing.

That Lexus that costs $32,000 in America sells for $42,000 in Tokyo on the main street there. They have been selling below cost here, financing with the banking system to get market share. They don't care about profits. Market share is the competition.

They say it is not WTO compatible. Well, if it is not World Trade Organization compatible, we have to change that or get out of the World Trade Organization. After getting that, in addition to enforcing our laws, we have to make sure we have the customs agents.

I got an office in the Customs house in Charleston, SC. I used to go to them on textiles and they said: Senator, wait a minute, we are shorthanded. Do you want me to enforce drugs or textiles?

I said: No, no, let's be sure we get the drugs.

Now I go to them and they say: Wait a minute. Do you want me to enforce homeland security, or drugs, or textiles?

I say homeland security and drugs, forget about the textiles.

The Treasury Department and Customs testified that they got 5 billion in transshipments—illegal transshipments of textiles into this country. We could save thousands of jobs if we could just get that law enforced.

We need specifically to fully fund the Manufacturing Extension Partnership and the Advanced Technology Program. We need a list of the critical materials in the Defense Department that are necessary to our national security. We must make sure we aren't running a deficit in the balance of those critical materials.

Do you know why we waited that long to go into Desert Storm? We couldn't get the flat panel displays for the lookdown, see-down, before we could go in and decimate Saddam. Now, for much of that defense materiel we have to depend on allies whom this administration has made generally unfriendly.

Come on, in this terror war, might doesn't make right; right makes might in the war on terror. Don't worry about a big old defense budget. Get me a big old State Department budget. Let's start making friends. We can't do this by ourselves. We are whistling "Dixie" running around with an atom bomb and a bunch of GIs killing.

The question is: Was it really worth the invasion of Iraq to get rid of Saddam with 530-some American dead, over 3,000 injured, $160 billion in costs, and creating more terrorism rather than less terrorism? We actually, this minute, have more terrorism rather than less terrorism. We hope—and we want to support our effort in Iraq to bring it to as quick a conclusion as possible—we hope we have democracy, but right now, if you had to call the hand, it would be a loser because we were misled into this war.

Saddam Hussein didn't have any weapons of mass destruction, but when the President—and I want to explain that vote—when the President on October 7, 2002, said there is clear evidence of peril—those are his words, "clear evidence of peril"—we cannot wait until the smoking gun is a mushroom cloud.

Mr. INHOFE. Will the Senator yield?

Mr. HOLLINGS. Wait a minute. That was on October 7. On October 11, we voted. Once the Commander in Chief says there is clear evidence of peril, and 4 days later we have a vote, anybody reasonably sane and prudent would vote to support his Commander in Chief. We thought there was clear evidence of peril. There was not clear evidence of peril.

I will be delighted to yield.

Mr. INHOFE. Mr. President, is the Senator aware that 13 months ago they found 11 chemical rockets with warheads that would hold 140 liters of any kind of chemical? They found with that VX gas enough to load these 11 rockets. Subsequent to that they found 36 more. That is 47. Each rocket, with 140 liters of VX gas, can kill a million people; is the Senator aware of that? Would the Senator call that a weapon of mass destruction?

Mr. HOLLINGS. We ought to make my colleague, Senator INHOFE, the inspector rather than David Kay, who didn't find any of what the Senator was listing. In other words, I don't think there is any more argument. There might have been a little bit here, a little bit there, but there was no imminent threat. There was no clear evidence of peril. You can find stuff that could have killed anybody. We could all get the chicken flu, but we are not trying to eliminate the State of Delaware because they have a little chicken flu there. Come on.

Mr. INHOFE. Will the Senator yield further?

Mr. HOLLINGS. Yes.

Mr. INHOFE. If they found 47 chemical rockets, rockets that would hold 140 liters of chemicals, why would they have them if they didn't intend on using them against somebody? Would you inform the Senator?

Mr. HOLLINGS. Why didn't they use them? Excuse me, why didn't they use it? You found them, why didn't they use them? Why didn't you call Saddam and say use them?

Mr. INHOFE. Why did they have them if they weren't wanting to use them at some point?

Mr. HOLLINGS. What is the excuse? You should have called him, you found them, and Saddam didn't use them. The proof of the pudding is in the eating. You are running around on the floor of the Senate finding all kinds of things, but we had inspectors upon inspectors, and they have pretty well proved there was no clear evidence of peril.

Mr. JEFFORDS. Will the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. JEFFORDS. I commend the Senator for his accurate statement relative to the purported threats. There was no way to deliver. I think 900 miles was the furthest rockets could carry, and there was no threat really ever given anyway. I want to clear that up from my perspective.

I thank the Senator from South Carolina more so for the wonderful economic history of this Nation he has given us and how we came to the incredibly strong positions we were in but now find ourselves dissipating all those great triumphs we had in the past and watching them all march overseas.

I think what Senator HOLLINGS has given us today ought to be put in marble so everybody can read and better understand the situation of this Nation at this time. I thank him for that wonderful contribution to our history.

Mr. HOLLINGS. The Senator from Vermont has been overgenerous to me, but I think what we both agree we are at fault as much as the President in shipping jobs overseas. We are the ones under the Constitution, article I, section 8, the Congress, not the President, not the Supreme Court, the Congress shall regulate foreign commerce, but we have abdicated our responsibility, and we have gladly done so. Why? Because the Conference Board and the Business Roundtable and the United States Chamber of Commerce gives us money, and we need the money to run. So we take the money and run and avoid our responsibilities.

We have to change the whole culture. We are into a dynamic trade war. We had a plus balance 10 years ago with Europe. We have a negative balance now. NAFTA hasn't worked. We had a $5 billion-plus balance before NAFTA. Now it is a negative $15 billion balance, and the average Mexican worker is not making less. What we really need is a Marshall Plan for our neighbor, the country of Mexico. That is what we ought to have rather than going back and forth.

We had last year a $500 billion trade deficit, and about $500 billion in a budget deficit. So we have infused—infused—$1 trillion in the last year into the economy, and we created no jobs. That should worry everybody in the Congress. And what the President proposed for next year's budget is not a $521 billion deficit. Look on page 392, and you will find it's a $726 billion budget deficit that he proposes, and he doesn't include anything for Afghanistan and Iraq and the cost of the alternative minimum tax, which is another $200 billion.

We are in real trouble. We have to sit down in a bipartisan way and quit running around with the signs saying the President is AWOL, because the Congress is AWOL. That is my beef. I fought these trade bills. I couldn't get anybody's attention, but now we have their attention. Baloney with that Business Roundtable, and profits, and downsizing and moving overseas. Let's make it profitable for manufacturers to do business in the United States. That is common sense. I say to the Senator from Vermont, doesn't he want to do that? I am sure he does. I thank the distinguished Senator for his kind attention. These are the most important issues we have ever had. There isn't any question about that.

The January 27th New York Times reports that at a business meeting in Davos, Zhu Min, an economic adviser to the President of China, was met with silence when he asked Americans how their country planned to finance its economy with both blue collar manufacturing and white collar service jobs going elsewhere.

The world has changed. Come on, wake up and start working out a good jobs policy in this Congress and quit blaming each other. There is plenty of blame to go around for all of us. But when it gets so bad that the economic adviser to the President of China, is asking how you pay your bill with all of these jobs going over here, and the economic adviser to the President of the United States says, "Right on, we need more of them overseas, it is good for the country," we are in real trouble.

I thank the distinguished Senator.

I yield the floor.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 30 minutes as in morning business.

The PRESIDING OFFICER. The Senator has that right.

THE FUTURE OF SCIENCE AND TECHNOLOGY IN AMERICA

Mr. BINGAMAN. Mr. President, for the last 2½ years the primary efforts of the President and much of official Washington have focused on: How do we meet the threat of terrorism? Clearly, that is a threat we need to meet as a country, but there are other threats and other challenges that demand our attention as well. The first, most important of those, in my view, is the need to create high-wage jobs. Others have spoken about that. The Senator from South Carolina spoke about it. Others in the Senate have spoken about it in the last few days.

High-wage job creation requires, as a precondition, that we adopt sound monetary and fiscal policies. The monetary policy we leave up to the Federal Reserve, but the responsibility for maintaining sound fiscal policy rests with the President and with the Congress. Both this President and this Congress have failed miserably in carrying out that responsibility.

Much has been said about that failure, and I am not going to repeat those arguments again today. But even if the President and the Congress come to their senses and pursue a policy that is responsible with regard to fiscal affairs, the problem of how we are going to create high-wage jobs is still unaddressed.

So the question is: What actions can we take to achieve that goal? Each of us can list at least some of the building blocks for a high-wage society, fair and equitable tax structure, an educated and skilled workforce, an efficient, robust transportation infrastructure, a modern communications infrastructure, and so on.

I would argue that any discussion of high-wage job creation should start with what military strategists refer to as the point of the spear, the tip of the spear, and I firmly believe that in the economic competition for high-wage job creation, this point of the spear is science and technology. Just as in the case of our national security, our economic future depends on our remaining the world leader in science and technology. If that leadership is lost, then our capacity for high-wage job creation will soon atrophy.

Joseph Schumpeter, who taught all of us about the creative destruction that is inherent in our capitalist system, the competition that is brought on by new technologies and new markets destroys companies, it destroys entire industries. Jobs that existed in those industries are lost, only to be replaced by new jobs in other industries, in new companies that are nimble enough to take advantage of the dynamic change that is ongoing at all times.

As Andy Grove of Intel has said, only the paranoid survive. If we want the United States to lead in the 21st century, we need to recognize that the world of the future is being shaped by new technologies and their rapid diffusion. Entire industries may disappear in the process or be utterly transformed, and there are many examples. One is the entire industry of recorded music that is being reshaped by the ease of downloading music from the Internet. Sales of recorded CDs have been dropping each year for the past few years. Today, blank CDs for making recordings at home substantially outsell recorded CDs. When one walks into Staples or Office Depot, one sees a big display of blank CDs for sale, and one can be certain that most of those

CDs are not destined to be used to store spreadsheets of data. Even the small number of high-profile lawsuits against individuals who burn disks of music without regard to the copyrights have not substantially altered this phenomenon.

The music industry still is in search of a mechanism to adapt to this fundamentally new business environment brought about by the diffusion of two new technologies; that is, the Internet and, secondly, cheap CD-burning drives.

Another example: The biotechnology industry. This is an industry that has sprung up in a very short period of time. The basic patent for genetic engineering, the Cohen-Boyer patent on making recombinant DNA, was issued 30 years ago. No one at that time could have predicted we would one day have a biological industry rivaling the chemical processing industry that was already a century old at that point.

The United States has reaped enormous economic benefits from being the first country to lead in the development of the Internet and the harnessing of biotechnology, but these revolutions are far from being the last technological revolutions we have seen or will see in the future.

So the key questions at this point in time for us are: Which countries will win the competition to develop these new industries, these new jobs, based on future technological changes? Which countries will benefit overall from those changes? Which countries will lose out? After the current wave of technological change has passed, which countries will be best positioned for the next inevitable wave of change?

We ignore these questions at our peril. After reviewing the President's proposed 2005 budget for science and technology, I am persuaded that this administration is ignoring these questions now. It is clear that we are, in fact, in the middle of a set of interrelated technological revolutions that are both reshaping existing industries and leading in a number of cases to entirely new industries.

A short list of those ongoing revolutions would include the following: Microelectronics, particularly the continued miniaturization and diffusion of data processing power; secondly, high-end super computing; third, telecommunications technologies; fourth, man-made materials, including materials in which the structure has been designed and built at the atomic or the molecular level.

This is, in essence, nanotechnology. Another example is robotics. Another is biotechnology, which I have referred to before. Also, technologies to increase energy supply such as renewable energy technologies that are as inexpensive as traditional fossil fuel sources of energy and that use hydrogen as an energy carrier, and also technologies for increased energy conservation. We know that these technologies are crucial to our future.

The question is: Will America play a leading role in their continued development? The answer is not that self-evident. In the 60 years since World War II, other countries and other regions of the world have built science and technology capabilities that rival ours today and in many cases are destined to rival ours in the future. The Governments of China and India and Japan and the European Union have all targeted advancements in their research and innovation system as key elements of their plans for future national and regional economic prosperity. Even if we have a strong science and technology policy in this country, these other countries and regions will give us stiff competition.

Unfortunately, though, just as this international challenge is becoming very clear, this administration appears to be sticking its head in the sand. A look at the budget proposal for fiscal year 2005 submitted by President Bush on February 2, shows the serious gaps in support of the kind of basic science and engineering that will be the most important to the development of technologies and industries of the future. Let me give some examples:

The budget proposes $660 million in cuts for basic and applied research at the Department of Defense, the sort of research that has the greatest potential for dual use and effective spinoff to the civilian high-technology industries.

There is a proposed $68 million cut for the Department of Energy's Office of Science, which is a major supporter of basic physical sciences and engineering research.

There is a $63 million proposed cut for energy conservation research and development at the Department of Energy.

There is a proposed $183 million cut for fiscal year 2005 for agricultural research.

There is a proposed $24 million cut for transportation research.

There is the proposed total elimination of the Advanced Technology Program in the Department of Commerce. That is a loss of $171 million for new technologies that would otherwise have been enabled and brought to commercial reality. This termination of the Advanced Technology Program is particularly egregious in light of the circumstances we face.

The rationale for the termination in the President's own budget document deserves to be enshrined as some sort of classic wrongheaded reasoning. Let me read this for anyone who is listening to understand what was said. This is word for word out of the President's budget document. The heading is "Advanced Technology Program—ATP." This is a description:

> The ATP endeavors to help accelerate the commercialization of high-risk, broad-benefit enabling technologies with significant commercial potential. ATP is a merit-based, rigorously competitive, cost-shared partnership program that provides assistance to U.S. businesses and joint R&D ventures to help them improve their competitive position. The President's 2005 Budget proposes to eliminate the program and, therefore, no funds are requested for FY 2005.

So that is it. I did not add a single word. I did not subtract a single word from the President's rationale. Literally it says ATP is a great program; it helps our competitiveness; it is effective. Therefore, we propose to kill it.

There is another aspect to President Bush's budget that makes the point that science and technology policy is a low priority for this administration. That is the underfunding of important R&D programs that Congress has recently authorized by overwhelming margins and that the President has signed into law.

One example is cybersecurity research and development. Every American knows that computer viruses and worms can cause serious damage to the economy. In November of 2002, Congress passed, and the President signed, the Cyber Security Research and Development Act. That bill authorized a significant program of research and development on computer and network security in the National Science Foundation. For fiscal year 2005, those R&D authorizations amounted to just over $122 million.

After signing the bill, the President had a complete budget cycle to develop a budget request incorporating the authorizations that he signed into law. There appears to be no proposed funding in 2005 in the National Science Foundation to carry out the law. In essence, the President's signature on a law to increase R&D investment in cybersecurity meant nothing when it came time for the administration to put together a proposed budget for 2005. In fact, the budget element for the National Science Foundation budget that would fund this activity is proposed for a decrease of $40 million.

A similar situation has occurred in the area of nanotechnology. Again, last year Congress passed, and the President signed, a major research authorization bill for nanotechnology. The contents of the bill were well known during the bulk of the budget cycle. For fiscal year 2005, the bill provide for nanotechnology spending across five agencies adding up to over $800 million.

The President chose to hold a formal signing ceremony at the White House on this bill, and this is unusual for a bill dealing with research and development legislation. The White House press release for the signing ceremony noted that the President had previously requested a 10-percent increase in nanotechnology funding for the 2004 budget. In the fiscal year 2005 budget request, after the signing ceremony, after the photo opportunity, the President asked for a 3-percent increase for the national nanotechnology initiative as calculated by the Office of Management and Budget.

Before we passed the legislation, he asked for a 10-percent increase. After we passed the legislation, he asked for a 3-percent increase. When you compare the President's nanotechnology request for fiscal year 2005 to the authorized levels that he signed into law, it turns out that he has requested $200 million less for nanotechnology R&D in the budget that he sent us on the February 2, compared to the authorization that was signed a few months earlier.

Finally, there is a total disconnect between science and the administration's plans for the space program. At the same time that the President is cutting and terminating or failing to fully fund R&D programs with demonstrated effectiveness in creating jobs and wealth in the country, he is proposing a manned Moon-Mars initiative at NASA. That is likely to yield some benefit to the Nation. There is a lot of debate about how much benefit.

Most of the alleged technology spinoffs of past space exploration activities have not been as great as was advertised. We did not invent Teflon or Velcro or even Tang, as part of the space program, contrary to the belief of many.

To pay for the new Moon-Mars initiative, the President proposes to take funds from other parts of NASA during the next few years. Beyond that, future Presidents will have to direct substantial funds to manned space fight in order to keep the program on schedule.

We have already seen the first wrongheaded move at NASA in the area of diverting resources and that is the proposed abandonment of the Hubbel space telescope, which is one of the premier assets of NASA at this time. The Hubbel telescope is still in its prime. It is capable of continuing to make major discoveries about our universe and its formation. The proposal to abandon the Hubbel telescope to find money to plan for a manned mission to Mars is a clear example of the low value that seemingly is placed on real science by the administration.

Because of the outcry from the scientific community and from some colleagues in the Congress, notably Senator MIKULSKI of Maryland, this proposal is now getting a second review, but it is too soon to say that it will, in fact, be withdrawn. The fact that this termination was proposed in the first place illustrates the lack of priority given to science in the administration's thinking about our Nation's future.

There are other policies as well that this administration has put forward related to science and technology that are also deleterious to our future, just as these cutbacks in funding are, to which I have referred.

One example is the visa and other immigration restrictions that have been put in place over the past 2 years related to science and engineering students in this country. Foreign-born students coming to this country have for decades been an important asset to the United States. After completing their training, many have stayed here to make significant contributions to both basic science and innovation. They are a great source of strength in our innovation system and to our country.

We have only to look at the current Director of the National Institutes of Health, Dr. Zerhouni, who was born in Algeria and came to the United States in his early twenties to train in diagnostic radiology at Johns Hopkins University in Baltimore. Today, in the name of increasing our national security, we are making it extremely difficult for the best and brightest foreign students to come to the United States and be educated and to remain in this country and become citizens as Dr. Zerhouni was able to do.

Instead, the effect of our policies and the ham-handed way we are implementing those policies is driving away from the United States some of the scientists and engineers who want to come here to build a better life for themselves and for our society. This is an issue we need to look at seriously, and we need to begin to make rational decisions with regard to it.

The end result of these policies that have been implemented today is that the brightest students from around the world will increasingly choose non-U.S. educational institutions for their advanced education, and major scientific meetings will increasingly take place outside the United States. Our policies could have the effect of strengthening the innovation systems in other countries. As a result, we might well be encouraging high-wage job growth to take place overseas instead of the United States.

What can we do about these issues? We in Congress can do several things. Let me mention a few.

First, Congress can put more pressure on the President to beef up the White House Office of Science and Technology Policy, or OSTP. One of the basic reasons there seems to be so little leadership on science and technology issues coming out of the White House may be that the Office of Science and Technology Policy appears to be significantly and severely understaffed. The current Science Advisor is authorized under law to have six high-level deputies and most previous Science Advisors were extremely well qualified people in all of those positions. Under this administration, only two of those six positions have been filled. No attempt was made to adjust that staffing strategy after the events of 9/11.

Clearly, this is an issue that deserves attention. The President's Science Advisor appears to have spent the bulk of his energy on terrorism-related issues since 9/11 with the result that the overall health of our science and technical foundations has not gotten the attention it otherwise could have received from a fully functioning OSTP.

A second action item we could address in Congress is require the President to actually prepare and make public a science and technology policy. We have a lot of speeches about how we need a national energy policy in the country. Why don't we need a national technology policy? Having such a document is not a panacea, but the discipline of having to sit down and write such a document will force the White House to give some thought and examination to the technological opportunities and revolutions we face and on which we are in danger of missing out. Previous Presidents have had explicit policies in this area. The value of such policies has only increased in recent years.

A third action we can take in preparing this new budget resolution is to insist that the entire Federal science and technology budget get better and more unified consideration. It would be valuable to have some joint hearings across the relevant committees in the Senate on the overall shape of our science and technology spending. It might be worth considering whether the functional structure of the budget itself should be revised to put the entire Federal S&T budget in one place so that there is more transparency as to what the real trends are in the national budget for science and technology.

A final action item I would mention today is Congress needs to take a strong role in resisting the cuts that are being proposed by this President to the research and development budget, particularly to programs such as the Advanced Technology Program. Frankly, instead of terminating the ATP, we should be looking to duplicate its strategies and successes in other Federal agencies.

For example, both in the Department of Energy and in the Environmental Protection Agency, we could benefit from having programs structured along the lines of the Advanced Technology Program as part of the overall mix of programs in each agency to spur the development of new technology.

One thing I hope Congress does not do is what the administration unfortunately has done; that is, to lose focus on where the real source of our future national wealth and high-wage job creation opportunities lie. Our future economic security crucially depends on innovation and genius as reflected in our scientists and engineers, particularly universities and major laboratories that are supported by the Federal Government. Our long-term economic future depends upon us making well-reasoned choices about what our real priorities are, and science and technology needs to be recognized as a priority that it in fact is for the country.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I want to take a few moments to respond to the Senator from New Mexico and some of the thoughts and ideas he has presented. I appreciate his interest in this topic and his interest in science and technology. But I strongly disagree with some of the conclusions he draws.

I think the reason for some of those conclusions is that all too often when Members of the House or the Senate talk about issues of science and technology, we assume that all programs having to do with science, technology, or research that carry that label in the Federal Government are all created equal; that they all have the same goals, motives, and effects in areas of science or research and the same effect on our economy. They simply do not. I think it is important that we draw a distinction between the various types of research and technology programs that have been discussed.

The Senator from New Mexico mentioned NASA's program. He touched very briefly on National Science Foundation programs, many of which fund some of the nanotechnology initiatives. He mentioned the Advanced Technology Program, and that in particular is the one I wish to talk about.

If there is one program in the Federal Government that ought not to be expanded, it is the Advanced Technology Program. It is for the reasons that are described or listed in the description read by the Senator from New Mexico. He described a program that invests in or subsidizes commercial research for private companies to develop new products to sell in the market. This isn't investing in research that subsidizes or supports basic physics or chemistry or computational mathematics. This is new product development for private—and in most cases profitable—companies. The description he read of their commercial applications means that someone somewhere has to assess the value of these new products. I think the description also mentioned the risk involved.

Those who have worked in manufacturing, engineering, and product development understand there are risks involved in developing new products. But there are also rewards to be gained. That is why many of these companies are quite profitable.

What this program in particular—not all federally funded research, and certainly not the work of the National Science Foundation that provides support for physics and chemistry and computational mathematics but the advanced technology program—is doing is subsidizing product development for private sector companies. That naturally begs the question, What companies? What companies are benefiting from these subsidies? As I said, they are profitable. But these are companies that have competitors. That means someone in the Federal Government—a man or woman somewhere in the Federal Government—is looking at a number of different firms in a given industry and picking one or two to provide a taxpayer-funded subsidy for the development of a new product that they are going to sell in the marketplace and make money from.

The Federal Government doesn't get an equity position. We don't get royalties. We are not benefiting from the fruit of these subsidies, but we are certainly taking the taxpayers' money from families who might be earning $30,000, $40,000, or $50,000 a year—middle income or low income. We are taking their tax money and giving it to some private corporation to subsidize their new product development. That is simply wrong. It does not matter if there is a merit review. It does not matter if the man or woman or the board evaluating these programs is being very thoughtful about it and very judicious in trying to be fair and balanced and pick the right technology or the most promising technology.

It is wrong to be subsidizing the product development of a private company selling its goods into the marketplace, trying to make a profit. It is certainly not an efficient way to run an economy. It certainly is not fair to those competitors who are selling similar products who have to compete with the company getting the big government subsidy or the small government subsidy. It does not matter to me if they get $100,000 or $200,000 or $2 million. It certainly is not the role of the Federal Government to try to manipulate or micromanage markets for commercial products. That is not the role of the Federal Government.

I do not take issue with a lot of the concern and interest shown in encouraging our children to dedicate themselves to areas of science or technology or mathematics. I certainly enjoyed math and science as a student, and although I don't know how well I performed, I performed well enough to go to engineering school and work at least at one time in the real world helping to develop new products and helping to bring them to market. Maybe it is that personal experience, having worked at the very type of firm that may be applying to the Federal Government for these subsidies, that makes me so concerned this is not the right role for the Federal Government. This is not the best way to spend taxpayers' money.

That is precisely the reason the administration has said we ought not to be spending $150 million in this way. We can find a better use for this money. We can find a better way to utilize it for the public good in a way that does not, in my opinion, sap our economic strength by trying to manipulate or micromanage these markets.

There are many areas of the Federal Government where we might be providing support—through the National Science Foundation, through the National Institutes of Health—the basic research in medicine or physics or chemistry or mathematics or some of the other areas I mentioned which might be very worthwhile, to expand our understanding in these areas of basic science and mathematics. But helping some company develop a new air conditioning system or new control system or write a new software code they can sell into the marketplace is not the way to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me respond briefly to the comments of my colleague. I respect his background and knowledge in engineering and science. He is, I believe, the only qualified engineer we have serving in the Senate at this point. I certainly respect that.

I believe strongly the Advanced Technology Program which he has discussed is a very good use of taxpayer dollars. It is not, as he describes it, subsidizing product development by individual companies. It is, in fact, assisting with generic, broad-based, high-risk, precompetitive technology development.

I suggest to my colleague much of our ability to compete in world markets depends upon our remaining world leaders in the various generic technologies we are talking about. In microelectronics, in nanotechnology, in a whole range of areas, we need to have Government support for continued development of generic technologies so our companies can, in fact, pick up on that and hopefully be competitive in the world markets. That is what has happened in biotechnology.

Maybe the genome project is a terrible use of taxpayer dollars, funding the development of the genome product. There are a lot of commercial benefits coming out of that and many more in the future. But that was a government-funded research effort, and that was an extremely good investment. That is one of many examples.

The Advance Technology Program—and I do not have all the examples with me today, but I will bring them to the Senate in the days ahead. But to say the rest of the world can do what it wants in the way of pursuing generic-enabling, precompetitive technologies, we are doing nothing in those areas, is shortsighted in the extreme. Essentially, that is what this administration has done. We do not want an Advanced Technology Program in this country. The Japanese can do what they want, the Europeans can do what they want, the Chinese can do what they want, along with every other major country.

I just returned 2 months ago from a trip to Taiwan. I urge my colleague to go to Taiwan—maybe he has been to Hsinchu Science Park near Taipei—and talk to them about how it is inappropriate for government to be involved in any way assisting in the development of precompetitive technology that might benefit some of these companies. They do not understand what language you are talking in that kind of discussion.

We are in a severe competition with the rest of the world to remain the world leader in science and technology. The advanced technology program is an essential part of us maintaining that leadership. It is wrongheaded for this administration in this day and time to be coming to the Congress and saying, let's eliminate this program. Sure, we want high-wage jobs to be created, but the answer to that has been, Let's cut taxes some more.

That is not an economic strategy that is going to get the job done. We need various elements of an economic strategy. One of those is to remain the world leader in generic precompetitive technology development. That is what the Advanced Technology Program is intended to do. I strongly favor continued and increased funding of it.

We have a basic disagreement on this issue. I wanted that on the record.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. I appreciate the comments of the Senator from New Mexico.

To reiterate what I hope I was clear in saying before, I am not talking about National Science Foundation funding, which was the funding principally used to support the development of the human genome project. I have been quite supportive of the NSF funding and the National Institutes of Health funding research, which is where the human genome funds came from.

Talking about the Advanced Technology Program, I am not quite sure what "precompetitive" means. I would like to use the definition that is just behind the Senator from New Mexico. It says "commercial potential." That means products that are commercially viable that will be sold in the marketplace, in a competitive marketplace, in that description behind the Senator from New Mexico.

It says the grantees of this program are businesses—businesses and joint R&D partnerships that are funded by, I assume, I hope, American businesses. In fact, at one time some of the largest grantees of this program were those in the automotive industry, automotive manufacturing industry. We were using these ATP funds for the partnership for the next generation vehicle. This was an initiative driven originally by Vice President Al Gore at the time to develop a hybrid car, hybrid electric and combustion engine. After spending about $2 billion in all with the Advanced Technology Program, that effort was abandoned. It simply is a case in point as to why it is not a good idea to take taxpayer money and try to subsidize the product development—in this case, of cars—that is a product sold in the marketplace, and in a competitive marketplace at that.

One final anecdote, and I think it is an important anecdote. The Senator from New Mexico mentioned Taiwan. I have been to Taiwan before; not to this particular office park. I do not believe in a national economic policy that says: Let's do what the Japanese are doing. Let's do what the Germans are doing.

In Germany right now they have over 10 percent unemployment. In Japan right now they are still in the throes of a deflationary spiral and a stock market collapse that began several years ago.

I do not want to be Japan. I do not want to be Germany. I want to be America. I want the strongest, most competitive, most vibrant economy in the world. That is what we have today. I do not want to lose that, certainly. But if we look back just a little bit, back to the late 1980s, industrial policy wonks within the Senate and the U.S. Government were insisting if we wanted to be a competitive economy, we had to subsidize the development of the high-definition TV standard, and they did not talk about putting $100 million or $200 million or $150 million, as we have in the Advanced Technology Program today, into subsidizing the development of a TV standard. They were talking about billions—$2 billion, $5 billion, $10 billion—to subsidize the development of a commercial application.

Fortunately, the United States did not do that. But Japan, the model cited by the Senator from New Mexico, did do it. They put roughly $20 billion of their federal taxpayer resources into the development of that commercial standard. As a result, they have a high-definition TV standard that cannot rival the standard that was developed by the private sector, the competitive marketplace here in the United States.

It is a small example.

We might be able to point to an example where a technology or venture in ATP did result in a good commercial product that enabled the owners of that product to make a lot of money. But, as I often point out to my constituents, if you let me spend $150 million a year, I can certainly create a few jobs with it; the question is, is it the role of the Federal Government. Should we be micromanaging private sector, profitable companies in the private marketplace? Should we be subsidizing one company at the expense of its competitors? Is it the right thing to do? I think in this case it simply is not.

I yield the floor and very much appreciate the Senator from New Mexico engaging in this discussion and difference of opinion.

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, I first of all extend my appreciation and my apologies to the Senator from Wyoming, Mr. THOMAS, for allowing me to go before him. I will be as brief as possible. I wanted the discussion to be in keeping with what has been said by the Senator from New Mexico and the Senator from New Hampshire.

I am not a scientist, but I am a historian. I understand history. I know, for example, in 1844 Congress was approached by a man who said: I want to revolutionize the communications systems in this country. He asked Congress to appropriate $40,000 for an experiment he did not have the wherewithal to do. He had been trying for many years to get the money to do this.

The experiment was to build a telegraph line between Washington, DC and Baltimore, MD. For $40,000 they did it. The Federal Government did not ever have to put another penny into that project. It revolutionized the way we communicated in America the telegraph system. The Federal Government did the right thing by doing the research and development on this issue.

Let's fast forward now more than 100 years from 1844 when two scientists from MIT, by the name of Danby and Powell, were stuck in traffic in New York. They were both professors at MIT, scientists. They said: This is ridiculous. We shouldn't be stuck in traffic like this. We should figure something out that would stop this.

They went back to the laboratories, and they, within a short period of time, invented magnetic levitation, which is the ability of these huge trainlike vehicles to speed through the air, but the vehicle is less than a quarter of an inch off the guideway. It goes 300 miles an hour.

The Federal Government, the United States of America, for 5 years paid for research and development for this new technology. There were cost-cutting issues that came forward and it was eliminated. There was no more research and development. But the Germans and the Japanese picked up from where we left off, and now they are in the process of finalizing their experimentation of magnetic levitation.

We are going to have magnetic levitation in this country, no question about it. It is only a question of when.

The bill that is now before this body will spend hundreds of millions of dollars on magnetic levitation. The bill before that did not spend that much. It is going to happen, but we are going to have to import the equipment and the technology from Germany and Japan.

I believe the Senator is right. I believe the Federal Government has to be very careful in picking and choosing where we help with research and development on a scientific project, but we have an obligation, I believe, to the taxpayers of this country to develop the telegraph or magnetic levitation.

I underscore the need for this and applaud and congratulate the Senator from New Mexico for his usual farsightedness.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just continue, if I can, for another 2 minutes before yielding to my colleague. I promise it will be very short.

I thank the Senator from Nevada very much for the examples he cited. I think there are many other examples, and in the coming days and weeks I will try to bring some of those to the floor, as I am sure my colleague from Nevada will.

The truth is, we would not have an Internet if it were not for Government-funded technology development. The President himself has identified some areas where he believes we need to put additional resources into research and development—developing hydrogen-operated vehicles, for example.

There are a great many areas where the Government does have a legitimate role to play in underwriting generic, precompetitive technology our companies can then take to be competitive and remain competitive. That is what the Advanced Technology Program has done. There are many examples we can point to over the years of successes they have had, and we will get those examples out for the Senate.

But it is shortsighted in the extreme for us to be saying, in this day and time, when we are worried about high-wage job creation in this country, that the way to start dealing with that is to eliminate this kind of program, to eliminate our support for science and technology development in the Department of Commerce. That is a very shortsighted approach. I hope this Congress will not agree with this President and go along with this kind of cut.

Mr. President, with that, I yield the floor. Again, I thank my colleague, Senator THOMAS, for his courtesy in allowing us to continue this debate as long as we have.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I enjoyed listening to the debate.

I do rise to talk some more about the issue that is before us, the issue we have been talking about now for 10 days, and that hopefully we will be able to complete within the next couple of days, and that, of course, is the highway transportation infrastructure bill that is now before us.

I thank the chairman of the EPW Committee and the ranking member and the staff for continuing to move forward with this important bill.

Sometimes we take for granted what is out there, whether it be electricity—we have been working on the electric bill—whether it is energy. Because it is there, we just sort of forget all that goes into making sure it is there.

But our previous transportation infrastructure bill, the Transportation Equity Act for the 21st Century, expired on September 30 of the past year. Now we are nearly half a year beyond the bill expiring to take care of our infrastructure needs. For some time, then, the transportation system has been operating under a 5-month extension, which expires at the end of this month, by the way, and which doesn't fund nearly to the present needs because it is a CR from before.

So the infrastructure is in great need. All of us recognize that. There is an increasing use of it, increasing numbers of cars on the road, increasing numbers of trucks.

Our whole economy depends on this transportation infrastructure. The Interstate Highway system is almost 50 years old. Thirty-two percent of our major roads are in poor or mediocre condition. You can see that, particularly when we have had the rain and the storms, you drive around and bump into the potholes.

But more importantly, we don't have the kind of expansion to handle the increased traffic. Twenty-nine percent of our bridges are structurally deficient, functionally obsolete. Thirty-six percent of the Nation's urban rail vehicles and maintenance facilities are in substandard condition. Twenty-nine of the Nation's bus fleet and maintenance facilities are substandard or in poor condition. We really have a challenge with one of the most important aspects of our economy being in poorer shape, certainly, than we would like to see it or even imagine that it is.

I am very pleased that we are working on this bill. I happen to be a member of the EPW Committee as well as the Finance Committee. Those are the two main committees involved. I have been involved for some time—in fact, 6 years ago I was involved in the previous program from the EPW Committee. I feel strongly about this issue, very strongly about it in terms of the infrastructure, very strongly about it in terms of the jobs that it creates. Quite frankly, it creates more jobs more quickly than any other kind of activity we could undertake.

We are in the process of seeking to get that resolved, of course. This legislation would result in thousands of jobs. In my State of roughly half a million people, one of the smallest States in the country, 20,000-plus jobs mean a lot. We would have those very quickly. In fact, for every $1 billion in highway construction, we can expect 47,000 new jobs to occur. This means creating opportunities for people to work.

In my State, again, we have nearly 20,000 people who are employed as truckers and move more than 31 million tons of manufactured freight and earn more than $674 million in wages. So this is part of the economy that is impacted and affected. Without good, safe roads, of course, these people can't get their jobs done.

The highway system is almost 50 years old. You don't think about all the things that are involved in that. It is terribly expensive to have roads fixed. Last year we had 20 or 30 miles of roads being fixed over the mountain into Yellowstone Park. This is a U.S. road. This is an interstate highway that people were using. Of course, it is very expensive. So there are a lot of dollars involved in doing this. But we can't allow these kinds of things to continue to deteriorate.

I just came from a meeting for an hour or so with the Director of the National Park Service. I happen to be chairman of the Park Service Subcommittee. One of the issues important to the Park Service is maintenance of highways in national parks. Of course, here again it is very expensive but absolutely necessary to have it done. There is a great deal of discussion about what we ought to do. The expenses are high. We are all concerned about the budget and the deficit, of course. We want to work to change that. But we have had that in mind as we have gone along on this whole program.

Of course, the basic source for funds for highway funding is the tax on gasoline that each of us pays, 18.5 cents each time we put in a gallon of gas. That goes into this fund. It goes into the fund for highways, partially for mass transportation as well. The funding actually was done in the Finance Committee, and there has been a considerable amount of talk about the fact that there was some sort of trick being pulled in order to get money in there that didn't belong there. Quite frankly, I followed it as closely as I could. I keep hearing these incorrect allegations.

I encourage critics to read the Finance Committee title. Under the committee title, the highway trust fund will maintain more of the excise taxes that were intended to go into that fund originally but have not been there. This accomplishes partial elimination for the ethanol blend of fuels. These fuel users now pay the full excise tax, and the trust fund under this plan will receive the money. It has not in the past. The benefits will be taken as a tax credit against the general fund as are all other energy production incentives.

Likewise, the trust fund will retain excise taxes collected from certain users such as State and local governments using the highways and paying into that fund. Currently, these users get a refund. Under the committee amendment, the refund is not charged to the highway trust fund. What we have done is made some changes in the funding that should have been going into the trust fund but has not been going into the trust fund, and then finding some others to replace these so that there is not a reduction in the general fund but that the highway trust fund has more body to it.

The committee changes have been called gimmicks. We hear the allegation that the Finance Committee used accounting gimmicks. This is unfair and incorrect. What the Finance Committee did do was ensure that the trust fund keeps more of the excise tax, which is what it was designed to do in the first place.

Then, for instance, the Finance Committee recognized that the trust fund should earn interest on the balance. It is a huge amount of money, and the interest is a significant amount. It has not gone into the trust fund in the past. It would do that.

So there are a number of aspects that have been changed here. We find a good deal of complaint on the floor that these were gimmicks and criticisms of the Finance Committee. Unfortunately, interestingly enough, the Commerce Committee is also a part of this. They have been able to spend $7 billion in their programs, but they don't ever mention that. All they do is complain about what the Finance Committee is doing.

I can't emphasize enough the need to move this bill and to move it now. This idea that we would have a CR for a year simply doesn't deal with the issues we have, the problems we have, keeping up this infrastructure in the way it needs to be kept up. We have solved these issues. What we need to do is pass this bill this week and go into conference committee. Get the House to do what they are going to do with it, go into the conference committee, work with the House and the White House and with the Senate and come up with a bill that is appropriate for everyone and will be accepted by others. That is the system we have.

Increasingly, if someone disagrees with the system, instead of debating and discussing their differences, they just look for ways to hold up the bill. Quite frankly, that is a high price to pay for all Americans to not have these jobs, to not have this infrastructure kept up, to not be able to do what is needed on one of the most important aspects of our economy. We have the opportunity to do that.

I am certainly hopeful that we can come to some agreement. No one in this Senate is more concerned than I am about the spending level. I think you have to take a look at what we are seeking to do to balance the budget, to reduce the deficit, and to help increase the economy.

These are the issues we have been dealing with. Of course, in addition to that, as a cause of the deficit, we had September 11. So it is not easy. But we can do it. I certainly hope we do and that we move forward as quickly as possible to be able to do this.

I yield to my friend from Missouri.

Mr. BOND. Will the Senator yield?

Mr. THOMAS. Absolutely.

Mr. BOND. Mr. President, the Senator made a very good point about the need to move this bill. He raised the question about a 1-year extension. Is it the understanding of my colleague that the major projects that would generate the kind of work that is needed to improve our Nation's infrastructure, the major highway and bridge projects, cannot be undertaken on a 1-year extension because these are multiyear projects and they need a multiyear extension?

Mr. THOMAS. The Senator is absolutely right. These are large projects. They are contracts. They take a while. If you are going on a 1-year extension, our highway department, for example, couldn't put the contracts out on some of the most important jobs because they wouldn't be finished in that length of time and they don't have the dough. It is that simple. That is a very important aspect to continuing to resolve this question now.

Mr. BOND. If the Senator would further yield, I know the Senator is from a Western State in the north, and the time during which significant highway construction can go forward is limited by the weather.

What is the timeframe for summer construction in your State?

Mr. THOMAS. Well, of course, in order to have summer construction, it is necessary that now the Transportation Department be able to know what their funds are going to be, what their ability to contract will be, so that they can do it very soon, so that these contractors can get in place in April and begin to work for a longer summer. If they have not gotten the contract until late in the summer, they are all faced with a couple of months of work, and they go into winter, which they cannot do. Seasonal is very important. We have a chance to take advantage of the summer construction system now.

Mr. BOND. Mr. President, I ask that question because some people talked about a 3- or 4-month extension. I wonder if my colleague agrees that that simply would miss an entire season, even in Missouri, where our weather may not be quite as harsh but we would not be able to really undertake any construction projects. Is that similar to the condition in the Senator's State?

Mr. THOMAS. Absolutely. We have heard a great deal from our transportation people before Christmas, wanting this. This was supposed to have been done in September, when the fiscal year began. They wanted to be in to make the contracts then so that these contractors could get ready. It is going to be quite close now. Still, if we can move in February, it will give us a pretty good shot.

Mr. BOND. Mr. President, I thank my colleague.

Mr. REID. Will the Senator from Wyoming yield for a question?

Mr. THOMAS. Certainly.

Mr. REID. Mr. President, I think the picture here says it all. We have on the floor now two of the majority party and two of the minority party, representing diverse areas of this country, including Wyoming, Missouri, Vermont, and Nevada, and I also see my friend from New Jersey in the Chamber. Each State is so reliant and dependent upon doing something about this highway bill that all of us in the Chamber are doing everything we can to move this ball down the field.

The State of Wyoming is an example that doesn't have a lot of people coming there to pay enough money into the trust fund to take care of the needs of that great big State. Not only is it large area-wise, but having spent some time there myself in the cold winter, I know maintaining the roads in Wyoming, compared to a place such as Nevada, is more expensive because of the tremendous variation in temperatures.

My point is that this legislation is bipartisan. It is legislation that is for every part of the country, as evidenced on the floor.

I was speaking here, off the record, with the distinguished Senator from Missouri. We are going to pass this legislation now in a matter of hours. It is imperfect, but it is a really good piece of legislation to allow the director of the Department of Highways in the State of Nevada to have some ability to look down the road, as they have a continuum for money, so we can complete projects we have to do in Nevada. We are a big State area-wise. We have problems in the southern part of the State that are totally different from in the northern part of the State. It rarely freezes in the southern part, but in the northern part, for instance, we have Wild Horse Reservoir that, on various occasions, is the coldest place in the country. So we have our own problems, as do Missouri, New Jersey, Vermont, and Wyoming. I am so happy there has been this cooperation on this bill. I hope it sets a tone for the rest of the year. It is a Presidential election year and some Senate seats are up.

For the first bill this year, I think the distinguished majority leader and the distinguished Democratic leader picked a good one to show that we can work together on matters and set aside our partisan differences. We have done it on this bill. I appreciate the comments of the Senator from Wyoming.

Mr. THOMAS. I thank the Senator.

I yield the floor.

Mr. BOND. Mr. President, very briefly, this is a difficult bill, as the distinguished Senator from Nevada has said. There is a lot of work that goes into it. If anybody was completely 100 percent happy with it, we would not have done our job, because there are too many interests. The only way to accommodate them is to work on a bipartisan basis.

I want to say this while the Senator from Nevada is here. The Senator from Nevada and the Senator from Vermont and, obviously, my good friend from Wyoming, on both sides of the aisle, with Senator INHOFE as chairman of the committee, have worked well together, including the occupant of the chair. This is probably one of the most important economic stimulus infrastructure bills we are going to act on this year, or maybe for quite a few years. I hope we can get a solid vote to move forward tomorrow. There is a lot more work to be done, as I believe several have already said. We are waiting for the House to act. When the House acts, we will take it and work with them and we will take into consideration what the White House has said to see if we can—and we must—craft a good bill that takes care of the crying needs of infrastructure.

I have said before on this floor so many times that it is not just a question of convenience, of cutting down on idling time, it is a question of long-term economic growth as well as immediate jobs. In Missouri, it is a question of saving lives by having adequate highways. When we have two-lane highways carrying 15,000 or 20,000 cars a day, that is too many. We should have divided highways. The fact that we don't means that wherever you travel in Missouri on heavily traveled two-lane roads, you see little white crosses where grieving families and friends have indicated the place where a loved one was lost.

This bill isn't going to solve all the problems in Missouri. If we pass this bill, many of the problems in Missouri and around the country will be solved. I urge my colleagues to work together and move forward on the bill. Our staffs are working now on a cooperative basis with a very large number of amendments that have been filed to see how many we can accept, how we can move it along.

Tomorrow is going to be a very busy day. We will try to accept as many amendments as we can on a bipartisan basis. If you want more money, please tell us where you are going to find it because we are strapped for money and major new spending sources without revenue are going to be difficult to accommodate.

Within those parameters, I urge everybody to work together. The filing deadline for first-degree amendments is past. I know what we have in front of us. I hope we can resolve as many as possible.

I yield the floor.

Mr. JEFFORDS. Mr. President, I thank the Senator for his statement. I want to reassure all of our Members that we will be working together and have been working together, and we will find a solution to many of those amendments. We won't unless they are filed. The sooner they are filed, the sooner we may even have a chance to get home for the weekend. That might be incentive for some.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to discuss an amendment that was cosponsored by Senator DEWINE from Ohio. We would like to have had this considered in this important transportation bill.

I want to say this to those who are managing the bill and who have developed it. We see a piece of legislation that has a lot of good aspects to it. My State of New Jersey is doing better in this bill than it has on occasions in the past, with some adjustments here and there that give us some more funding in transit as well as highways. We appreciate that.

The subject we want to discuss is one that deals with safety, which is an integral part of this legislation and certainly should be, and that subject is the result of drunk driving.

Drunk driving cost the lives of 17,419 people in 2002. It is an increase for the third straight year in a row. This is unacceptable in our society by any measure. This is evidence that we are not doing enough to win the war on drunk driving. In 2000, I was proud to team up with Senator DEWINE to standardize our Nation's drunk driving blood alcohol concentration level at .08. That is a critical step toward reducing drunk driving, but that measure alone will not end this crisis.

During my career of public service, I promoted many legislative initiatives to help curb drunk driving in our country. In addition to .08, I wrote the law that established a minimum legal drinking age of 21. Most Americans have responded to these laws by drinking responsibly and reducing fatalities and injuries on our highways.

At one point it was estimated that we saved 1,000 young people a year from dying on the highways as a result of that change in the age of drinking.

The most feared category of drunk drivers who have failed to mend their ways is also the most shameful: the hardcore drunk drivers. These are the problem drinkers. These are the ones who ignore the dangers and have no concern for the safety of those of us on the road, including our families and our friends.

It is estimated that hardcore drunk drivers are responsible for as many as 40 percent of all alcohol-related deaths on the road, and that means about 6,000 to 8,000 people a year die at the hands of a hardcore drunk driver. That is not an acceptable situation.

Many of us have terrible, tragic stories involving lost loved ones due to drunk driving crashes. A young woman on my staff recounted a moment in her life when she was a teenager, when five of her close friends, all juniors in high school from southern New Jersey were hit by an SUV. Four were killed and one was badly injured. This was in broad daylight at 3 o'clock in the afternoon. A heavily intoxicated 29-year-old woman had plowed her SUV into the girl's car. One police officer described the scene as "an explosion with glass everywhere."

The driver of the SUV is what safety experts term a "higher-risk" or "hardcore" drunk driver. In fact, her blood alcohol content was found to be .21 nearly 5 hours after the crash, and usually that diminishes significantly. This is almost three times the legal limit of .08. Perhaps the most disturbing part of this story is the fact that this driver had two prior charges of driving while intoxicated in 1991 and 1996.

Some States have adopted laws that try to get hardcore drunk drivers off the road. It is something we heard a lot about when we put in place the .08 blood alcohol concentration standard. They said you have to get to the hardcore people; they are the ones who are really dangerous on the road. That is true, but anybody who is impaired while driving is a problem.

A TEA-21 program that we put into place resulted in 36 States and the District of Columbia passing repeat offender laws, but currently only 13 States have enhanced penalties based on blood alcohol concentration levels of .15 and above. Thirteen States and our own District of Columbia still do not have laws mandating alcohol assessment and treatment by a professional. Fourteen States do not have laws mandating that a drunk driver's vehicle be impounded.

We have to take action to keep these hardcore drunk drivers off our roads. The costs we pay are too high. We can save thousands of lives by passing this bipartisan commonsense amendment that I would like to offer along with Senator DEWINE.

Victims rights groups, such as Mothers Against Drunk Driving, have brought to our attention the need to change our laws to make our roads safer. It is my great pleasure to work with the dedicated, thorough, and caring people of MADD.

This hardcore drunk driving amendment takes advantage of research and policies that have been proven effective to fix what is wrong with this current repeat offender program.

First, it builds on the excellent work done by Senator INHOFE and Senator JEFFORDS in the bill by allowing the use of ignition interlocks, a popular and effective tool. Forty-two States have laws allowing for ignition interlocks to be used so that in case of hardships, a conditional license can be granted.

Our amendment also fixes the loophole that currently exists to allow States to spend Federal funding designated for driver safety programs on construction projects. While road construction is certainly a worthy ambition, this loophole defeats the purpose of the Federal program in the first place and must be addressed.

Our amendment cracks down on very high blood alcohol concentration drivers. Drivers with a .15 percent or greater blood alcohol concentration are almost 400 times more likely to be involved in a fatal accident than a sober driver.

I believe the Federal Government needs to continue strong leadership in relation to reducing alcohol-impaired driving. Not all States have dealt with this safety crisis in a comprehensive manner. Loopholes still exist, loopholes so large that drunk drivers continue to drive right through them.

Now is the time to take the next step in getting these hardcore drunk drivers off our roads. I look forward to working with Senator DEWINE, Senator DORGAN, and Senator CORZINE, all of whom joined with me in trying to reduce the 17,000 alcohol-related traffic fatalities that occur each year.

It is regretful that we cannot have an opportunity to offer our amendment. It is relevant and germane to this bill, but not having the chance to offer the amendment, frankly, hurts our work and our interests in keeping our highways safer, saving lives wherever we can.

This is something I hope we can work out with the managers of the bill to see if there isn't something we can do to show that we are seriously interested in getting drunk drivers off the road. Remember, over 17,000 deaths a year on our highways, 40 percent of which are due to the antics of the repeat drunk driver.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, before the distinguished Senator from New Jersey leaves the floor, I want to make this comment. I am sure we all wonder, having served in legislative bodies, what has been accomplished, what have we been able to point to that we have done that changes the lives of people in our country. Let me say to my friend from New Jersey, he need not worry about that because his legacy has already been established.

I owe so much to the Senator from New Jersey, as does my whole family, and I speak for most families—I should say the vast majority of families in America, many of whom don't realize what the Senator from New Jersey has done to make their lives more pleasant.

When we used to travel back and forth from Las Vegas and Reno to Washington with my family—they were little children at the time—my daughter and my boys, especially two of them, could not stand cigarette smoking in an airplane. It really made them physically ill. We would pacify them and say, well, that is in a different section; do not worry about it. As we know, when one person smoked on an airplane, we all smoked on an airplane. The Senator from New Jersey is more responsible, by far, than any other one person, or group of people, for being persistent and pushing that there would be no smoking on airplanes. The Senator from New Jersey did that.

When he started out on this issue, people thought he was tilting windmills. No one believed with the very powerful interests that favored smoking on airplanes, including the airplane owners and, of course, the cigarette manufacturers, that the Senator from New Jersey could accomplish what he did. But he did.

In addition to that, we all owe a debt of gratitude to the Senator from New Jersey for pushing to make sure all States had a .08 standard for blood alcohol. The Senator from New Jersey did this.

The reason I mention these two things that are the legacy—and I have only mentioned a couple of things because they stick out in my mind that the Senator from New Jersey has done, that I know. With the tireless efforts of the Senator from New Jersey on the things that he believes in, that he is talking about, this will get done. This will be accomplished for a number of reasons, not the least of which it is the right issue but, No. 2, because the Senator from New Jersey is the one who is pushing this.

I want the Senator from New Jersey to know how much I—and I speak for millions of Americans—recognize his great contributions to making our lives healthier, better, and safer in America.

Mr. LAUTENBERG. Mr. President, I take this moment to respond to my good friend from Nevada. He has always been interested in the safety and well-being of our people at the basic level, where we can make a difference. Senator REID from Nevada is always there, and I appreciate his support. I like working with him. When he says this is going to be done, my colleagues can take it to the bank because we are going to keep on working on it.

If we ever forget what it is we are talking about today, just continue to read the papers, and there will be stories about the intoxicated driver who went way over the limit and took a life.

I will never forget a young woman who came in from Maryland to talk to us one day. She was waiting with her daughter for the schoolbus, child in hand. Someone driving a car at 8 in the morning jumped the curb and killed this child whose hand she was holding.

Then there was the man in Hawaii who was driving with his wife behind a car that his son and daughter had rented. They were struck by a drunk driver. It killed them both.

These things happen all the time, enough to kill over 17,000 people a year. That means that in less than 4 years, there will be as many people killed on our highways as were killed in Vietnam. So this is not a trivial thing, and we are going to have to keep on working on it.

I am willing to do it, and I know the Senator from Nevada is willing to do it. We just have to hope that the opportunity arises.

The PRESIDING OFFICER (Ms. COLLINS). The minority whip.

Mr. REID. The Senator from New Jersey was responsible for one of the most memorable debates that I ever was present for in the Senate, and I am sure the Senator from New Jersey will remember it. It was a debate on drunk drivers. The very articulate Dale Bumpers, former Senator from Arkansas, gave many great speeches but none more memorable than when he spoke about his being a law student at Western University and he received a call from his brother. He knew it was bad news. He did not know how bad it was, but a drunk driver had killed his parents when he crossed over the line.

The Senator will also remember the distinguished former chairman of the Budget Committee, now the ranking member of the Budget Committee, the Senator from North Dakota, KENT CONRAD, who was made an orphan as a little boy by a drunk driver who killed his parents.

So we have to continually do more to keep these higher-risk drunk drivers off the road. They are a menace to society. In my opinion, the only thing they understand is force, power. They have to be put in jail. They have to be prevented from driving their cars.

As the Senator knows, we are in a parliamentary quagmire and maybe there is a short-lived victory for those who oppose what the Senator is trying to do but it will not last long.

Mr. LAUTENBERG. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I rise to speak about the highway transportation bill which we are on right now. I will discuss basically two general points. The first has to do with the amount of funding in the bill and the administration position on that matter. Then secondly, I will talk a little bit about the funding formula in the bill.

As everyone knows, we are talking about a bill that would authorize and pay for the highway transportation and mass transit needs of the country over the next 6 years, financed historically by the gas tax. The 6-year bill that has been offered intends to be more generous than that by taking in some additional revenues, providing a lot more funding, and extending the authorization that currently exists for a period of 6 years.

I ask unanimous consent that at the conclusion of my remarks this Statement of Administration Policy be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KYL. I am quoting now from a February 11, 2004, Statement of Administration Policy from the executive office of the President, Office of Management and Budget. As my colleagues know, these Statements of Administration Policy are issued with respect to important legislation and they set forth the administration's position on the legislation.

After noting that the administration supports enactment of the 6-year highway funding bill, the letter says the following:

> The administration's proposal, as modified by the President's FY 2005 budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA–21), the six-year bill enacted in 1998.

The administration goes on in this Statement of Administration Policy to say the following:

> The administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles.

Now, let me digress before I state what those principles are. The reason the administration is talking about spending restraint is because the bill that is before us is far larger in its amount of spending than what the administration's proposal and the President's budget provide for, and it is far larger than is necessary. Frankly, in view of the status of our excess spending and our Federal budget deficit, it is more than we can afford.

Moreover, it is greatly in excess of the funds we collect with the gas tax, which in the past has been the funding that has been used to pay for this highway bill. So this is what the President and the administration is writing in this letter.

The administration believes the legislation should exhibit spending restraint and adhere to the following three principles: One, transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. Two, transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true costs to the Federal taxpayers. And three, highway spending should be financed from the highway trust fund, not the general fund of the Treasury.

It goes on:

> All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on the highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

Madam President, how does the administration's position and the articulation of the three principles under which it believes the bill should be funded compare with what we are considering on the floor here? I am going to go on and quote the administration's characterization of the legislation on the floor.

> However, the bill pending before the Senate authorizes $262 billion on highway and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.
>
> The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these three principles—such as this legislation which authorizes $318 billion—were presented to the President, his senior advisors would recommend that he veto the bill.

There is more in the letter, but I think you get the gist of it. The administration is trying to tell us it would prefer a bill that, No. 1, adheres to the President's budget, to spend no more than $256 billion, and, No. 2, does not violate the three sensible funding principles the President lays out in the bill.

But the statement of administration policy notes that the bill before the Senate is a full $62 billion above the President's request, and it concludes in this part by noting that:

The administration, therefore, opposes Senate bill S. 1072 because the "spending levels are too high" and because "they violate the principles discussed above."

And if we end up passing legislation such as this, then the President's senior advisors will recommend he veto the bill.

I think the President is getting the same message the rest of us should be getting from our constituents, the American people: Congress and the President have been spending too much money.

In defense of the President, he has reached agreements in the past year with the leaders of the House and the Senate over spending limits and has said he would not support any legislation—and I presume he would have vetoed legislation—above that level. We have sent him bills at those levels. So in that regard, it is not the President's fault.

But I take responsibility as a Member of this body, and all of my colleagues should as well, that we as the body that initiates the spending proposals and sends them to the President must act more responsibly in ensuring that we do not exceed revenues, that we send the President bills that are fiscally restrained and that will not add to our budget deficit.

Alan Greenspan, the Chairman of the Fed, has made the point many times in recent months that the biggest threat to our economic growth and to our fiscal stability is profligate spending, and he has urged us to rein in our appetite for spending.

Some of my colleagues on the other side have expressed great dismay that when the Office of Management and Budget was finally able to calculate the cost of the Medicare prescription drug bill from last year, instead of $395 billion of cost over 10 years, as calculated by the Congressional Budget Office, the administration's people found that it actually would be far higher than that, over $500 billion.

Some of our Democratic friends have said—I gather they seem to suggest that therefore it is the President's fault. The President's people are the folks who found out that the spending was more than the $400 billion and have brought that forth and told us that. What should we do?

Later on I am going to give my colleagues an opportunity to bring the spending back in line with the $400 billion of which they seem so enamored. I think that is plenty. I think we can live within that $400 billion limit. So we will all have an opportunity to decide whether we really mean it when we say the spending on that bill should be limited to $400 billion over 10 years.

My point in digressing from the discussion of the highway bill is to note that there has been a focus on a lot of the spending the Senate and House have engaged in recently, and certainly the prescription drug and Medicare funding bill is one of the largest. Another we have had before us is the energy bill, which has a subsidy of about $30 billion. The administration budget request was $8 billion. That is another bill that, were we to pass in excess of $8 billion in subsidies, would exceed the administration's request.

Here is a third example where the Senate is poised to pass a bill way in excess of the President's request. My point is it is not the White House that is doing the spending, it is the Congress that is passing the bills that have the spending in them. The President is sending us a signal that he is tired of this and his advisors are saying, to be precise about it, that they will recommend a veto to the President if we don't get this bill more in line with what the President's budget is. He is sending us a message.

I urge my colleagues to read that message, to listen to what the President is saying. He means business. He is right. We are spending too much money. This bill is an over 40 percent increase in highway spending. We all know roads and bridges need to be built. We all understand some jobs are produced. That is fine. But do we, in this era of budget deficits and excess spending, have to increase spending in this one area by over 40 percent? Isn't a 21 percent increase over last year sufficient?

The President's budget is almost flat. It has about a half a percent increase—except for homeland security and defense—for the discretionary part of our budget. We know it is going to be difficult to live within that, but we should try. But how can we in good conscience pass a budget that has virtually no growth in it, except for homeland security and defense, and then with regard to highways say that is an exception; we are going to increase spending by 21 percent? The income of how many people in this country will grow 21 percent this year? Not very many. Not, certainly, for the average working man and woman.

I daresay, at a 21 percent increase, we can do just as well, in terms of building our roads and highways, and then if we need to adjust it later on because we are rolling in dough, we can do that. But for this year at this time with this kind of deficit, we should not do it. That is what the President's advisors are saying in this letter.

What I would like to do is talk for a little bit about how the bill before us violates those three principles. Let me just cite a couple of examples.

The first principle is that the transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. It doesn't rely on an increase in the gas tax, but it will rely upon Federal taxes because we will be taking money from the general fund. That gets us to the second and third points. Transportation infrastructure should not be funded through bonding—we are not going to do that—or other mechanisms that conceal the true cost to Federal taxpayers. I will show you in this bill how that happened. And the third principle is highway spending should be financed from the highway trust fund and not from the general fund of the Treasury.

No. 2 and No. 3 go together here. Let me give a couple of examples from the highway part of this; not mass transit but the highway part is funded from the gas tax. We are going to collect $196 billion in gas tax revenue. That is how much we should spend on highways. But, no, we are going to be spending much more than that. How do we make up the difference? Obviously, Members of Congress are pretty creative in figuring out how to pay taxpayer dollars. So, a lot of new ways of deeming money to be in the trust fund have been thought up here. Some of them actually I suggest have some merit.

Just to give one example: Interest in the highway trust fund. The highway trust fund is a fund that has maybe $9 billion or $10 billion, give or take $1 billion, in it at any given time. You have to have some money in the bank. It is like a bank account, to pay the checks when they come due. There is always money coming in when people buy gasoline and pay the tax, and one thing we could do is attribute to the trust fund interest which is otherwise attributed to the general fund. That is between $1 and $2 billion. I am perfectly happy to have that attributed to the trust fund.

If you go through some exercises like that, you can get up to $214 billion, more or less, in revenue you say is somewhat legitimately attributed to gas tax revenues.

Let me give you two examples of revenues that are being attributed to the highway trust fund that really are not revenues in any sense of the term, and, therefore, would violate both principle No. 2 and principle No. 3.

One of these concepts has to do with the fact that counties, cities, towns, churches, and schools are by and large exempt from paying a gas tax. What we are going to do in this bill is pretend like they actually paid the tax. That is worth, I think, $8 billion. That is a nice thing, if you can get away with it. But I don't think it reflects reality. That is $8 billion. We are simply going to treat this as if the trust fund had received all of the money from counties, cities, towns, and so on.

Is the general fund going to collect that money from the schools, churches, cities, and towns? No. There isn't going to be any new revenue. Your school district is not going to have to pay money for the gasoline that it buys for the schoolbuses that are driven. They will not have to pay the Federal gasoline tax, but we will pretend like it does. That $8 billion is pretend money.

There is another part of this which they calculate at $9 billion that is attributed to the highway trust fund. What is this? The gas tax is 18.3 cents. But for ethanol users, we provide that they don't have to pay 5.2 cents of that. There is an exemption for that of 5.2 cents on each gallon. In this bill, we are going to pretend like they paid that to the trust fund. We are going to actually collect their money. The revenue will actually be collected. But when people ask for a refund, we will send it right back to them. Assuming that most people will ask for a refund because they can get it, we are going to be sending the money right back to them.

As a result, we take with one hand and we give back with the other, and the fund is no better off. There is no real money in the fund except what was there before. We haven't added to the fund. We have collected the 5.2 cents and then we give it back when the people apply for the refund.

Since Federal contractors actually have to pay their people, buy asphalt, and run their road graders, how are we going to make up this $17 billion?

As I have indicated, in both cases this is not real money. We are going to get it from the general fund. We are going to just spend that money from the general fund.

How are we going to do that? It is not in the budget. The Finance Committee has come up with a variety of tax law changes which will close certain corporate loopholes and in other ways raise revenue that is not currently raised. We had hoped and anticipated that additional revenue would be applied to a reform which has to do with corporate tax relief that will have to be passed this year because the WTO—the World Trade Organization—has ruled against the United States in a case in which we have been providing some tax relief to American manufacturers abroad. We are going to have to take that tax relief away in order to make these companies whole. We will have to pass a different kind of tax relief. To do that, you have to have the ability to pay for it. That is what this money was going to be used for. Instead of using it for that, we will use it to build bridges and highways. We will take that money, put it in the general fund, and send that over to the highway trust fund.

We are violating the principles laid down by the administration that none of this bill should be paid for by either a mechanism that conceals the true cost to the taxpayers or financed from the general fund of the Treasury.

This bill, both by being in violation of at least some of the principles laid down by the President and by being $62 billion in excess of what the President said the bill should cost, is going to create a situation in which the senior advisers of the President are going to recommend a veto. We should not be passing a bill under those circumstances or be passing this bill under those circumstances.

What do we do about it? There are a couple of different options. One of the options is that we could simply modify the bill to take out that $62 billion, get it back down to the level of the President's budget, and support that. I have an amendment that would do that. In effect, it will say the President's budget of $256 billion—that represents a 21-percent increase—ought to be enough, and, therefore, we would finance only that amount of money.

I think we should vote on that and express our will in that regard, support the President, and be willing to begin exercising some fiscal restraint.

Some people say they do not want to reduce the 6-year funding by that much money. They would actually be able to spend over 40 percent more than last year and, therefore, maybe what we should do instead is simply reauthorize the existing law for 1 year, get past the election, and then do another 6-year authorization bill that will spend 40 percent more than last year, since, obviously, that is going to cost more money than we are taking in in gas tax revenues, since there are objections to taking it from the general fund because that creates a horrible precedent, and therefore we will raise the gas tax.

We don't want to tell people that because, of course, in an election year we wouldn't want anybody to really think we intend to raise the gas tax. So let us be real quiet about this and not discuss this alternative too much because it assumes that next year we will come in and provide this large amount of money and raise the gas tax. We could do that. It certainly is at least better than what we have before us, because it simply reauthorizes at existing levels the highway authorization bill for 1 year and we can decide to do it next year at the time. Some of us would oppose the gas tax increase.

I suggest that either of those alternatives are better than the third alternative, which is to pass the bill that is before us.

I want to make this clear. There are not very many people in this body for whom I have greater respect than the chairman of the EPW Committee, the Senator from Oklahoma. I don't mean to suggest in anything that I am saying here that the effort of the committee and the chairman of the committee is anything other than an attempt in good faith to try to satisfy the demands of our country's infrastructure and provide the best possible highway transit funding program they can. I will say they have been very unfair about the way they treated my State, but that is another matter that I will talk about in a minute. I want to make it clear that the chairman has a tough job. He has done his very best in this regard. I want that to be very clear.

But the third alternative is to pass the bill before us. The argument made is that we know it is way too much money but we will get into the conference committee because the House will pass a bill and then you will have the House and the Senate bills. We will get together and figure out an appropriate amount of money. We will get the President's people in there to negotiate to make sure it won't be too much so the President won't veto the bill.

That is another way to do it. I can't support that because we would be supporting a bill out of this body that is far too big in spending.

The House bill presumably will be above the President's request. It is a little hard to figure out how we are going to start with a bill that is $62 billion over what the President wants, and the House bill is—I don't know how much but let us pick a number—say, $50 billion more than the President wants. And somehow they are going to compromise at a number closer to what the President wants. That is ordinarily not the way things work around here. I think it will be close to $256 billion. They are playing with fire and risk sending the bill to the President which he is going to veto. That will demonstrate that we are not very responsible. I think that would be the wrong thing to do.

Let me address the other subject I said I would address, and that is the fairness of this bill.

I say to my colleague from Oklahoma that he would be the very first to say it is almost impossible to get a bill that spends this amount of money and divvy it up among over 400 Members of the House of Representatives and 100 Senators and have everybody think they have been treated fairly, especially given the historic unfairness of the way the formulas have worked.

Again, he has a tough job. I make the point right up front that I know he has tried his hardest to do this right. In fact, one of his guiding principles was to try to get all of the States up to a level of funding equal to 95 cents out of every dollar that they send to Washington for the highway gas tax. The minimum level today is 90.5 cents.

There are a lot of us who represent donor States such as Arizona. We are donors. We send $1 and we only get 90.5 cents back in highway revenues. The chairman wanted to try to do something about that to try to remove some of that unfairness. I commend him for that. For the most part, he has gotten States up to 95 cents out of every $1.

A lot of States are donee States, and they are way above a dollar. Obviously, the reason only some States get 95 cents back is some States get more than $1. But I commend the chairman for trying to get at least to 95 cents.

The problem is, as has been explained to me, there are some fast-growth States, such as Florida, California, Colorado, or Arizona. We have been at such a low level in the past in terms of the amount we were reimbursed, the 90.5 cents, and we are growing so fast in order to keep up with our growth, it would require so much money to catch us up to the 95-cent level that basically it cannot be done. So they will bring other States up to 95 percent, States that already for the past 5 years have done very well, for the past 10 years have done very well. For those States that have continually lagged behind, such as the "growth" States I mentioned, since it is so darned expensive to catch them up, we just will not try to do that for 5 years.

So here is the result we get, demonstrated on this chart. I note the dark blue represents on the chairman's chart a green color which he demonstrated the other day when we were discussing this, saying: Arizona actually will increase its spending over this period of time. Then in 2009—assuming the money is there—you will go back up to 95 cents like everyone else.

In 2004, the State of Arizona, which is in the dark blue, would get a little bit more—it gets 90.5 cents. That is what is guaranteed. In 2005, we get 90.5 cents. In 2006, we get 90.5 cents, as well as in 2007. In 2008 it goes up a little bit but is still under 91 cents. Then if there is enough money in 2009, hopefully we get to go back up to where everyone else is, guaranteed 95 cents.

We just took a State perhaps roughly comparable to Arizona, and this State happens to be Missouri, but I could pick any number of States that illustrate the same idea. Missouri, on the other hand, is guaranteed 95 cents each one of these years.

Here is the point: During this 5-year period of time—because there was not enough money, some State had to sacrifice or be sacrificed and that happens to be my State of Arizona. I don't like that, and I don't think it is fair. I would have rather had, in this case, Missouri brought down to 93 and raise Arizona up to 93 rather than taking some all the way up to 95 and leaving the rest of us down at 90.

My colleague from Oklahoma says, but you are getting a substantial percentage increase and even a dollar increase, because you are growing so fast. That is true. But in terms of the total amount of money Arizona would lose during this period of time, it is over $160 million. So during this 5 years, Arizona will lose out on over $160 million it would have received if it had been treated the same as the other States and gotten the base of 95 cents.

Remember, there are a lot of States that are way up here that are getting over 100 cents, 110 cents; some are getting several dollars back. I will not name names.

The bottom line is some States are treated very well and States such as my State of Arizona are not treated so well. I obviously cannot be expected to support a bill that picks on a few States such as mine and says, look, we just did not have enough to go around so you have to be the one that does not get paid what everyone else gets paid. We are sorry; be happy with the fact you are getting more money than you have ever gotten before.

My answer is, we are growing faster than anybody and therefore, of course, we are getting more money than we got in the past, but we are not getting the same relative amount other States are. We are not getting 95 cents on our dollar contributed. We are still stuck down here at this 90.5 cent level. That is not fair.

I want to be clear about this. My opposition to this legislation is based upon the first two points I made. It is too much money and we are going to fund it now out of general revenues rather than the highway trust fund, as a result of which there will be no logical constraint on how much we spend in the future. At least pegging it to what we received in Federal gas revenues in the past was a break-loss, a check and a balance, and it prevented us from going beyond that amount of money. But once you begin to dip into the general treasury, there is no logical end to how far you can dip. As I said, you could double the amount of increase the administration has asked for, you could go to over 40 percent increase and say, we are just going to make part of that up through general revenues. Why not 50 or 60 percent? There is no logical end once you get away from the highway trust fund. That is why I oppose this bill.

The sponsors of the bill were not able to equalize the States, as hard as they tried, in terms of the funding formula, and therefore there are some Members from some States that obviously have to point this out, have to demonstrate the unfairness and inequality of it and ask the bill be amended to provide a more fair result.

The amendment I spoke of that funds the bill at $256 billion over 6 years does not address this problem. So I make it clear, the amendment I have offered that allows people to vote for an amount in the highway spending that is consistent with the President's budget request does not fix this. I am willing to support that amendment. I am willing to send the bill to conference with that amount of money, but I am also hopeful my colleague from Texas will be offering an amendment tomorrow—has filed it and will offer tomorrow—that will to some degree at least fix this problem for those states such as Texas and Arizona which are not guaranteed the same 95 cents everyone else is guaranteed.

I am hopeful we will be able to vote on that and support that tomorrow.

There are other amendments which I will speak to later, one that my colleague Senator MCCAIN has offered that represents a good compromise in the way we fund highway revenue and reimburse the States. We will talk about that tomorrow. There may be an additional amendment offered tomorrow we will want to support.

I am hoping I will have a chance to vote on these tomorrow. The way this bill has procedurally come before the Senate, we will vote on a cloture petition tomorrow at 9 o'clock. That is a vote which presumably will pass. It means we then have only 30 hours of debate on the bill and opportunity to offer amendments and have those amendments voted on. My understanding is there are over 400 amendments that have been filed. On a bill of this importance and this magnitude, I don't think it is right we only have 30 hours to dispose of 400 amendments. It obviously cannot be done.

I ask for my colleagues' understanding that when this debate begins after the cloture motion is approved tomorrow—assuming it is—we will have an opportunity to offer these amendments, have a brief period of time to discuss them, have a vote on them, and go on to the next amendment. It is not my intention to try to garble up the works or slow things down. I hope we can speed things up to the point we can get these amendments considered within that period of time. If not, because there are actually two different cloture motions here, we may have to have a second cloture vote and then have another 30 hours so we can continue to try to get the amendments adopted. That is something we are just going to have to work through. I ask for my colleagues' cooperation so that perhaps we can avoid that second 30 hours. But if necessary, obviously, we will have to use that.

Now, if there are questions or refutation of anything I have said, I am happy to hear that and I can stay for a few minutes to try to answer or respond to questions.

If my colleague from Oklahoma would like to speak, I yield the floor to him.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 11, 2004.

STATEMENT OF ADMINISTRATION POLICY

S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: $262 billion on highways and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill. The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

Safety. The Administration appreciates the creation of a new Highway Safety Improvement Program (HSIP) and a strong safety belt incentive program, but believes the bill should also require States that have not enacted primary safety belt laws or achieved safety belt use rates of 90 percent to spend no less than 10 percent of core highway safety construction HSIP funds on behavioral safety projects eligible under the Section 402 program. In addition, the Administration opposes limiting a State's flexibility to use HSIP funds by requiring mandatory set-asides for rail-highway grade crossings or safe routes to schools. The Administration believes that several programs of the National Highway Traffic Safety Administration (NHTSA) should be consolidated and a portion of those funds should be used to reward States that aggressively reduce fatalities in the manner proposed by Section 2001(a) of the Administration's proposal. Also, language similar to that included in the Administration's proposal on providing for NHTSA-administered highway safety data grants should be added to help States improve their data to reasonable standards.

Environmental Provisions. The Administration opposes substantially broadening the list of eligible projects for Congestion Mitigation and Air Quality (CMAQ) funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase. The Administration believes that the bill should improve project delivery while protecting our environment. The bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects. This limit is necessary to reduce litigation uncertainty that can impede project development for years. The bill should also avoid adding new requirements to the transportation planning process, and integrate the transportation planning process with other environmental review processes to reduce redundancies.

With respect to project review under the National Environmental Policy Act, the bill should clarify the authority of State and local governments to be joint lead agencies, with the U.S. Department of Transportation, in preparing environmental documents. The Administration also notes that section 1511 is inconsistent with the President's proposal is SAFETEA, and encourages the Senate to adopt the President's proposal.

The Administration also believes that the bill should clarify standards pertaining to public park and recreational lands, wildlife and waterfowl refuges, and historic sites—commonly referred to as "Section 4(g)." A clarification of the Section 4(f) definition of "prudent" is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill should address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act to decrease project delays and uncertainty.

In addition, the Administration believes that the bill should not include a mandatory two percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

New Regulatory Mandates. The Administration strongly opposes the numerous mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

Financing and Freight Mobility. The Administration appreciates the bill's expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by lowering the project threshold and broadening the list of eligible projects to include freight projects. However, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan. Likewise, the Administration opposes allowing railroads to use Federal grants to pay the credit risk premium or repay Railroad Rehabilitation and Improvement Financing loans.

The Administration supports amending the bill to give States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls. The Administration also supports amending the bill to provide States flexibility to implement variable tolls on interstates for congestion management or air quality improvement purposes. In addition, the Administration supports amending the bill to incorporate the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of "private activity bonds" for highways and surface freight transfer facilities.

Public Transportation Programs. Aside from concerns about overall funding levels, the Administration is pleased that the bill includes provisions to improve human service transportation coordination and expand the "New Starts" program, but is disappointed by the omission of a performance incentive program to reward transit agencies based on increases in transit ridership.

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Funding Firewalls and Guarantees. The Administration supports a separate category or "firewalls" for determining the level of spending from the Highway Trust Fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creation of "firewalls" for general fund spending on such critical areas as defense and homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

Byrd Test Change. The Administration opposes weakening the Byrd Test to compare spending authority to current resources plus for years, rater than two years, of estimated future revenue. The Byrd Test was established at the creation of the Highway Trust Fund in 1956 to ensure that future revenues would be sufficient to cover outstanding spending authority. The Byrd Test has been successful in ensuring the Highway Trust Fund's solvency for nearly 50 years, and modification could allow levels of spending that cannot be sustained by estimated revenues to the Highway Trust Fund.

Park Roads. The Administration supports the funding level for park roads, but opposes the provisions of section 1806 of the bill that establish a park funding priority system that would reduce the Administration's ability to implement the President's Park Legacy Program. Allocation of park road funding should be consistent with the sound asset management approach on which the President's Park Legacy Program is based and which is currently used by the National Park Service, in a manner that will best address the needs of all parks, not just a few.

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MAGLEV. The Administration opposes the continued authorization of funding for Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration's SAFETEA proposal did not seek funding for MAGLEV and believes funds can be better spent investing in the Nation's public transportation systems.

Budget estimates and enforcement

This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First of all, there is no one I have a higher regard for than the man who was elected with me to the other body in 1986, Senator KYL, the junior Senator from Arizona, and they elected him then to come over to this body in 1984. We are both conservatives.

He has heard me say many times when I was first elected to the other body, I got on the Transportation Committee and the reason I did it was because I always felt the conservatives were pretty big spenders in two areas. One is national defense and the other is infrastructure. That is what we are sent here for. Apparently, the most recent poll I saw shows the vast majority of the people, 69 percent, are willing to spend more money if it will be spent on highways, roads, and bridges. I see that as what we are here for.

I have to address the fact that there are a lot of amendments that have come up. I have stood here for 2 weeks trying to get people to propose amendments, to discuss their amendments. We sit down here and we talk about everything there is to talk about until now at last there is hysteria that we do not have time to bring up our amendments. There has been plenty of time.

I have to say, too, to my good friend, the junior Senator from Arizona, it is because of the senior Senator from Arizona that we have not been able to bring up the amendments because they are objecting to any motions to bring them down to vote. That means the only thing we can vote on that does not require that particular permission is a tabling motion which we have done only once because no one else has had anything else to table.

So that is the reason.

I regret that we wasted a lot of time when we were inviting people to come down. Those who were opposed to this for any number of reasons—some legitimate reasons, some not so legitimate—were the ones who were stopping us from moving forward with the bill.

First, I think as far as the cloture motion, the Senator from Arizona is exactly right. In fact, I appreciate the letter he was citing from the administration that came down today. It says: "The Administration supports enactment of a six-year highway [bill]," and so forth, and they are in support of the cloture motion.

So this is the administration that is in support of the cloture motion. I think if you look at the letter—and I will give you a different slant than my friend from Arizona—they have three criteria. There is nothing new about this. I saw this 2 months ago. I saw it on the 4th of this month when they sent a letter from the administration. It says these three criteria are:

> [T]ransportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. . . .

I believe this meets that guideline.

> (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers. . . .

I agree with that. In fact, I have been the one who has rejected the suggestion of any type of a bonding that might just be deficit spending in disguise, something we are going to pay back in the future, some increased debt.

This is the big one. This is the one the Senator, with his vast knowledge, has gone through and who is in a better position to do that than I; and that is the criterion that says:

> [H]ighway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury.

Now, perhaps it is hard. There could be an honest disagreement here. If some money is going to the general fund and is being paid at the pumps by people who are paying for the gas tax, that should be going into the highway trust fund. It is user paid. We all agree with that concept.

For those of us who feel strongly about this, I can remember I was outraged back in the middle 1990s when the previous administration came through and they wanted $8 billion so they could do something other than roads, and it came out of the trust fund and went into the general fund. Frankly, this takes it back. This rectifies a problem that should not have existed in the first place and keeps us honest with the American people.

Look at the moral issue part of this. The people drive up to the pump. There is not a Senator who does not have constituents who drive up to the pump. They don't mind paying that tax—some say they would go ahead and pay more taxes—and they assume that money is going to go for the repair and construction of roads and infrastructure. In fact, that is not the case. There have been raids on that for a long period of time.

I am not going to go over the list of the Finance Committee. I talked to the chairman and the ranking member of the Finance Committee back when we were working on this bill well over a year ago. It said when we come up with what we believe is necessary to just stay even—there is one report out that says even with this spending level that does not even keep us repairing what we have today, but if this comes up, you guys in the Finance Committee are going to be the ones who have to come up with this.

I have never been on the Finance Committee. I have never attended one of their meetings. I don't know how it works. But I do know the chairman and ranking member said: We have come up with a way to come up with this money. Sure, a lot of it, as the Senator mentioned, is spending down the trust fund. Yes, we can do that probably to $6.5 billion without hurting ourselves. That is an assumption we make here. The interest? Yes, it should go to the trust fund. There are some fixes in there in terms of ethanol that are all part of it. This going after people who avoided paying taxes is something we would all agree is something that should happen.

The one area the Senator mentions, frankly, I can't address is having to do with the WTO. I am just going to trust the Finance Committee that they have come up with this and have done what I asked them to do a long period of time ago.

Oh, yes, in response to that, I was underlining something. This came out in the Finance Committee, I say to my friend from Arizona. It said: In the view of the Finance Committee, these tax policy benefits—we are talking about benefits deductions, whether they are ethanol or maybe a car that is fuel efficient—nonetheless, to encourage them to do that, they are exempt from certain taxes. But those cars and those trucks still drive on our roads, still cause damage to the roads, and because they want to have a tax policy that has nothing to do with infrastructure, has nothing to do with roads and highways, fine, if we all agree on that, it should come out of the general fund, it should not come out of the highway trust fund. We are rectifying that and getting it back to the highway trust fund.

Now, on formulas, this is the most complicated part of the bill. I say to the Senator, your senior Senator came down and said he would like to trade formulas with Oklahoma. I have to say, as I have said several times down here in the last 2 weeks, everyone has the same formula. You have the same formula. North Carolina has the same formula. Maine has the same formula; Oklahoma does.

Now, the results come out differently because in that formula we are taking care of problems that are real problems. Arizona is a fast-growing State, the State of Texas, the State of California, the State of Florida. So in order to make all of this happen, there are caps, there are ceilings. If you bump the ceiling, we are not going to go above that. You may not like it because you are a fast-growing State. But if you don't, then that is going to be paid for in the formula with a change, maybe a change that is going to be coming in the form of an amendment tomorrow, by getting into some of the States such as Pennsylvania and New York.

So here is what we have in the formula: No. 1, total lane miles on the interstate, on principal arterial routes; No. 2, VMT—that is, vehicle miles traveled—on the Interstate System, on principal arterial routes, excluding the interstate, and on the Federal aid system; No. 3, annual contributions to the highway trust fund attributed to commercial vehicles; No. 4, diesel fuel used on highways; No. 5, relative share of total cost to repair or replace deficient highway bridges—I am very sensitive to that; my State of Oklahoma is dead last in terms of the condition of bridges—next, weighted nonattainment and maintenance areas and, lastly, rate of return of donor States.

We all know that the Senator from Arizona and I both know all about being a donor State. If we accelerated the point within those 6 years to raise that amount, then, obviously, there would not be enough money to ultimately get to the 95 percent we want to ultimately get to. So if you change one thing in the formula, it changes everything. You cannot do it in a vacuum.

There will be amendments, I am sure, tomorrow that are going to be addressing this and wanting to change the formula. But if you do it, it is going to change other States.

Now, if you will remember, the reason I am proud of this formula is that we have tried to do it. We tried to do it in 1991 with ISTEA. We tried to do it in TEA–21 in 1998. We failed during that time because right about at this point in the process they said: Well, we can't do it. There are too many people who don't like the way the formula has come out. So instead of that, we need 60 votes. How do we get 60 votes?

So they had a minimum guarantee. They said: All right. We are going to offer 60 of these votes what they want in terms of a percentage of the overall, and then, once we get to 60 votes, who cares? We have our 60 votes and we are going to pass it.

Well, I refused to do that back when the temptation was great to do it about 3 months ago. So the formula is going to be the first pure formula that we have had. But are there frailties in it? Yes, there are. There are corrections to be made because if you look in previous years at States where they have had an undue political influence, they have gotten more than their share.

Let's look at Pennsylvania. They had a good friend of the Senator from Arizona and myself who served in the other body, Bud Shuster, a Congressman from Pennsylvania. He, for a number of years, was the chairman of the committee, and Pennsylvania did disproportionately well.

I would say the same thing of our beloved Daniel Patrick Moynihan of the State of New York; certainly John Chafee, one we all loved, from Rhode Island. So the Northeast got kind of a benefit to which they were not entitled.

In fact, to be specific, under TEA-21—let's keep in mind I was a senior member of the Environment and Public Works Committee in 1998 when we put this together. And so at that time, in terms of a percentage of taxes paid in, New York got $1.25 back; Pennsylvania, $1.20 back; Rhode Island, $2.16 back; Montana—Senator BAUCUS, who is a very hard worker for his State—$2.18 back; Oklahoma, 90.5 cents, the minimum, the bare minimum.

I am the guy who should be out here complaining. When your senior Senator said, we ought to swap, if we swapped, I would end up with $40 million more. I will stand here right now and swap with you, and it will not affect any of the rest of the formula.

The formulas are not an easy thing to deal with.

Insofar as the State of Arizona is concerned, if you take an average of the 6 years of TEA-21, $463 million, and then you watch as it goes up here to finally reach $800 million, the total amount of increase is $1.11 billion in the State of Arizona. For my State of Oklahoma, the chart looks almost the same, but the difference is we end up at $1.07 billion. So there is $40 million more going to the State of Arizona. I don't like that. If I were to try to do something as chairman, I probably could have. I could probably have looked at the first run and said, no, Oklahoma needs to have more. But I didn't do it because we wanted the formulas to work. So the formulas are something that you can't mess with because if you do, you get right back to the minimum guarantee policy we have had in the past. I don't think that is good for anyone.

Since we have committed some time to two other Members, including the Senator from North Carolina, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I ask unanimous consent to print in the RECORD the Statement of Administration Policy dated February 11, 2004, and also, though I did not quote from it, an editorial of the Wall Street Journal entitled "Road Kill," and the date is February 10, 2004.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, DC,
February 11, 2004.

STATEMENT OF ADMINISTRATION POLICY

S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT

(Senator Inhofe (R) Oklahoma and 3 cosponsors)

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: $262 billion on highways and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration proposed authorization of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill.

The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

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FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

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[From the Wall Street Journal, Feb. 10, 2004]

ROAD KILL—CONGRESS'S SPENDING BINGE MOVES TO THE PASSING LANE

An old political adage has it that the most dangerous place in Washington is between a Congressman and asphalt. That is exactly where taxpayers now find themselves as Congress conspires to pass another monster highway bill. The only good news is that President Bush is showing signs he may fight this election-year porkfest.

The Administration has its own highway proposal, which is hardly cheap. Mr. Bush is asking for $256 billion over six years, which is 21% more than the past six years and fairly close to Treasury estimates of revenue from the current 18.4-cent-a-gallon federal gas tax that is earmarked for roads.

Ah, but this isn't enough for the boys of summer construction. The draft Senate bill demands $55 billion more than Mr. Bush and is loaded with fiscal gimmicks that divert money from general (non-gas-tax) revenues into road building. The House bill from Transportation Chairman Don Young is even worse—an astonishing $375 billion with a five-cent gas-tax increase.

Notwithstanding lip service to the budget deficit, the strategy for passing this is to offer so many goodies for individual Members that they can't resist. The American Road & Transportation Builders Association, aka the road graders lobby, recently advertised how much more booty each Member could take home under the Young bill.

In the Senate, meanwhile, Minority Leader Tom Daschle is planning to attach his stalled ethanol-subsidy legislation (cost to drivers: $8.5 billion a year) to the bill in order to attract farm state votes—and grease his own re-election this year. Republicans who go along with this self-serving gambit will be helping Mr. Daschle defeat GOP challenger John Thune in South Dakota this fall.

One of the more embarrassing arguments from Congress's highwaymen is that this is somehow a "jobs bill." So at least for this parochial matter, Republicans claim to believe in the superiority of government over private spending. Some Econ 101: Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy. It's more accurate to say that Mr. Young's bill would be a net job loser.

If Republicans really wanted to be true to their principles, they'd scale back the federal highway fund and return road-financing to the states. The federal government got into this game in the 1950s to build the Interstate Highway System. That network is nearly complete, but Congress now views the highway trust fund as a way to make all Americans pay for local road projects. States are much better placed to judge real needs, and they'd have the flexibility to experiment with innovative proposals like tolls, express lanes and public-private partnerships.

Such delusional hope aside, the ultimate size of this bill will depend on Mr. Bush's determination to enforce his budget request. History isn't necessarily on his side: when Ronald Reagan vetoed a highway bill in 1987, Congress overrode him. And despite calls last week from fiscal conservatives to delay the bill, Majority Leader Bill Frist refused after 75 Senators voted to start debate.

Still, this is a fight worth having. Congress will keep spending freely until Mr. Bush shows he's willing to spend political capital to say no. In a letter to Congress last week, Administration officials warned that any bill that includes higher gas taxes, trickster accounting or a siphoning of general tax revenues will face a veto. Presidents who make veto threats and don't fulfill them quickly become irrelevant.

Mr. INHOFE. Madam President, I ask unanimous consent to print in the RECORD the summary of the Finance Committee's highway trust fund proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF FINANCE COMMITTEE HIGHWAY TRUST FUND PROPOSAL

Finance Committee jurisdiction extends to the highway use-related excise taxes, the Highway Trust Fund, and the expenditure authority of the Highway Trust Fund. The Finance Committee acted primarily on the cash flow into and out of the trust fund. Cash flow into the trust fund is represented by trust fund excise tax receipts. Cash flow out of the trust fund is represented by trust fund outlays. Matters involving contract authority and obligation limits are not Finance

Committee subject matter and the committee did not speak to them.

According to the Congressional Budget Office ("CBO"), current law trust fund receipts will total $227.8 billion over the six year period. CBO projects $196 billion in highway account receipts and $31.8 billion in mass transit account receipts.

The authorizing committees' actions placed demands on the trust fund of $231 billion for highways and $36.6 billion for transit for the six year authorization period. That means a total of $267.6 billion in demands on the trust fund.

Prior to Finance Committee action, demands on the trust fund exceeded receipts by $39.8 billion over the six year period. To make up this funding gap, the Finance Committee developed two categories of proposals. The first category increased trust fund receipts by tightening compliance. The second category included accounting changes that raised trust fund receipts.

The compliance changes raised trust fund receipts by $5.6 billion over the authorization period. These changes were also scored as revenue raisers by the Joint Committee on Taxation. These proposals have no impact on the budget deficient.

The budget resolution assumes that 2.5 cents per gallon of gasohol receipts, currently held by the general fund, will be transferred to the trust fund. That transfer raises trust fund receipts by $5 billion over the authorization period. The Finance Committee also assumed that trust fund balances would be spent down by $7.5 billion over the authorization period. Adding all of these changes together with the compliance changes, the Finance Committee closed the gap by $18.1 billion over the authorization period. That left a funding gap of $21.7 billion.

The Finance Committee proposed to close this gap with a group of trust fund accounting changes. These proposals raise trust fund receipts by shifting the burden of tax policies from the trust fund to the general fund. In the view of Finance Committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund. Included in these proposals is a repeal of the partial exemption for ethanol-blended fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as State and local governments. Finally, the Highway trust Fund will earn interest on its balance, so that the highway and transit programs are not prejudiced. This second category of proposals closed the funding gap, but, without revenue offsets, would have increased the budget deficit by $21.7 billion.

Finance Committee members decided that this second category of proposals should not have a deficit impact. To this end, the Finance Committee title includes a group of loophole closers previously approved by the committee.

Ninety-five percent cost over $120 billion . . . the cost forced us to construct a new method. Equity Bonus keeps the cost of rectifying donor states affordable.

COMPARISON OF NH AND VT [BOTH LOW POPULATION STATES PER MCCAIN]

Response: VT does very well under the formulas for the core programs (not changed from TEA–21 in this bill). Former NH Sen. Smith's position on the EPW committee during TEA–21 ensured that NH did well under the politically drafted 1104 table despite their relative poor performance under the formulas.

CO IS GETTING A RAW DEAL

Response: Colorado has the highest rate of growth . . . Senator Allard, a member of EPW has been very supportive of the bill.

ADDITIONAL COMMENTS

Highway Trust Fund was raided during TEA–21 of $8 billion (Note: argument will be made that the $8 billion was given up in order to get the "firewalls")

If we were to accelerate getting all states to 95 percent sooner it would add to the cost of the bill and donee states like PA and NH would have a lower rate of return

On average, in SAFETEA, donee states lost 4 cents from TEA–21 and donor states gained 4 cents from TEA–21 . . . I would call that a fair exchange.

PLAYERS IN TEA–21

	2003 of TEA–21	2009 of SAFETEA	Historic
New York (Moynihan)	1.2488	0.9975	1.23
Pennsylvania (Shuster)	1.2084	0.9746	1.16
Rhode Island (Chafee)	2.1662	1.8234	2.22
Montana (Baucus)	2.1842	2.2015	2.35
Oklahoma	0.9050	0.9500	0.87

FORMULA FACTORS:

Total lane miles on the Interstate, on principal arterial routes (excluding the interstate), and on the Federal aid system

Vehicle Miles Traveled (VMT) on the Interstate system, on principal arterial routes (excluding the Interstate), and on the Federal aid system

Annual contributions to the highway trust fund attributed to commercial vehicles

Diesel fuel used on highways

Relative share of total cost to repair or replace deficient highway bridges

Weighted non-attainment and maintenance areas

Rate of return of donor states

Mr. KYL. Madam President, if I could ask my colleague from Oklahoma a question, I appreciate the relative dollars received by States such as his and mine. I would just ask one question: Does the State of Oklahoma, under this policy, receive 95 cents in each of the next 5 years, and does the State of Arizona receive 90.5 cents for every dollar we send in?

Mr. INHOFE. The State of Oklahoma does not. It goes up to 95 cents. The first year, it is 90.5; next year, 91.75; and it gradually goes up. Yours does not because for the State of Arizona, it hits the ceiling. So you have 90.5 each of the first 4 years, then 90.84, then 95.

Mr. KYL. I thank the Senator.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Madam President, our transportation infrastructure is one of this country's most important investments. It is literally the foundation of America. Each day our roads, bridges, buses, and railways help countless Americans travel to their jobs, visit a faraway relative, or take a day trip with their kids.

As a former Secretary of Transportation, I am constantly in awe of this vast reach of modern-day transportation. I can still recall from my tenure at the Department the completion of the Interstate 40 corridor which runs from Wilmington, NC, to southern California, an enormous stretch of highway that literally links us from coast to coast. It is these kinds of investments that are vital to sustaining our communities and our economy. By ensuring that our roads, bridges, and infrastructure are prepared for the future, we provide economic stability. For my home State, that is a crucial component of our economic recovery.

As many of you know, North Carolina is going through painful economic times as traditional textile, furniture, and other manufacturing jobs are diminishing. Improving our transportation infrastructure is a vital part of getting North Carolina's economy back on track.

Let me give an example. Construction is already underway for Interstates 73 and 74 in North Carolina, and planning has begun for Interstate 20. The Department of Transportation estimates that the projects in this bill would create 86,900 jobs in North Carolina.

Further, these roads go through areas that are among the hardest hit by economic difficulties, creating jobs especially in rural parts of North Carolina, where mobility between towns and cities is essential for commerce. These routes of opportunity make our communities more attractive to businesses and promote investment in our neighborhoods.

Additionally, there is an 89 percent increase in funding to address North Carolina's growing transit needs, with a special emphasis on our rural areas. This money can be used to provide more buses as our rural residents travel from home to work each day. And for urban areas, such as Raleigh, Greensboro, and Charlotte, I am proud that the Banking Committee on which I serve has included much-needed dollars to relieve congestion by investing in buses, street cars and, in some cases, light rail.

We all know that relieving congestion creates a cleaner environment, improves worker productivity, combats stress, and gives employees more time with their families and less time struggling with a long commute.

This legislation also addresses a problem that exists with the highway trust fund. Right now, North Carolina gets just 90.5 cents for every dollar we put into the trust fund. This legislation guarantees that North Carolina's share will increase to 95 cents over the next 5 years. That will mean an additional $50 million a year for transportation construction, and we all know how much good can be done with those dollars.

The bill also expands the Small Starts program to include mass transit projects under $75 million. My State and local leaders' biggest complaint is the mounds of paperwork and regulatory hurdles that must be completed, even for the smallest transportation project. It simply is not fair that these smaller projects must jump through the same large hoops as the biggest projects in the United States. The Small Starts project will allow for simpler, less costly review of these projects, and that is good news for our States.

Now let me touch on another area of the legislation that is near and dear to my heart. Safety was at the forefront during my 5 years as Secretary of Transportation. Our rule 208, as we called it at Transportation, encouraged the passage of State seatbelt laws and the inclusion of passive restraints in new cars.

In 1984, there were only a handful of airbag-equipped cars on the road. Not a single manufacturer was currently offering airbags at that time. I remember a long search for a car with an airbag to use in a demonstration on the White House lawn. But today that number stands at 40 million. And as we all now know, airbags save lives and prevent crippling, disabling injuries. At that time, in 1984, there was only a 14 percent usage rate for seatbelts, and there was not one single State seatbelt law in the United States.

Our regulation 208 helped change all of that. Today, 49 States and the District of Columbia have seatbelt laws. As of 1998, the national seatbelt use rate was 69 percent. Some States, such as my home State of North Carolina, have a use rate of over 80 percent. It is estimated that 11,900 fatalities and 325,000 serious injuries are prevented each and every year due to usage. It is said that rule 208 literally changed the climate of highway safety in America.

It was also a privilege back then to work with my friend, Senator FRANK LAUTENBERG, to champion legislation encouraging States to raise their drinking age to 21, thereby helping to eliminate drunk driving and blood borders between our States.

There are many safety provisions included within this bill. Funding is there to ensure that our secondary roads are safer, something that is vitally important to rural areas. Too often accidents occur on the small two-lane secondary roads, in many cases leaving death and destruction in their wake. The money in this bill will make those roads safer for our families and our children.

There are also provisions for installing skid-resistant surfaces at intersections, traffic signal upgrades, and improvement in pedestrian and bicyclist safety. All of these are sorely needed. Safety on our roads must continue to be a priority.

Madam President, it is imperative we act now to pass this critical legislation. I urge my colleagues to support it. It is a win-win for all of our States, for businesses, and especially for the millions of Americans who rely on our transportation infrastructure each and every day.

I yield the floor.

Mr. INHOFE. Madam President, first, before the Senator from North Carolina leaves, I want to say we are very fortunate to have her expertise having served as Secretary of Transportation and in other capacities where she provided leadership. She has an understanding of transportation needs probably greater than any other single person in this Chamber. I thank her for her contributions here.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I want to discuss a couple of amendments I intend to offer if the opportunity arises in the next couple of days.

I thank the bill's managers, Senator INHOFE and the ranking member, Senator JEFFORDS, for standing up against what I believe are very misguided attempts to take a meat cleaver to this very important bill. It is terribly unfortunate that immediately following the most recent budget projections, which show enormous deficits for this year and for the years thereafter, the very first legislation that comes to the floor is this one that provides transportation funding for the next 6 years.

This is not, I urge my colleagues, the place to economize. To do so in this bill would be penny wise and pound idiotic. It would be kind of like a person who was told by his doctor he has to lose weight and he decides to eliminate fruits and vegetables. These are public investments in our Nation's highways, bridges, rail lines, and mass transit systems. They are critical to our social and economic vitality—moving products quickly to market; moving people swiftly, smoothly, and safely to jobs, schools, and family activities, and then back home again. These are critical investments in the future of our country. They are termed capital investments, which means they are projects which themselves generate future wealth.

People say we ought to operate Government more like a business, and I agree. They should recognize that successful businesses regularly go into debt to finance their capital projects. Building new plants, expanding or modernizing existing facilities are good and necessary reasons to incur debt.

Most State and local governments also issue debt—public bonds to finance their capital projects. They use current receipts for ongoing operations or consumption. In the Federal Government, we are doing the opposite. We are going seriously into debt to pay for current programs and consumption and treating our capital improvement budget, such as this transportation bill, as if it were the same program spending. It is not.

Bankers and brokers understand that difference. Homeowners, farmers, and business owners understand that difference. State government officials understand that difference. Why can't this administration and Congress understand that difference?

That understanding is important because this is a bill where we need to think bigger, not smaller. Unless my colleagues' States are in very different conditions, and their highways, bridges, rail lines, mass transit systems are in much better shape than my State of Minnesota's, then they have the same critical shortage of funding as Minnesota.

In my State, the conditions and capacities of our highways and other public infrastructure have been declining over the last decade, and they are going to continue to do so without this additional infusion of Federal money. Our State and local governments simply do not have, and they are not going to have in the future, the increasing amounts of funding necessary to keep up with or catch up with growing populations and increased usage. It is only here in the Federal Government that we have the resources—at least we did until a couple years ago, before the budget surpluses were turned into deficits. But even now, we still have the resources, though not to do everything. It comes down to what are our priorities. What and who do we consider most important?

The President has made his priorities very clear. He has made making the 2001 and 2003 tax rates permanent the centerpiece of his budget and his economic recovery strategy. If so, we are going to be waiting quite a while for that recovery because the President's proposal won't even take effect until the expiration dates for the change now already in place; and for the 2001 tax bill items, that will be the year 2010. For the 2003 items, most of those won't be extended until the years 2006, 2007, and beyond.

This bill before us today is the best economic stimulus bill and jobs creation bill possible for right now—not 2006 or 2010, but right now—in Minnesota and across America, which is why the funding level for this bill ought to be increased, not decreased.

I had an amendment I would like to offer—although it flies in the face of reality—to double the amount of Federal funding that was provided 6 years ago, which was $218 billion, to increase that to $436 billion. That contrasts with the Senate bill now of $311 billion and the House bill of $375 billion, although I would not increase the amount by increasing the gasoline tax as is being proposed in the House. I would fund mine through the general fund, dedicate the revenues from the highway trust fund into the purposes they are being used for, but not use that as a ceiling for funding the necessary public infrastructure. That would be a business such as Target Corporation deciding the number of new stores it is going to build in the next few years is going to be a function of some formula, such as the percentage or revenues from socks or shorts that are being sold; and if somebody, for fashion reasons, decides they are going to go sockless for a year, that number goes down and so does the investment in new stores go down. No sensible business would make future investment decisions based on this kind of formula and be dictated by that result.

In this case, as well, we should be deciding as a body, with the House and the administration, what level of public investment we need to make in highways and mass transit systems over the next 6 years—make that decision based on the needs and then decide how we are going to fund it.

Again, we do these things backward here and, as a result, we don't make the commitment that will pay off for this Nation if we do it, and we will sacrifice the future of our highways and airports and rail lines if we don't do it.

While recognizing it is unlikely to be adopted by this Senate, especially in the face of the President's insistence that even the Senate number be reduced further—again, I salute Senator INHOFE and Senator JEFFORDS for standing resolutely in favor of this and being the fiscal conservatives they are. They recognize these are public investments that are vital, and to fail to make them would be—at least for Minnesota—virtually catastrophic. I thank the Chairman and ranking member for their steadfastness in supporting this and the level of commitment it makes.

I also am proud to be a cosponsor of the Build America Bonds Act, which is being sponsored by Senator TALENT of Missouri and Senator WYDEN of Oregon, because if we are not going to use public dollars directly for these projects, then another way to finance them would be for the Federal Government to issue bonds and provide tax credits to those who purchase the bonds.

The proposal made by Senators TALENT and WYDEN would issue another $50 billion of Federal bonds that would be then used throughout the States to advance these projects. If we are not going to use general revenue dollars or highway trust fund dollars sufficiently to meet the needs, then we ought to incorporate bonding in addition to what is being funded elsewhere.

I also thank Senator GRASSLEY, the chairman of the Senate Finance Committee, for his initiative in the legislation for correcting what is essentially a penalty to those States, such as Iowa and Minnesota, that have been using ethanol as part of their fuel.

In Minnesota, we have had for the last 8 years a requirement that 10 percent of every gallon of gasoline sold in our State be comprised of ethanol. Right now, nationwide it is less than 2-percent ethanol in proportion to gasoline. If you listen to some of my colleagues, they would have you believe the use of ethanol is going to drive prices for gasoline or its substitute through the roof when, in fact, the opposite is true.

I use in my car in Minnesota with a slight engine modification made by the manufacturer, a Ford Explorer, a fuel that consists of 85-percent ethanol and 15-percent gasoline. That is 20 cents a gallon cheaper in southern Minnesota than regular unleaded. It runs just as well. The vehicle performs just as well.

If we want to reduce the $115 billion a year we send overseas to pay for the foreign oil we import, there is no more readily available way to do that than to increase the use of ethanol. I regret, because of some of the opposition to that, that Senator FRIST's and Senator DASCHLE's amendment to increase the use of ethanol over the next decade in this country by a very modest amount is not going to be offered as an amendment to this legislation. Hopefully, it can be considered by the Senate and passed as a separate measure in the very near future.

The use of ethanol in the current formula penalizes States for that consumption. Again, I thank Senator GRASSLEY and also the ranking member of the Senate Finance Committee, Senator BAUCUS, for their initiative. It is going to be vital from my standpoint that the measure passing the Senate and the conference report include that correction.

I also will have two amendments I hope I will have the opportunity to offer. One is a rural roads safety amendment which I developed with the support of the National Association of Counties. It will provide additional funding. The amendment itself calls for $1 billion a year over the 6-year lifespan of this bill. This would be additional funding to provide for programs to improve the safety of our rural roads across the country.

More than 25,000 people die each year on our rural roads system. It is a fatality rate that is 2½ times greater than that for urban highways. In fact, it is the highest rate of fatalities per vehicle mile for any type of transportation in this country.

Despite this need on some 840,000 miles of rural two-lane roads, funding directed from this bill in the past has provided very little direct assistance to rural communities which, in my State at least, have the least capacity to undertake these expensive projects.

This funding would provide for improving roadway alignments, eliminating wheel way rutting, including skid resistance, widening lanes and shoulders, installing dedicated turn lanes—whatever the State and particularly the county and local units of government decide are in their best interest.

It is also being introduced in the House by Representative BOB NEY who is the chairman of the House Administration Committee. I hope it will receive favorable consideration in the next few hours.

The other amendment I would like to offer is a mandate for the Federal vehicle fleet to use either 10-percent ethanol-blended gasoline or biodiesel fuel, 2 percent or more where it is available and where it is at a generally competitive price. The amendment would apply to some 650,000 Federal vehicles everywhere except for the Department of Defense and the military, and it provides the opportunity for the Federal Government to take the leadership in encouraging the use of ethanol and biodiesel fuels by its own practices.

These are, as I said earlier, fuels that will add to our rural economic recovery to increase the prices of commodities, such as corn and soybeans, in the marketplace which raises profits for farmers and lowers subsidy costs for taxpayers. They are cleaner burning fuels than oil-derived fuels, and they put money in the pockets of Americans rather than foreigners.

This amendment, as well, I hope, will be considered favorably by this body. It is not going to increase costs. In fact, if anything, based on my experience with ethanol, it is going to lower costs, and it is going to provide a real boost to the rural economy of America.

In closing, I wish to say again that this legislation is crucial for Minnesota. It is crucial for our Nation. That is why tomorrow I am going to vote in favor of the cloture motion to proceed to this measure and move to pass it in the Senate. Hopefully, the House will follow suit as well so we can get this bill passed and signed by the President and into effect and get this money to the States where it can be well used and be an economic stimulus and provide jobs.

I hope during the course of that consideration I will have an opportunity to offer these amendments.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I wish to take an opportunity to respond to some of the statements made by the distinguished junior Senator from Arizona, my friend Mr. KYL. I have the greatest respect for him. He is a neighbor of the State of Nevada. We have worked well together in many different areas, but his statement regarding this highway bill is simply off base.

I respectfully suggest that maybe we should understand that there are three separate but equal branches of Government. We have a responsibility in the legislative branch of Government to do what we think is right for the people of our respective States. I think we have done as well as we can do for the people of this country.

The Presiding Officer has been a Governor of 1 of our 50 sovereign States. I think he would—I have not spoken with him—have recognized during his tenure as Governor how very important the highway programs were in the State of Tennessee.

In this legislation that is now before this body, the State of Tennessee is going to do extremely well with this bill. The State of Tennessee, which has been a State that has given far more than it has taken in—that is, in the State of Tennessee, for every dollar paid into that fund, the people of Tennessee have contributed 10 cents out of every dollar to the rest of the country. The people of Tennessee have not gotten what some think is a fair shake in this legislation.

There was an effort to bring every State, including the State of Tennessee, to 95 cents in this bill. The State of Tennessee, rather than getting the 90 cents on the dollar previous to this bill being enacted, will get an average of 94.25 cents for every year this bill is in effect, and, in the final year, it will get 95 percent. That is a tremendous boon to the State of Tennessee.

We have done that for every State in the Union that in the past was paying into the trust fund far more than they were getting.

The State of Arizona also gets 95 cents on the dollar. My friend, the Senator from the State of Arizona, is complaining because we don't do it fast enough.

I want everyone to know how very difficult it was to get a formula that would bring every State up to 95 percent at the end of this sixth year. It was extremely difficult. So I would respectfully suggest to my friend from Arizona he should be complimenting us rather than saying he does not like what we have. In years past, we would not worry about the State of Arizona and the State of Tennessee. What we would do was see if we had the votes and just roll over everybody. That was how we used to do this. This is my fourth bill. That was how we used to do things, but we are not doing that this year. We are trying to be fair.

Rather than being critical of what we have done to bring everyone up to 95 percent by saying we did not do it soon enough, we should be complimented. Frankly, we could do this bill without the States of Arizona and Tennessee. We could do without those four votes. But we decided to be fair and to do everything we could to allow a minimum at the end of this year.

So I repeat for the third time, rather than being castigated for not bringing up the 95 percent sooner, I think the people of the State of Arizona—I know the people in the Department of Transportation—are happy with what they have. This is going to be a wonderful thing for the State of Arizona.

I really do not recognize tears shed by a State that is growing rapidly. The State of Nevada beats all States. We have grown more rapidly in the last 14 years than any State in the Union. We hold the record. We are the fastest growing State in the Union. So when someone says they are a rapidly growing State and should be treated differently, we also understand what it means to grow fast. We believe we have treated Arizona very fairly.

This is probably more difficult for someone in the majority to say but it is not hard for me to say: I dare the President to veto this bill. He is not going to veto this bill. This letter we have, this statement of administration policy, comes to us all kinds of times on various types of legislation. President Clinton sent us threats. President Bush sends us threats. That is what they are. The President will not veto the biggest jobs bill during his entire 4 years in office. He is not going to do it. I do not care if it is the number we have in this bill or the one Chairman YOUNG from the House wants. He wants $270 billion. Ours is $255 billion. This bill will not be vetoed by President Bush, and my colleagues can take that to the bank.

My friend from Arizona also says he is disturbed that because we got the money for this bill, he wants to make sure the World Trade Organization does not punish us. I wish they would punish us and kick us out of the World Trade Organization. I do not want to be part of the World Trade Organization. So that does not sell too well with me.

So I repeat, States have been treated very fairly in this bill. We are going to be able to invoke cloture on this bill because it is the right thing to do.

I understand the legislative process. We are going to pass a bill; the House, in their wisdom, will pass a bill; and it will go to conference. We will try to prevail in what we want. The House will try to prevail in what they want. When they are invited, which I am sure will be often, the administration will be expressing their views at the conference. Then we will have a bill and it will be sent to the President's desk. That is how the process works.

It is way too early to be threatening a veto. This is done lots of times. I do not think anyone should be quaking in their boots over a statement of administration policy. They probably have a stack of these statements of administration policy left over from the Clinton Presidency that is that high. They just peel these out on probably two-thirds of the bills we have.

I have been around for awhile. I am not impressed with this statement of administration policy because the administration knows, everybody in this body knows, that this is one step, but an extremely important step, in a very long effort to get this bill to the President's desk. We will get it to the President's desk. It will not be easy, but what has been accomplished has been very important to the process.

As I said earlier, this bill should be a picture for the American people. We are working in the Senate in a bipartisan fashion to produce a bill that is good for the American people. It is a bill that I have said before is imperfect. It is not perfect. It is difficult to do.

This is the bill. I can hardly lift it. I guess that shows how weak I am, but it is still a pile of paper. This stack of it is the highway portion of it. Another stack of it is the transit portion of the bill, and then the finance portion. This has been a year in the making. It has been extremely difficult to do.

For someone to come to the floor and say what we need to do now is have a 1-year extension—I do not think so. In the process, we would lose hundreds of thousands of jobs by extending this a year. The Presiding Officer knows that the planning department and the departments of transportation for every State in the Union have to do multiyear planning. There cannot be a transportation system in a State on a year-to-year basis. Some of these projects take years to complete, and if we stall for another year, it is going to make the projects more expensive. They will cost more money, not less money.

So I understand that my friend from Arizona comes here all the time as a spokesperson for the administration. He does it on lots of issues. I respect his being someone who answers the beck and call of the administration. He is here on so many different issues spouting what the administration wants, but we are legislators and we will get to the White House, the administration, in due time to work this out.

I repeat, we are a separate but equal branch of Government and this is not the time for the President—rather, the President's people; I should not use his name—to be waving all of these threats.

My friend from Arizona talks about these deficits. Well, my colleagues have heard us on this side talk about why we think the deficits are there, but in this legislation we have not talked about all the bad things and all the negative things that we believe the majority party is doing and the majority has not talked about all the bad things they think we are doing. This has been a bipartisan rush to score a touchdown and take this bill to the House and see what they do to respond.

I hope they can do it quickly, and I am confident they will. They can usually move things much more quickly than we can and then we work out a process to work out the differences between the House and the Senate and move this thing to the White House. It can be done and it really has to be done: we have no choice. This transportation bill is important for the American people. As the Senator from Mississippi, the distinguished former majority leader and minority leader, Mr.

LOTT, said on this floor this week, there will not be more important legislation we deal with this entire year than this legislation. This is the most important thing we are going to deal with, and I agree with the junior Senator from Mississippi, this is the most important legislation we have to deal with.

I compliment and applaud the chairman of the committee, the ranking member of the committee, my counterpart, the chairman of the subcommittee. We have worked well together. I think we have set an example for what the Senate should be, could be, and I hope will be in the future.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of Florida. Mr. President, in response to the threat to end the debate on the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003—the acronym is SAFETEA—I rise in opposition to cloture on this legislation. I do so for several reasons.

First, I believe strongly that increasing investment in our Nation's infrastructure—our transportation system, our water and sewer systems, our electric grids, our crumbling schools—is critical to our Nation's future well-being. Today, we are debating one of the keystones of that investment—transportation, highways, public transit, and rail.

Transportation is an integral part of everyone's daily life. It is an integral part of America's current and future economic well-being. Federal investments in transportation infrastructure increase our economic vitality and our international competitiveness.

I believe the key question for the foreseeable future of America is how we maintain America's standard of living while at the same time competing in a global marketplace where lowest unit cost of production is the holy grail. That is going to be a significant challenge to our generation and to future generations of Americans.

I don't think there is any easy answer, but I believe the answer begins with an investment in three things:

No. 1 is innovation. America must continue to be the leading edge on whatever the next wave of technological progress will be in this world.

No. 2, we must have the best educated citizenry in the world so that they in turn can be the most efficient.

No. 3, we must invest in our infrastructure, not just because it contributes to our daily quality of life but because it is a critical factor in our productivity and ability to compete in the world.

We are having a big controversy now over what the elements of America's long-term economic future are. We have people saying outsourcing jobs is going to be the key to our economic success. We have others who say various forms of tax policy. They, in my opinion, miss the point. We have to invest in those things that will make us more productive, and infrastructure is one of the keys to that progress.

I think there are three factors by which you evaluate the legislation that is before us:

No. 1, increasing Federal investment in infrastructure to avoid a further decline in the highway network and to reduce congestion.

No. 2, assuring that users pay for the highway system to avoid additions to America's burgeoning deficit.

No. 3, greater fairness among the States.

I am concerned that SAFETEA will shortchange the American people on all three factors.

First, what should be the goal of transportation funding? From a number of the speeches I have heard on the Senate floor and in committees, it appears as if the debate is over numbers. The President said he will veto any bill that exceeds his proposal of $206 billion for highways over the next 6 years. Senator INHOFE, chairman of the Environment and Public Works Committee, said cutting funding below the $255 billion level for highways would place the allocation of funds among the States in jeopardy. Congressman DON YOUNG, chairman of the House Transportation and Infrastructure Committee, is advocating a level of $300 billion over the next 6 years for highways.

What I think is missing in all of these pronouncements is an evaluation of what these numbers mean to the condition of America's highways over the 6-year life of this legislation.

When the Transportation Act for the 21st Century—TEA-21—was approved in 1998, I stood on this floor and predicted that when the bill expired in 2003, our Nation's transportation system would be in worse physical condition and with a higher level of congestion than on the day we passed the bill. That prediction has, unfortunately, come to pass.

According to the U.S. Department of Transportation's Conditions and Performance Report, capital investment by all levels of government between 1997 and 2000 remained below the cost to even maintain the system we currently have. The result? Overall performance of the system declined.

Since the passage of TEA-21, the highway system has degraded by 6 percent. Twenty-three percent of the highways in the Nation's urban areas are now considered "unacceptable" by the standards of U.S. Department of Transportation. Twenty-nine percent of the Nation's bridges are considered structurally deficient or in a deteriorating condition.

Additionally, according to the annual congestion study by the Texas Transportation Institute at Texas A&M University, the agency to which the U.S. Department of Transportation looks for the evaluation of congestion, the average commute delay in urban areas has increased by 14.3 percent since 1998. This means the commute that used to take 25 minutes in 1998 will now add an extra 2 hours per month to the commute of the average American.

I will make the same prediction today that I made in 1998; that is, if the Senate adopts the funding levels currently in this bill, our Nation's highways will be in worse physical condition, with increased congestion, by the end of this authorization in the year 2009 than it is today, February 11, 2004.

The failure to address these conditions in the past has created the situation we must address in the future. By the U.S. Department of Transportation estimate, by the year 2009 we will face an additional $400 billion in infrastructure backlog and congestion costs will balloon to over $90 billion. We are not even able to maintain the current quality of our roads under the SAFETEA authorization level.

In order to maintain the highway system in its current level of fiscal condition and without increasing congestion, the American Association of State Highway and Transportation Officials estimates that investment of $92 billion a year by Federal, State, and local governments, close to $300 billion of that Federal, will be required over each of the next 6 years. In addition, our problem is compounded by the distinguished majority leader's statement yesterday that SAFETEA, already inadequate, must be trimmed to avoid a Presidential veto.

We are now at a point of decision. Are we prepared to tell the American people we are willing to accept a further deterioration of our highways and bridges and increased congestion? If we have the same experience over the next 6 years that our highway system has experienced in the last 6 years, we will see a degradation from 1998 to 2009 of approximately 12 percent and a commute delay will increase 30 percent.

Is this an acceptable result for the safety, the quality of life, and the economic expectations of the American people? In my judgment, the answer is clear. The answer is no.

The President supports an even more accelerated rate of decline in the conditions and congestions of our highway system than SAFETEA. He has insisted that the highway portion of SAFETEA be funded at $206 billion, roughly 65 percent of what is required just to maintain our highway systems at their current levels. We must do more. We cannot continue to ignore the problem and allow a critical component in our quality of life and our economic future to deteriorate.

I have a second concern. As I stated, a fundamental principle is users should pay for the use they get of our transportation system. That has been a principle throughout our Nation's history, particularly when we launched the Interstate Highway System. President Eisenhower increased the Federal motor fuels tax in order to be able to finance the Interstate Highway System, not leave it as a burden for our children and grandchildren and we, this generation of Americans, are the beneficiary of that wise judgment.

During the Finance Committee consideration of SAFETEA last week, I discussed the option of raising the Federal motor fuel user fees to fund the bill at the level needed to maintain current conditions. Many of my colleagues were not comfortable with the idea of increased fees, raising the Federal user fee just 3.7 cents per gallon. That is what we would be required if it were indexed for inflation to fully fund a Federal program of the $300 billion over the next 6 years, which is required to at least maintain the status quo in the quality of our highways.

Again, President Bush has made it very clear he will not support any highway bill that is financed by an increase in user fees, by bonding, or by funding from the general fund. I am sorry to hear the President neither supports funding the Nation's infrastructure at the levels recommended by his own Department of Transportation, nor does he support the principle that the users of the system should support the levels of investment needed to maintain and improve our highways.

If we are not willing to fund the SAFETEA bill at the appropriate level to maintain their current condition and reduce or maintain the current levels of congestion—to do as the first principle of a physician "do no harm," to the system—if we are unwilling to do that, maybe we should not be considering a 6-year bill at all. Instead, the Senate should work on a 1-year extension of the current program with a commitment to work on a more substantial long-term bill next year after the Presidential elections.

We are not willing to raise fees on those who use our highways but instead have approved "offsets" for the spending in SAFETEA. But many questions about how the deficit will be affected as a result of these offsets remain. Last week, the Finance Committee equalized losses to the general fund by using offsets from what already had been used. For example, $22.3 billion worth of already committed tax changes. One offset used is a crackdown on corporate tax shelters, a policy that I have long supported. However, this offset has already been used in two other pieces of legislation approved by the committee and awaiting final action by the Congress—the charitable giving or CARE Act and the JOBS Act, which is our response to the WTO abolition of our current means of financing international transactions and other tax provisions, such as ending the tax bills that come with incorporating in other countries to avoid paying taxes, eliminating tax benefits for individuals who expatriate for tax reasons, and closing tax loopholes uncovered as a result of the Enron scandal again. But, again, these were the provisions that have already been used to fund other legislation.

The fiscal imprudence does not end with using offsets that have already been previously used. The bill also employs a gimmick of requiring corporations to pay their 2009 taxes in order to make it appear in the year 2008 we have raised a sufficient amount of revenue over the 6-year period of the bill. Obviously, the consequences are we will start the next 6 years in the hole because we used money through an accounting gimmick to make it appear as if it were revenue within this 6-year cycle.

These overpaid corporate taxes will ultimately be refunded, however, meaning we do not really offset the cost of the bill over the period that the highway spending occurs. This is shady bookkeeping, reminiscent of the procedures that this body worked so hard in the recent past to reform in the private sector.

Is it fair to offset the spending in this bill with already used revenue raisers or accounting gimmicks? It is duplicative at least, irresponsible at worst. We must legitimately pay for this bill.

Third, I have fought for many years to create a funding structure that is based on equity, on providing States that face the highest level of need with their fair share of Federal funds. This bill has a fatal flaw. It creates a formula for highway funding that has absolutely no solid basis in rationale public policy.

In my State of Florida, traffic delays cost the average motorist in our eight largest cities $485 per year in lost time and fuel. By the year 2020, Florida will add about 6 million new residents, doubling its international trade, and welcome more than 100 million tourists per year. This additional growth will multiply congestion and delay tremendously.

This is only a snapshot of the growing problems in my State and not an uncommon story for many States in the South and West.

Over the past 15 years, America's population has grown by 18 percent. Florida's population has grown at twice that rate, 39 percent. Vehicle miles traveled, a good measure of the use of our highway system, has grown by 48 percent nationally but 90 percent in Florida. Lane miles, a measure of the extent of the system, have grown less than 10 percent nationally over the last decade, and only 11 percent in Florida in the face of a 90-percent growth in the use of our highway system.

High growth States all face similar circumstances. In 1982, just 10 of the 25 most congested areas pursuant to the Telecommunications Transportation Institute study were located in high-growth areas such as Maryland, Colorado, Texas, Arizona, California, and Florida. Today, 15 of the most congested areas in the Nation are in those States. But the funding formula we are considering has failed to catch up with this reality.

Under SAFETEA, these growth States are continuing to receive the lowest level of return on contributions to the highway fund, despite their obvious and growing needs.

This bill attempts to get these States to 95 percent by providing what is referred to as an equity bonus. But the equity bonus, unfortunately, does not cover all the funds available for distribution. And it will keep our State at the TEA-21 level return of 90.5 cents for every dollar sent to the Federal motor fuels trust fund until the year 2009.

Most important, however, is this entire concept assures that an unfair scheme will remain in place. All States should be guaranteed equal treatment with a formula that incorporates a yearly increase in the rate of return or the glidepath to get all States to a 95-percent return on the amount of funds they send to the motor fuel tax by 2009.

The bill we voted out of committee was significantly different from the bill we will vote on here on the Senate floor. The pending committee amendment exceeds 1,300 pages and includes significant changes from the status of the bill as it left the committees. This means the formulas which have been circulated by the committees of jurisdiction at the start of the debate no longer reflect the state of the bill.

For example, what effect will the Finance Committee's actions have on State-by-State allocations? A provision approved by the Finance Committee to change the way gasohol is taxed will change each State's contribution levels to the highway trust fund.

Will any of the amendments accepted by the managers of the bill affect the equity bonus, diluting the rate of return to our States?

This seems to be part of a disturbing trend in this body. Whether it is the energy bill, the prescription drug bill, or now it seems the transportation bill, there is a tendency to pass things now and ask the tough questions later. That practice is unacceptable in the world's greatest deliberative body.

Before the vote on cloture on SAFETEA, the Senate should be honest about what SAFETEA will do. One, it will guarantee our roads, bridges, and transit systems will be in worse shape in 2009 than they are today. Is that acceptable? It will increase the size of the Federal deficit. Is that acceptable? It will ensure that States will not receive their fair share of Federal highway funding. Is that acceptable? The answer is no.

Are Members of the Senate comfortable moving forward and approving a bill this week with open questions about how the formulas work, at what level the bill will be funded, and how any changes made here on the Senate floor will affect the "delicate balance" as described by the chairman? I am not satisfied. For these reasons, I will oppose cloture.

Thank you, Mr. President.

AMENDMENT NO. 2311

Mr. ROCKEFELLER. Mr. President, I rise today in strong support of Senators CANTWELL and KENNEDY's amendment to reinstate and extend the Federal unemployment insurance program. This measure would provide 6 additional months of financial assistance to thousands of West Virginians and millions of Americans who have exhausted their regular state-funded benefits. This support is desperately needed and deserves immediate attention.

The Temporary Extended Unemployment Compensation, TEUC, program expired on December 31, 2003. In response to a slowdown in the American economy, Congress created this program in March 2002 to provide federally-funded unemployment benefits to the long-term unemployed who want to work, and who are looking for work, but are unable to find employment in the current economic climate. As all of my colleagues are aware, Congress extended the program twice, in January and May of 2003 respectively, because jobs remained scarce and new ones were not being created. Now, with millions of our constituents still looking for work and with 90,000 workers exhausting their State-funded benefits each week millions of Americans need our help once again.

Over the past two years our economy has suffered through a difficult recession. Recently, however, according to some economic indicators, it does appear to be turning the corner. At least the data indicates we are poised to return to better and improved economic output from years past. This is some encouraging news, but it is long overdue. Despite strong economic growth over the last two quarters of 2003 and a surge in the financial markets, jobs continue to be hard to find. At this time, there is merely one job opening for every three out of work Americans. This is totally unacceptable. We cannot merely continue to muddle through a "jobless recovery"—we must get the unemployed the relief they need.

Those who oppose extending emergency unemployment insurance have also argued that recent improvements in the economy and the labor market demonstrate that the program is no longer needed. How can the administration tout upward trends as a major economic turnaround when so many Americans are still struggling so hard just to make ends meet? The White House claims that jobs are one of the administration's primary concerns. Yet, I am troubled that the White House has been conspicuously silent about unemployment insurance, which has been proven to boost economic output. It has been reported that continuing the Temporary Emergency Unemployment Compensation, TEUC, program would be the single best mechanism to boost the economy, giving the economy a $1.73 jolt for each $1 of Federal benefits. Unemployment insurance benefits are excellent stimulus because they aid people who are likely to spend additional resources immediately.

Opponents to the extension cite a drop in the national unemployment rate, among other improvements in the economy, to justify phasing out this program that serves as the final safety net for workers across the country. It is true that the Nation's unemployment rate has dropped, albeit minimally, over the past few months. But it is clear that these numbers are misleading. A closer look at the numbers reveals that thousands of Americans are so frustrated they actually gave up looking for work altogether and dropped out of the labor market. Nearly 15 million Americans are out of work and the number of long-term unemployed remains enormously high, at almost 2 million. Constituents in my home State of West Virginia have been particularly vocal about the seriousness of this situation. In January, nearly 1,200 West Virginians exhausted their State-funded benefits. That number will jump to nearly 7,000 over the next 6 months. If we pass this amendment, more than 8,000 of my constituents would get the help they need and deserve.

My offices are taking calls from West Virginians who need such help. One example is a woman who lost her job due to company layoffs. She decided to return to school so that she could learn new skills and reenter the workforce better prepared for an uncertain future. My constituent was depending on the TUEC benefit to help finance her education. Without extending these benefits, how will she make ends meet until she finishes her training? I believe that it's a matter of this administration's priorities. And I very much worry we do not have our priorities straight.

Lack of jobs is the primary culprit. But what is equally troubling is that there is a clear shift of jobs from high-paying industries to lower-paying sectors. This fundamental change in the job market was precipitated by a variety of factors. But simply replacing a good, secure, and well-paying position that includes health insurance and pension benefits with a minimum wage job just doesn't cut it. And sadly, it appears as if this administration is content to tout the creation of new low-paying jobs as stimulus, comparable to the 2.6 million manufacturing jobs that were lost since this President took office. West Virginia alone has lost about 9,800 manufacturing jobs over the last few years.

Congress must recognize the urgency of this problem. We must move quickly to reinstate this program, not only to assist the unemployed, but also because in doing so we will provide our home states with additional resources that will immediately infuse economies across the country with more spending power.

We can afford to help our fellow Americans. Every worker contributes to the Unemployment Insurance Trust Funds so that in times of need benefits are available. Failure to act would send a very negative message to the large number of Americans struggling to make their way in this difficult job climate. Not extending benefits is harsh on the unemployed and their families.

Mr. LIEBERMAN. Mr. President, for working families in the State of Connecticut and across the country, these are hard economic times. Millions have lost their jobs, and millions more fear they might lose theirs soon. Outsourcing American service jobs overseas, as the President's economic advisors suggest, would only add to the unemployment rolls and to growing anxieties. What American needs is not a plan for creating jobs abroad, but a plan for creating jobs here at home.

Nearly all sectors have been affected by the national economy's sluggish performance during the past 3 years, with job losses across the board. The manufacturing sectors has been hit particularly hard. In the State of Connecticut, nearly 26,400 manufacturing jobs have been cut in the past 38 months, and 33,500 since January 2001. Most of these jobs have gone overseas.

In addition to manufacturing job loss, services and high-tech jobs are also being sourced outside the United States—to lower cost, lower wage countries. The employment trends in this sector are harder to quantify, but the impact is no less real. They threaten to put U.S. technological competitiveness and future economic growth at risk.

The Bush administration has done next to nothing to stop this hemorrhaging—relying instead on factory photo-ops, toothless trade missions and new organizational charts. The latest comment from President Bush's top economic advisers that the outsourcing of U.S. service jobs to workers overseas is good for the Nation's economy only underscores the administration's lack of understanding and leadership on this issue.

Instead of policies that shift jobs overseas, we need to create jobs in this country. We need to strengthen enforcement of trade agreements; provide tax credits to keep manufacturing jobs in the United States; promote innovation through Federal research and development policy; leverage Federal purchasing power; create tax incentives for investment in manufacturing modernization and expansion; and strengthen manufacturing and service workers' skills.

Today I join my Senate colleagues in sponsoring a resolution that tells President Bush—loudly and clearly—we will oppose efforts to encourage the outsourcing of American jobs overseas and instead provide a manufacturing tax incentive to encourage job creation in the United States.

Ms. SNOWE. Mr. President, I rise today in strong support for S. 1072, the Safe, Accountable, Flexible and Efficient Transportation Equity Act, the Senate version of the highway bill, also known as SAFETEA.

Few things that we in Congress do this year will have as great of an impact on our fellow citizens as enacting a 6-year successor to the 1998 Transportation Equity Act for the 21st Century, TEA-21. Simply put, enacting a highway bill this year will create jobs, reduce congestion and cut down on highway fatalities in every city and town across the country.

Debate on this bill is long overdue, as TEA-21 originally expired on September 30, 2003, and thus it has been necessary to extend these programs until the end of February. The primary reason for this delay was that the Senate was unable to come to an agreement on how to raise the necessary revenue to provide the $311 billion in funding for highways and transit over 6 years that 79 Senators—myself included—voted for as part of the fiscal year 2004 budget resolution.

As such, I was pleased to have been able to support, as a member of the Senate Finance Committee, a revenue package that I feel will break the logjam on this issue and allow us to move forward on enacting a comprehensive, 6 year surface transportation bill this year. The Finance Committee bill, which was adopted on February 2 by a vote of 17 to 4, generates the Senate 6-year funding level without raising the Federal gasoline tax, resorting to tax-credit bonds or negatively impacting the general fund.

Like many of my colleagues, I would have serious concerns about any financing proposals that would raise taxes on American consumers and small businesses, or that would require massive general fund transfers for transportation programs. I commend Chairman GRASSLEY and Senator BAUCUS for navigating through these challenges on highway financing and increasing the likelihood that Congress will get the job done this year.

We have a big job to do in a small amount of time. It is critically important to our State Departments of Transportation that we enact a 6-year bill as soon as possible. States are clamoring for a comprehensive highway bill because, in addition to the funding they stand to get, a full reauthorization allows them to plan for the future. Without such a long-term bill, major projects—including many in my home State—simply cannot go forward. It is regrettable that Congress did not complete its work in 2003 by reauthorizing these programs. Thus, we must seize this opportunity and fulfill our duty now—another 6-month delay is simply not acceptable.

As we debate the appropriate level of spending in this bill, let us not lose sight of the fact that our country's transportation funding needs are simply staggering. If we want to start improving—let alone maintaining—the current system of highways, bridges, and transit infrastructure in this country, overall Federal surface transportation spending must reach at least $75 billion annually by fiscal year 2009, according to a 2002 Department of Transportation's, DOT, Conditions and Performance report. The bill before us today provides $255 billion for highways and $56.5 billion transit over six years. To put those numbers into context, they translate into an average annual Federal investment of $51.8 billion per year through 2009 under SAFETEA—still far short of the figured cited by DOT needed to improve our country's transportation infrastructure.

While the DOT's 2002 report gives us an idea of the funding levels needed nationwide to enhance our transportation system, I wanted to speak for a moment on the funding needs of my home State of Maine. The Maine highway system is the most important facet of a transportation network that serves the largest State in the northeastern United States, and totals 22,612 road miles, which includes 367 miles of interstate highways. And as a State with an abundance of islands, rivers, lakes and streams, the State of Maine maintains an extraordinary number of bridges, including 3,564 highway bridges with at least a 10-foot span.

Today, Maine's highway system is carrying an ever-growing volume of vehicles. Highway use has increased from about 7.5 billion vehicle miles in 1980 to more than 13 billion vehicle miles traveled, VMT, in 2000. The Maine Department of Transportation's, MDOT, Twenty Year Transportation Plan projects that VMT will grow by 18 percent, to about 16 billion VMT, by the year 2020.

Put simply, the most pressing issue facing this extensive transportation system is its age. As MDOT's Twenty Year Plan puts it:

> Our most dramatic challenge is that our infrastructure is aging. Roads, bridges . . . and other facilities that were built decades ago are now reaching, or have surpassed, their life expectancies. In many cases, this translates into the reality that repairs and rehabilitation are no longer appropriate; the time has come for many replacement and reconstruction projects. This is especially true for a significant number of major bridges around the State, some of which offer the only practical and cost-effective method for crossing rivers and other bodies of water.

Given the challenges facing the State in maintaining its transportation infrastructure, and given that a good road system is absolutely critical to economic development and job creation in both rural and urban areas of Maine, I am pleased with the projected funding for Maine in the formula section of S. 1072. Over the 6-year life of the Senate bill, Maine will receive $1.169 billion in highway funding, an increase of $292 million, or 33.4 percent, from Maine's 1998 TEA 21 funding. This funding increase is particularly critical when considering that during the last reauthorization in 1998, when the average State increase was 40 percent, Maine received only a 17 percent increase.

I commend Chairmen INHOFE and BOND, and Senators JEFFORDS and REID for their careful consideration and hard work on these formulas. In doing so, they have recognized that Maine, as the largest State in New England in terms of landmass, but with a relatively low population density, simply needs all the help it can get from the Federal Government with the costs of maintaining the national highway system.

While I am certainly optimistic about the funding Maine will receive under the EPW Committee's proposed formulas, I also intend to fight for "high priority project" funding for several Maine road and bridge projects that are in dire need of Federal support. These important projects include the replacement of the 72-year-old Waldo-Hancock Bridge over the Penobscot River; the Aroostook North-South Highway project to connect the northern part of my State with the terminus of I–95 at Houlton; an East-West Highway running from Calais, ME, to the New Hampshire border that will address the woeful state of east-west connectivity in Maine; and the Gorham bypass, a vital congestion mitigation project in southern Maine.

While first-class roads are important for economic development, safe roads are just as essential to the quality of life of our citizens. As such, during the reauthorization process I intend to raise an issue of utmost importance to Maine: that of keeping heavy trucks off of our local roads. Safety must be the No. 1 priority on our roads and highways, and I have long been concerned that the existing interstate weight limits in my State have the perverse impact of forcing trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. These State and local routes are narrow roads with narrow lanes, and rotaries, with frequent pedestrian crossings and school zones.

Federal law attempts to provide uniform truck weight limits 80,000 pounds on the interstate system, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads do not.

Because of these long-standing safety concerns, MDOT has spent the last several years studying the potential impacts of waiving the Federal weight limits throughout the State. The preliminary results of their study clearly show the wisdom of allowing heavy trucks to travel on the interstate system rather than local roads. Specifically, MDOT estimates that waiving Federal weight limits would result in three fewer truck crashes in Maine every year. In addition to the safety benefits, waiving weight limits would save MDOT between $1 million and $1.65 million every year on pavement costs, and approximately $300,000 per year on bridge rehabilitation costs. Overall, when considering safety and road construction costs, the economic benefit to the State and Maine citizens would be between $1.6 million and $2.3 million annually.

The safety and economic benefits of getting heavy trucks off of Maine local roads and onto the interstate are enormous. As such, I have filed an amendment to the highway bill that would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the interstate system within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety. I believe this is a measured, responsible approach to a very serious public safety issue.

I am aware that the current truck weight limit impacts different States in different ways, but for Maine, at the heart of the issue is a simple question: Do we want heavy trucks on the highway, where they belong, or on local roads running right through the heart of our communities? I hope to work with the chair and ranking member of the EPW Committee to address this issue as we consider the highway bill.

Another priority of mine during TEA–21 reauthorization process, as a member of the Senate Committee on Commerce, Science and Transportation, is the issue of our country's intercity passenger rail system. Until December 2001, Maine was one of only a handful of States in the continental United States not served by passenger rail service. I am proud that after a decade of hard work and negotiations, Maine has become a member of the Amtrak family—with service from Boston to Portland, Maine. The State of Maine is also working on plans to upgrade the Boston-Portland line to a high-speed rail service, and also may extend the line even further north in the future.

In June 2003, the Commerce Committee—with my support—voted to consider Amtrak reauthorization and TEA–21 reauthorization together. Since then, I have been working with a bipartisan coalition of Senators to make that proposition a reality, including Senators HUTCHISON, HOLLINGS, and CARPER. Rail is a part of our surface transportation system, and I will fight to make sure that a rail title is included in the final highway legislation sent to the President. Simply put, including a passenger and freight rail title in this bill will build on the existing foundation of passenger rail in Maine and further connect my State to the Nation's transportation system—a prospect about which I am very excited.

I conclude by saying that another reason I support the legislation we are considering today is because it is not just a roads bill, or a transit bill, or a safety bill, it is also a jobs bill. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs. The funding in the Senate EPW comprehensive 6-year bill of $255 billion will create approximately 2 million new jobs nationwide, and will create or sustain almost 57,000 highway-related jobs in my home State of Maine. The economic stimulus this bill will provide is reason alone to enact it as soon as possible.

I am pleased that the Senate is poised to complete consideration of this legislation. I look forward to working my colleagues with a sense of urgency over the next few days on enacting a comprehensive 6-year surface transportation bill this year.

BUDGET PROCESS REFORM

Mr. CONRAD. Mr. President, this amendment contains provisions that are within the jurisdiction of the Budget Committee, on which I serve as ranking member. Specifically, it amends the Budget Enforcement Act, establishing spending levels for highways and mass transit for fiscal years 2004 through 2009. It also expresses the sense of the Senate that comprehensive budget enforcement measures should be enacted this year, addressing discretionary spending, mandatory spending, revenues, and all areas of the Federal budget.

This bill is not the proper vehicle for considering budget process reform. All of the members of the Budget Committee—including those who will not be conferees on the bill pending before us—deserve the opportunity to weigh in on discretionary spending caps, pay-as-you-go, and other budget enforcement. Those issues should not be presented to the Senate without having been considered by the Budget Committee. They therefore have no place on this bill.

Mr. NICKLES. I agree that the pending transportation bill is not the place to consider budget enforcement provisions within the Budget Committee's jurisdiction. Even though the budget enforcement provisions in this bill are meaningless in the absence of other process measures, I did not support their inclusion. Enacting statutory budget enforcement this year will require bipartisan cooperation, and the most appropriate way to ensure that is to consider these issues through the regular order. I will work closely with the Senator from North Dakota to make sure all Senate Budget Committee members have an opportunity to provide input on these issues.

Mr. FRIST. I concur with the chairman of the Budget Committee and agree with the sentiments expressed by the Committee's Ranking Member. Indeed the provisions in this legislation establishing transportation spending categories are somewhat meaningless unless we enact broader enforcement tools. Those broader enforcement tools should be addressed separate and apart from this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

CORPORAL JUAN C. CABRALBANUELOS

Mr. HATCH. Mr. President, these truly are "the times that try men's souls" and challenge our resolve as a Nation. Today, it is with profound regret that I stand to pay tribute to a true patriot of liberty who gave his life so that others may live in freedom. His name was Juan C. Cabralbanuelos and he was a soldier in the U.S. Army.

Many have stood in this chamber to reflect on the loss that our Nation has felt and the price that it has paid to remain free. Today, I stand to remember one who was a citizen of another nation, one who loved the United States and freedom so much, he was willing to give his life to preserve an idea: freedom. He truly deserves the honor of being called an American patriot.

Coporal Cabralbanuelos leaves behind a wife Anita and two sons ages seven and one. To them, I know that nothing that I say here will temper your grief. But know this: your loss will not go unnoticed and unrecognized, your fellow Americans now and always will stand behind you and support you through the trying times ahead.

And so another name has been added to Utah's List of Honor: Corporal Juan Carlos Cabralbanuelos. He joins an illustrious list that includes Specialist David J. Goldberg, US Army Reserve; Captain Nathan S. Dalley, West Point graduate and a member of the Army's 1st Armored Division; staff Sergeant James W. Cawley, United States Marine Corps Reserve; Staff Sergeant Nino D. Livaudais of the Army's Ranger Regiment; Randall S. Rehn, of the Army's 3rd Infantry Division; Sergeant Mason D. Whetstone of the United States Army; and former Special Forces soldier Brett Thorpe.

Their names and the service they performed is something that I shall never forget. I shall always honor them and their families.

SPECIALIST JUSTIN A. SCOTT

Mr. BUNNING. Mr. President, today I will take the opportunity to honor the service of Spec. Justin A. Scott of Bellevue, KY. His death while performing his duty to this country is a great loss to us all.

On January 29, 2004, Justin and 11 other soldiers were investigating a cache of weapons about a hundred miles short of Bagram Air Base in Afghanistan. Suddenly, there was an explosion and Justin and seven other soldiers were killed. I offer my sincerest condolences to Spec. Scott's family and loved ones.

His service with the 87th Infantry Regiment of the 10th Mountain Division at Ft. Drum, NY, was exemplary and duly appreciated. As one of the U.S. Senators from Kentucky, I know that Spec. Scott served as a fine example of what it means to be a true patriot and an American of the highest caliber.

We are humbled and honored by the sacrifice Spec. Scott has made. His loss reminds us of the heavy cost exacted for our freedom. We must remember that the American way of life has been made possible by the bravery of men and women like Spec. Scott. When freedom has been challenged many like him have answered the call to arms. We must never forget that.

DAVID KAY'S SENATE TESTIMONY

Mr. KYL. Mr. President, there has been a great deal of focus on the recent Senate testimony of David Kay, the former head of the Iraq Survey Group. Unfortunately, most media reports have highlighted only those statements by Dr. Kay that might be used to criticize the administration. They have largely ignored Dr. Kay's assertions that Iraq was more dangerous than we even realized prior to the war, that Saddam Hussein clearly intended to continue developing weapons of mass destruction, and other statements which contradict the false notion that the administration "hyped" intelligence on Iraq.

I thought it would be beneficial for the American people to have a chance to read Dr. Kay's entire testimony, including his edifying exchanges with members of the Senate Armed Services Committee.

I therefore ask unanimous consent that his entire testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARING, SENATE ARMED SERVICES COMMITTEE, JANUARY 28, 2004

(Joined in progress due to committee hearing room audio system).

WARNER: . . . a further report—and I stress a further report—from Dr. David Kay on his efforts and the efforts of the team which he was privileged to work with, known as ISG. He served as the special adviser to the director of Central Intelligence in determining the status of weapons of mass destruction and related programs in Iraq.

After assuming this position last July, Dr. Kay made his initial interim official report to this committee on October 3rd. As members of the committee are aware, Dr. Kay has stepped down from this position and has been succeeded by Mr. Charles A. Duelfer, a former colleague and member of the U.N. Special Commission with Dr. Kay, who has been appointed by Director Tenet to continue this important mission.

I met with Mr. Duelfer the day before yesterday and we just momentarily met with him in the Intel Committee room.

Dr. Kay volunteered—and I emphasize that—volunteered to resume his public service, worked diligently for six months in Iraq under difficult and often dangerous conditions, and just concluded his work last week and reported to the director of Central Intelligence.

I thank you and I thank your wife for public service.

Working with General Dayton and the Iraq Survey Group, ISG, your mission was to search for all facts—repeat, all facts—relevant to the many issues about Iraq weapons of mass destruction and related programs. You initiated what was and continues—I emphasize continues—to be a very difficult, complex mission that, in you own words, is yet to be completed.

As you cautioned us when you took up this post in July, patience is required to ensure we complete a thorough assessment of this important issue.

In this hearing today we hope to receive your assessment of what has been accomplished to date—I repeat, to date—and what in your professional judgment remains to be done by the ISG. It is far too early to reach any final judgments or conclusions.

In recent days, I mentioned, I met with both General Dayton, I've met extensively with your over the recess period, and Mr. Duelfer, and received the assurance of Dayton and Duelfer that they will be prepared to present to the Congress a second official interim report of the ISG group in the time frame of late March.

WARNER: It is crucial that the important work of the ISG group go on. Thus far the findings have been significant.

Dr. Kay has stated that, although we have not found evidence of large stockpiles of WMD, or forward-deployed weapons, the ISG group have made the following evidence as a part of their record that will be forthcoming: first, evidence of Saddam Hussein's intent to pursue WMD programs on a large scale; actual ongoing chemical and biological research programs; an active program to use the deadly chemical ricin as a weapon, a program that was interrupted only by the start of the war in March; and evidence of missile programs; and evidence that in all probability they were going to build those weapons to incorporate in the warheads, what we know not for sure, but certainly the possibility of weapons of mass destruction; evidence that Saddam Hussein was attempting to reconstitute his fledgling nuclear program as late as 2001; and, most important, evidence that clearly indicates Saddam Hussein was conducting a wide range of activities in clear contravention of the United Nations resolutions.

As you recently stated, Dr. Kay—and I quote you—"It was reasonable to conclude that Iraq posed an imminent threat. What we learned during the inspection made Iraq a more dangerous place potentially than, in fact, we thought it was even before the war." end quote.

WARNER: Further, you said on NBC's "Today Show" on Tuesday that it was, quote, "absolutely prudent for the U.S. to go to war."

Dr. Kay, I concur in those conclusions. I believe a real and growing threat has been eliminated and a coalition of nations acted prudently in the cause of freedom. I'd be interested if you concur in my conclusions.

While some have asserted that the president and his senior advisers may have exaggerated or manipulated prewar intelligence on Iraq's WMD programs, Dr. Kay reached the following conclusion, which I think is different.

As you stated recently, quote, "We have to remember that this view of Iraq (prewar assessment of WMD capabilities) was held during the Clinton administration and did not change in the Bush administration. It is not a political got-you issue. Often estimates are different than reality. The important thing is when they differ to understand why." end quote.

That's precisely why I called this meeting, Dr. Kay, to continue the work of this committee in developing a body of fact from which reasonable people, at the conclusion of that collection of facts, can reach their own objective thoughts and conclusions. It's been a difficult process but the ISG work is not completed.

Now, you have stated that you believe there did not exist large stockpiles of biological and chemical weapons. But I hope that you will, in your testimony, indicate that since work is not completed, since Iraq is as big as California and Baghdad approximates the sprawling territory of Los Angeles, that we could find caches and reserves of weapons of mass destruction, chemical or biological or even further evidence about their nuclear program.

WARNER: We also would hope that you'd address the question of whether or not Saddam Hussein had some kind of, quote, "breakout capability" for quickly producing chemical or biological weapons, and was this not a basis for constituting a conclusion that there was an imminent threat from Saddam Hussein and his military?

Why were the Iraq WMD records systemically looted or destroyed? And why do scientists in custody today continue not to be forthcoming if there was nothing to hide or nothing substantial existed?

The work of the Iraq Survey Group has shown that Saddam Hussein had WMD intentions, had WMD programs that did survive, and did outwit for 12 years the United National Security Council and the resolutions—indeed, the inspections, in large measure.

If ultimately, the findings of the Iraq Survey Group do differ from the prewar assessments of our intelligence community, differ from assessments of the United Nations, differ from assessments of intelligence services of many other nations, indeed that is cause for concern. But we are not there yet in terms of the totality of fact on which to draw such serious conclusions.

Today and tomorrow, our policy-makers must be able to rely on the intelligence they are provided. The safety and security of the men and women of the armed forces are dependent on intelligence and, indeed, the security of our Nation.

So collectively, all of us—the Congress, the executive branch and other nations—we must vigorously continue to pursue the collection of the facts, as the ISC is doing, and upon that completion, then draw our conclusions and take such corrective measures as may be necessary.

WARNER: As we speak, over 1,400 individuals—military and civilian—are on the ground in Iraq seeking the facts about Iraq's WMD programs. I have confidence in the commitment and the ability of General Dayton, Mr. Duelfer, your successor, and representatives from our coalition partners to complete this mission. They have some of the best and brightest of our military and our intelligence community to complete this task. And Congress has provided the necessary means, a very substantial appropriation of recent.

We remain committed to providing the resources that are necessary for the completion of the ISG work.

Dr. Kay, I thank you for your public service once again.

BELARUSIAN AUTHORITIES CONTINUE TO STIFLE DEMOCRACY

Mr. CAMPBELL. Mr. President, as co-chairman of the Commission on Security and Cooperation in Europe, I want to update colleagues on developments in the Republic of Belarus, a country with the poorest human rights record of any country in Europe today. In the last year, Belarusian dictator Lukashenka's assault on civil society has steadily intensified, with the liquidation of NGOs, violence against opposition activists, and repression of the independent media and trade unions. The situation in Belarus continues its downward spiral with daily reports of growing repression and new human rights violations.

Since the beginning of the still relatively new year, NGOs such as the Belarusian Language Society and the Belarusian Helsinki Committee have stepped up harassment. The Minsk City Court has ordered the liquidation of the Independent Association of Legal Research. Leaders of the opposition "Five Plus" bloc, who are in Washington this week, were recently detained and searched by customs officials at the Polish-Belarusian border. The officials were reportedly looking for printed, audio or video materials that could "damage the political and economic interests of the country." Human rights activists or independent journalists such as Natalya Kolyada, Nina Davydowskaya, Iryna Makavetskaya, Aksana Novikava and Aleksandr Silitsky continue to be subjected to threats, detentions or heavy fines. Others, including activists of the youth group ZUBR, have been arrested for holding an unauthorized picket demanding a thorough investigation of the disappearances of three democratic opposition members Yuri Zakharenka, Victor Gonchar, Anatoly Krasovsky, and journalist Dmitri Zavadsky.

Independent media outlets also continue to feel the wrath of the powers that be, including libel proceedings against Narodnaya Volya, Belarus' largest independent daily; the confiscation of Asambleya, a bulletin of the Assembly of the Belarusian Democratic NGOs; the refusal by the Belarusian Postal Service to distribute the independent newspaper Regionalniye Novosti; the confiscation of copies, in the town of Smorgon, of the independent newspaper, Mestnaya Gazeta; and the censoring of the independent newspaper Volnaya Hlybokaye in the Vitebsk region. Several Jewish cemeteries are being destroyed. Baptist congregations are being fined and Krishna followers detained.

In an unusual step, the International Labor Organization, ILO, has established a commission of inquiry—only the eleventh time in the body's 84-year history—to examine violations of trade union rights in Belarus. Meanwhile, the Parliamentary Assembly of the Council of Europe's Committee on Legal Affairs and Human Rights unanimously ratified a report on political disappearances in Belarus. The just-released report severely criticizes the Belarusian authorities, stating that "steps were taken at the highest level of the State actively to cover up the . . . disappearances" of several high-profile members of the opposition in 1999 to 2000 and that senior Belarusian officials may be involved.

Last year I introduced the Belarus Democracy Act of 2003, S. 700, which is designed to help promote democratic development, human rights and rule of law in the Republic of Belarus, as well as encourage the consolidation and strengthening of Belarus' sovereignty and independence.

While some might be tempted to dismiss Belarus as an anomaly, the stakes are too high and the costs too great to ignore. It is important for us to stay the course and support Belarus in becoming a genuine European state, in which respect for human rights and democracy is the norm and in which the long-suffering Belarusian people are able to overcome the legacy of dictatorship—past and present. The Belarus Democracy Act—which enjoys bipartisan support—is an important, concrete way to exhibit our support. I urge colleagues to support this measure and look forward to timely consideration of the Belarus Democracy Act.

AMERICAN HOSTAGES IN COLOMBIA

Mr. DODD. Mr. President, it has been almost a year since three Americans—Marc Gonsalves, Keith Stansell, and Thomas Howes—were taken hostage by the Revolutionary Armed Forces of Colombia, FARC. The presence of American hostages in Colombia is deeply troubling, and one can only imagine the struggles and trials that these three brave individuals have had to endure since their plane crashed in the Colombian jungle last year on February 13. I rise today to again call attention to their plight and urge the Bush administration and Colombian Government to do everything possible to gain their release.

There is no higher priority than finding a way to bring these three Americans home safely, and I know that all of our prayers remain with them and their families during these difficult times. For the families of Marc, Keith, and Tom, this past year has been a heart wrenching experience. I have a special interest in the fate of Marc Gonsalves, whose mother, Jo Rosano, is a Connecticut resident. Marc's father, George Gonsavales, is also a resident of our State.

At every opportunity, I have worked to bring about the release of these three Americans. Indeed, over the last 8 months whenever I have met with Colombian President Uribe or other Colombian officials, I have urged them to make every effort to gain their release. President Uribe indicated to me that the Colombian military continues every day to search for them and that these efforts will not cease until they are found.

In addition, during a hearing last fall of the Senate Foreign Relations Committee, I urged the now-serving United States Ambassador to Colombia, William Wood, to make their rescue his highest priority. He pledged to do so and has kept me informed of developments in this matter. I have also continually urged the Bush administration to provide all means of assistance, including technological assistance, to bring about the safe rescue of Marc, Keith, and Tom. It is my understanding that the administration continues to work with Colombian authorities to locate them.

Certainly, their rescue will not be easy. However, I have to believe that more can be done. This must be the highest of priorities. The airing last year of the videotape showing them in captivity only further highlights the importance of this effort.

The families of Marc, Keith, and Tom will find no rest until their sons, husbands, fathers, and brothers return home safely. I will be meeting with Jo Rosano tomorrow, when she, along with other family members of the hostages, come to Washington, DC on the anniversary of this tragic incident to urge United States policymakers not to forget their family members in captivity.

And I will tell her what I have said here today: that we must make every effort and we must leave no stone unturned in our search. As Americans, Marc, Keith, and Tom are also our sons—they are members of our extended American family. For my part, I pledge to continue to do everything possible to ensure their speedy release and safe return. I urge the Bush administration and Colombian Government to do the same. We must not rest until they are all home safely.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Honolulu, HI, in August 1998. A heterosexual man was found dead in a public shower. He had been brutally killed by a group of teenagers because they thought he was gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

CELEBRATING THE "SEUSSENTENNIAL"

● Mrs. BOXER. Mr. President, each year on March 2 thousands of schools and millions of children take part in Read Across America, the National Education Association's annual celebration of reading and literacy. The date is no accident: March 2 is the birthday of Theodor Seuss Geisel, better known as Dr. Seuss.

As much as anyone in the past century, Dr. Seuss helped children learn to love reading by making it fun and exciting. In my frequent visits to classrooms and afterschool programs, I often read to young children, and I have found that Dr. Seuss is their favorite author.

His books are read and treasured everywhere—particularly in California, where he spent most of his adult life. In 1948, he bought an old observation tower in La Jolla, CA. For the rest of his life, The Tower was his residence and workshop. Every morning, Ted Geisel would walk into his studio, lock the door, and become Dr. Seuss. Drawing on his extensive collection of hats—inspired by "The 500 Hats of Bartholomew Cubbins"—Dr. Seuss would put on a "thinking cap" and get to work.

The books that came out of The Tower—including "The Cat in the Hat," "Green Eggs and Ham," "If I Ran the Zoo," "Horton Hears a Who," "And to Think That I Saw It on Mulberry Street," "How the Grinch Stole Christmas," and "Oh, the Places You'll Go!"—are among the best-known and best-loved classics of children's literature.

Dr. Seuss inspired Read Across America because he opened the door to literacy for generations of children by engaging them with gentle humor and fantasy.

The 2004 Read Across America is extra-special because it is the "Seussentennial"—Dr. Seuss's 100th birthday. The celebration has already begun in schools and community centers across America, where kids are making giant birthday cards, collecting hats, and, of course, reading lots of good books.

As we approach the "Seussentennial," I invite children and grownups everywhere to celebrate the joy of reading by honoring a great American author and educator, Theodor Seuss Geisel.●

HONORING R. LEWIS SHAW

● Mr. GRAHAM of South Carolina. Mr. President, I wish to recognize the accomplishments of one of my constituents, R. Lewis Shaw and to commend him for his tenure as deputy commissioner for environmental quality control at the South Carolina Department of Health and Environmental Control as he leaves after 33 years of service.

Lewis began his career with the department as the district director for the Wateree district office, and later served as chief of the Bureau of Water Supply. Lewis was promoted to deputy commissioner of environmental quality control in 1984 and has provided exemplary leadership since that time. Under Lewis's leadership, the environmental quality control programs have grown to keep pace with national and State initiatives and are considered by the United States Environmental Protection Agency to be among the best State environmental programs in the Nation.

Lewis has also been active in shaping national environmental policy over the past two decades by serving on numerous national committees, often as chairman, which advise both the Environmental Protection Agency and the United States Congress. He has on several occasions presented testimony to both House and Senate committees regarding the impact of proposed Federal environmental legislation on individual States. Lewis has earned the respect of his counterparts in other States and has served as president of their national association known as the Environmental Council of the States. Lewis is currently the longest serving State environmental program director in the Nation.

A graduate of the University of South Carolina with a degree in chemical engineering, Lewis also earned a graduate degree in environmental engineering from Clemson University, and is a registered professional engineer in South Carolina. Lewis is married to the former Judy Brown and has two children, Jason Shaw and April Shaw McCaskill.

I invite you to join me in thanking R. Lewis Shaw for his service and dedication to the natural resources and the citizens of the State of South Carolina.●

A LIVING LEGACY

● Mr. SMITH. Mr. President, I rise today to honor one of Oregon's unsung heroes, Jim Willis. For many years, Mr. Willis has dedicated his life to assisting and enriching the lives of countless Oregonians. His story should serve as an inspiration to us all as we try to make our country a better place.

He was raised in California and attended the University of California at Santa Cruz. Upon graduation he was accepted for graduate school of the prestigious University of California at Berkeley, yet he never had the opportunity to complete his degree when his father became ill. Willis returned to be with his father in Bishop, CA, where he worked as the Education Department director for the Owens Valley Paiute

Tribes. The experience set the tone for a long career in tribal and educational organizations.

Willis arrived to Roseburg, OR, in the early 1980s, continuing his work at Umpqua Community College in the Student Services department, and later at Rogue Community College as a financial aid officer, helping hundreds of young adults explore their career opportunities. After leaving his mark on the education arena, he decided to serve local American Indian tribes in their quest of cultural restoration and economic self-sufficiency.

In 1982, Willis began working with the Confederated Tribes of Siletz Indians, ultimately becoming general manager of the Confederated Tribes of Grand Ronde. His long and distinguished career in Oregon tribal government was illustrious and renowned throughout the State. He is well respected in tribal and State government circles. Willis was appointed to the Oregon State Board of Higher Education in 1993, where he served an important role until he stepped down in 2001. He was pivotal in the rise in prominence of our State Universities.

Currently, Willis is winning a hard-fought battle with cancer. I join with countless others in honoring his courage as he fights to overcome this devastating disease. We all look forward to the day that Jim Willis returns to help improve our great State of Oregon.•

IN MEMORY OF SCOTT HOFFMAN

• Mr. NELSON of Nebraska. Mr. President, today I would like to share with my colleagues and the nation a tribute to a friend of mine from Nebraska.

On Sunday, February 8, 2004, Scott Hoffman of McCook, NE, passed away. His family lost a loving husband and father. I lost a friend and trusted member of my staff. And the State of Nebraska lost a proud native son and someone who embodied the attributes often used to describe our State—strong, hard working, caring and deeply invested in his community.

We are deeply saddened by the tragic loss of our coworker and friend. Our thoughts and prayers are with Scott's wife Darcey, their sons Christian and Stephen, his daughter Danae, and the entire Hoffman family.

Scott was a devoted family man, a dedicated public servant and a true friend. Scott seemed to always have his finger on the pulse of Southwest Nebraska. There isn't a community or a cause that isn't familiar with Scott's work advocating for the entire region.

Back when I was considering running in the 2000 Senate elections, I visited the local paper, the McCook Gazette, for an editorial board meeting. Scott was a member of the newspaper staff at the time. After the meeting he walked me out to the car and asked if he could join my campaign staff. We hired him and that was one of the best decisions I made.

Scott had a knack for working with people. He could as easily communicate with members of the press or a chamber of commerce as with elementary school students. He would walk into a room and be able to get disparate people to work together—a talent few have and fewer still can master. This ability made him an asset, not just to my office—and I am grateful he was a member of my team—but to the entire State of Nebraska. Scott always knew our primary concern is the welfare of Nebraska and he spent his time working on behalf of Nebraska's interests.

Scott's work on behalf of Nebraska was well respected and only recently did I learn that community officials sought out Scott to lead the McCook Economic Development Corporation. Scott, in his typical fashion, told the leaders that he was doing what he wanted to do and wasn't seeking a change. That loyalty was a defining characteristic of Scott Hoffman and he applied it to his job, his church, his family, his friends and his community.

His legacy can be measured in the outpouring of support his family has received in recent days. The community of McCook was there for Scott in the hours after he was reported missing. Over two hundred volunteers, including members of McCook Senior High's football and track teams, joined more than thirty first responders in the search for Scott. Although that search ultimately came to a tragic end, the dedication of these rescuers underscores Scott's connection to his community.

And the community of McCook was there again for Scott's family when news spread that he had passed. The letters, phone calls and testaments to Scott have poured in from Nebraskans across the State and as far away as Africa. It is overwhelming, but comforting, because we know that although Scott is gone, he will not be forgotten. In his 33 years, he has left his mark in McCook and his friends and neighbors will ensure that his memory lives on.

Scott was a good friend to many in the McCook area and across Nebraska, including me, Diane and everyone on my staff. He will be missed and remembered fondly by all who knew him, especially those of us who had the pleasure of working with him. Personally, I am going to miss his advice, his hard work on behalf of Nebraska, and most of all, the friendship I was so fortunate to share with him. He will be deeply missed by all of us.

A friend of Scott's at the McCook Gazette wrote this week of Scott that he "spent his time well." His activities on his last day with us bear that out. He took his sons Christian and Stephen sledding. He went grocery shopping for his family. He took his beloved dogs for a walk. In some ways it seems that he was called from this life at a moment of great peace, having fulfilled his duties to protect and provide for his family. His loss leaves us with unanswered questions but also fills us with the satisfaction of knowing Scott loved us, and was loved in return. And that is what makes life fulfilling.

I ask that two articles in tribute to Scott from his hometown paper the McCook Gazette be printed in their entirety in the RECORD.

The documents follow:

[From the McCook Daily Gazette, Feb. 10, 2004]

MONDAY BRINGS WORST FEARS, BEST MEMORIES

While the example of his life burns brightly in our minds, we need to find fitting ways to pay tribute to the memory of Scott Hoffman.

In some form—either through a monument, an award, a scholarship or another appropriate means—we need to come up with a lasting memorial to eulogize Scott and to create an inspiration for generations to come.

Because, in his 33 years of life, this dynamic young man showed us the importance of getting involved, staying involved and remaining faithful to your family, your church, your job and your community.

Scott Hoffman did all that . . . and much more. As you have already heard on radio and television and read on the front page of the newspaper, the search for Scott ended tragically Monday afternoon when his body was found by a diver in the Huck Finn Pond at Barnett Park.

With the discovery our worst fears were realized. While we mourn, we also give praise for the life Scott lived.

To give illustrations of how highly he was held in esteem, we offer two recent examples. First, following a recent speech which Scott gave on Sen. Ben Nelson's behalf, a member of the news media addressed Scott, "You are very well spoken and very focused on the issues. Would you consider running for office yourself?" Then, late in 2003, Scott was asked, privately, to consider entering his name in application for the director's position with the McCook Economic Development Corp.

In both cases, politely and humbly, Scott declined. "I'm where I want to be and I am doing what I want to do," is the best way to summarize his answers. He appreciated the opportunities, but remained dedicated, devoted and satisfied with the course his life was taking.

We don't find that kind of steadfast loyalty nearly enough in these times. You could see the love and respect for Scott shine through Monday evening in radio and television interviews with his good friend, Kerry Ferguson; the Gazette editor, Bruce Crosby; and Red Willow County Sheriff, Gene Mahon.

They were more than Scott's co-workers and officials with whom he worked. They were Scott's friends, as were so many others in this region, this State, and—increasingly through his work with Sen. Nelson—this Nation.

It is both important and appropriate that we remember Scott Hoffman. He served us and shared with us during his 33 years of life. In times to come, we need to cherish his memory and be uplifted by his example through a lasting memorial.

[From the McCook Daily Gazette, Feb. 10, 2004]

A GUY WHO SPENT HIS TIME WELL

(By Bruce Crosby)

Scott Hoffman took his two sons, Christian, 9, and Stephen, 6, sledding Sunday afternoon.

He went to the grocery store for his wife, Darcey, and carried the food into the kitchen.

"I guess I'll take the dogs for a run," he said, heading out the door with their three pets.

I've written before about my late stepmother, Alyce, who always said, "I'd rather wear out, than rust out."

She lived by that saying, spending her time caring for her family—offering advice to her often bewildered stepson—volunteering for her church and community, almost to the end, at the of 83.

I wish Scott would have had the same chance. As it was, he spent his last Sunday the way he spent most of his spare time—taking care of those he loved.

Scott deserved another 50 years, at least as much as any of us do. He was just hitting his stride when he was called from this life Sunday afternoon, at the age of 33.

Maybe his memory will help us make the right choices when it comes to how we spend our precious days on earth.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 264. Concurrent resolution authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

H. Con. Res. 357. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height.

H. Con. Res. 358. Concurrent resolution authorizing the printing of "History of the United States Capitol" as a House document.

H. Con. Res. 359. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

At 7:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 361. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2061. A bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

S. 2062. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6253. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–311, "Distracted Driving Safety Act of 2004"; to the Committee on Governmental Affairs.

EC–6254. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–312, "Police and Firemen's Service Longevity Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6255. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–313, "Henry Kennedy Memorial Tennis Courts Designation Act of 2004"; to the Committee on Governmental Affairs.

EC–6256. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–315, "Closing of a Public Square 2848 and of a Portion of Kenyon Street, N.W., S.O. 03–411, Act of 2004"; to the Committee on Governmental Affairs.

EC–6257. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–314, "Extension of the Time Period for Disposition of a Property Located at 2341 4th Street, NE., Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6258. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–331, "Medical Support Establishment and Enforcement Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6259. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–332, "Neighborhood Investment Act of 2004"; to the Committee on Governmental Affairs.

EC–6260. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–333, "Water and Sewer Authority Collections Clarification Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6261. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–334, "Closing of a Public Alley in Square 316, S.O . 03–2973, Act of 2004"; to the Committee on Governmental Affairs.

EC–6262. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–336, "Documents Administrative Cost Assessment Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6263. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–335, "Prevention of Premature Release of Mentally Incompetent Defendants Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6264. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–294, "Board of Veterinary Examiners Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6265. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–296, "Health Care Privatization Rulemaking Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6266. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–295, "Traffic Adjudication Appeal Fee Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6267. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–297, "Closing of a Portion of Jewett Street, NW., S.O. 98–272, Act of 2004"; to the Committee on Governmental Affairs.

EC–6268. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–298, "Closing of Portions of the Alley System in Square 2868, S.O. 01 4094, Act of 2004"; to the Committee on Governmental Affairs.

EC–6269. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–299, "Washington Convention Center Authority Term Limit Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6270. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–300, "Electric Standard Offer Service Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6271. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–301, "Closing of Public Alleys in Square 2672, S.O. 03–757, Act of 2004"; to the Committee on Governmental Affairs.

EC–6272. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–302, "Office of Administrative Hearings Independence Preservation Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6273. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-303, "Interim Disability Assistance Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC-6274. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-304, "Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC-6275. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-305, "Bonus Depreciation De-Coupling Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC-6276. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-306, "Estate and Inheritance Tax Clarification Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC-6277. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-308, "Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Assistance Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC-6278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-307, "Help America Vote Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC-6279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-309, "Washington Convention Center Authority Advisory Committee Continuity Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC-6280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15-310, "Southeast Neighborhood House Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC-6281. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Office of Management and Budget, received on February 10, 2004; to the Committee on Governmental Affairs.

EC-6282. A communication from the Inspector General, Railroad Retirement Board, the budget justification for the Office of Inspector General, Railroad Retirement Board; to the Committee on Governmental Affairs.

EC-6283. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-316, "Initiative Measure No. 62 Applicability and Fiscal Impact Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC-6284. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cold Treatment of Fruits" (Doc. No. 02-071-2) received on February 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6285. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Befenazate; Pesticide Tolerances for Emergency Exemptions" (FRL#7335-6) received on February 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6286. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval of the wearing of the insignia of major general; to the Committee on Armed Services.

EC-6287. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval of the wearing of the insignia of brigadier general for several officers; to the Committee on Armed Services.

EC-6288. A communication from the Principal Deputy Under Secretary of Defense for Policy, Department of Defense, transmitting, pursuant to law, the Department's Report on Activities and Assistance under Cooperative Threat Reduction Programs; to the Committee on Armed Services.

EC-6289. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Unique Item Identification and Valuation" (DFARS Case 2003-D081) received on January 20, 2004; to the Committee on Armed Services.

EC-6290. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a multiyear procurement for E-2C aircraft for fiscal year 2004 through 2007; to the Committee on Armed Services.

EC-6291. A communication from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred in Treasury Account 95X8267; to the Committee on Appropriations.

EC-6292. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, A321 Series Airplanes Doc. No. 2001-NM-120" (RIN2120-AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6293. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker F28 Mark 0070 and 0100 Series Airplanes Doc. No. 2002-NM-252" (RIN2120-AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6294. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL600-2B19 Airplanes Doc. No. 2002-NM-112" (RIN2120-AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6295. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Kidde Aerospace Part Number 898052 Hand Held Halon Fire Extinguishers; Doc. No. 2003-CE-19" (RIN2120-AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6296. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAE 146 and Avro 146-RJ Series Airplanes Doc. No. 2002-NM-144" (RIN2120-AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6297. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT9D-7R4 Series Turbofan Engines Doc. No. 2003-NE-01" (RIN2120-AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6298. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767-200, 300, and 300F Series Airplanes Doc. No. 2002-NM-152" (RIN2120-AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6299. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class W Airspace: Anthony, KS Doc. No. 03-ACE-92" (RIN2120-AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6300. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Fort Scott, KS Doc. No. 03-ACE-98" (RIN2120-AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6301. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Benton, KS Doc. No. 03-ACE-94" (RIN2120-AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6302. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Independence, IA Doc. No. 03-ACE-90" (RIN2120-AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6303. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Iowa Falls Doc. No. 03-ACE-09" (RIN2120-AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6304. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Marysville, KS Doc. No. 03-ACE-99" (RIN2120-AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6305. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Beloit, KS Doc. No. 03–ACE–93" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6306. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Chanute, KS Doc. No. 03–ACE–95" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6307. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Clay Center, KS Doc. No. 03–ACE–96" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6308. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Colby, KS Doc. No. 03–ACE–97" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6309. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Hutchinson, KS Doc. No. 03–ACE–79" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6310. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter Deutschland Model MBB Bk 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6311. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS344E, F, F1, F2, and N Helicopters; Doc. No. 2003–SW–24" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6312. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures: Miscellaneous Amendments (3); Amdt. No. 3087" (RIN2120–AA65) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6313. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model Cl 600–2B19 Airplanes Doc. No. 2003–NM–0262" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6314. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB135, and 145 Series Airplanes Doc. No. 2002–NM–330" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6315. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Gulfstream Model G–V Series Airplanes Doc. No. 2003–NM–275" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6316. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 900EX Series Airplanes Doc. No. 2003–NM–276" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6317. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Augusta SpA Model A109E Helicopters; Doc. No. 2003–SW–28" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6318. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 JA11 (CL–600), CL–600 2A12 (CL601), and CL–600 2B16 (CL601–3A, CL 601–3R, and CL–604) Series Airplanes Doc. No. 2001–NM–267" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6319. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 2000 and 900 EX and Dassault Model Mystere-Falcon 900 Series Airplanes Doc. No. 2002–NM–231" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6320. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Doc. No. 2003–NM–55" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6321. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB 120 Series Airplanes Doc. No. 2002–NM–87" (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6322. A communication from the Director, Fish and Wildlife Service, Department of the Interior, and the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report relative to the Atlantic Striped Bass Conservation Act; to the Committee on Commerce, Science, and Transportation.

EC–6323. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2004–14) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6324. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to a study on the effects of Motor Carrier Safety Assistance Program grant reductions; to the Committee on Commerce, Science, and Transportation.

EC–6325. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Permits for Recreation on Public Lands" (RIN1004–AD45) received on February 10, 2004; to the Committee on Energy and Natural Resources.

EC–6326. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, a copy of the Administration's report relative to greenhouse gas emissions; to the Committee on Energy and Natural Resources.

EC–6327. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulations; Conditional Payment of Fee, Profit, and Other Incentives" (RIN1991–AB54) received on January 20, 2004; to the Committee on Energy and Natural Resources.

EC–6328. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Montana: Thompson Falls PM10 Nonattainment Area Control Plan Final Rule" (FRL#7609–1) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6329. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: Revisions to Update the 1-Hour Ozone Maintenance Plan for the Reading Area (Berks County) Final Rule" (FRL#7616–6) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6330. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia: MOBILE6-Based Motor Vehicle Emission Budgets for Greenbrier County and the Charleston, Huntington, and Parkersburg 1-Hour Ozone Maintenance Areas Direct Final Rule" (FRL#7612–9) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6331. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Tennessee: Knox County Maintenance Plan Update Direct Final Rule" (FRL#7616–

2) received on February 4, 2004; to the Committee on Environment and Public Works.

EC-6332. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area Final Rule" (FRL#7618-8) received on February 4, 2004; to the Committee on Environment and Public Works.

EC-6333. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Michigan" (FRL#7617-7) received on February 4, 2004; to the Committee on Environment and Public Works.

EC-6334. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Redesignation and Approval of Ohio Implementation Plan" (FRL#7616-4) received on February 4, 2004; to the Committee on Environment and Public Works.

EC-6335. A communication from the Chair, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Superfund Five Year Review Report to Congress"; to the Committee on Environment and Public Works.

EC-6336. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the Perkins County Rural Water System; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VOINOVICH:

S. 2064. A bill to increase the minimum and maximum rates of basic pay payable to administrative law judges, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSON (for himself and Mr. MCCAIN):

S. 2065. A bill to restore health care coverage to retired members of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE:

S. 2066. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2067. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. MURRAY, Ms. LANDRIEU, Mr. BIDEN, Mr. BUNNING, Mr. DORGAN, Mr. JOHNSON, and Mr. FITZGERALD):

S. Res. 298. A resolution designating May 2004 as "National Cystic Fibrosis Awareness Month"; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. SPECTER, Mr. DEWINE, Ms. MURKOWSKI, Mr. AKAKA, Mr. INHOFE, Mr. ALLEN, and Mr. DORGAN):

S. Res. 299. A resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect; to the Committee on the Judiciary.

By Mr. GRAHAM of Florida (for himself and Mr. MCCAIN):

S. Res. 300. A resolution expressing the sense of the Senate on project earmarking in surface transportation Acts; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. Res. 301. A resolution honoring the 30th anniversary of Congressman Murtha's service; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 846

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1277

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1277, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement discipline, accountability, and due process laws.

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1277, supra.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1703

At the request of Mr. SMITH, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 2016

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2016, a bill to provide for infant crib safety, and for other purposes.

S. 2035

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2035, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Mississippi (Mr. LOTT), the Senator from Illinois (Mr. FITZGERALD) and the Senator from

Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 294

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 294, a resolution designating January 2004 as " National Mentoring Month".

AMENDMENT NO. 2286

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 2286 proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2296

At the request of Mr. FITZGERALD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 2296 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 2066. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Fishery Conservation and Management Act Amendments of 2004. This bill would reauthorize the Magnuson-Stevens Fisheries Conservation and Management Act, as amended by the 1996 Sustainable Fisheries Act, and update fisheries policy to better satisfy the ever-changing needs of our Nation's fish stocks and fishing communities.

In 1976, the year in which the Magnuson-Stevens Act was written, our commercial fisheries were in grave danger of being exploited beyond their ability to recover. Passage of the Act has provided a more balanced approach in fulfilling our economic needs by also promoting responsible conservation and stewardship of our resources. Even as it sought to provide better management for the Nation's resources as a whole, this law recognized that our fisheries have vastly different regional problems. The result was the creation of a regional management council in each of the country's eight major marine fisheries. These councils, with substantial input from the local community, are responsible for creating the management plans by which their fish stocks are regulated by the National Marine Fisheries Services. This structure has been vital in allowing the active stakeholders in each region to provide meaningful input to the management process.

Since the enactment of this legislation, domestic offshore catches have increased so dramatically that our fisheries now add billions of dollars to the Nation's economy every year, according to the National Marine Fisheries Service. Because of this increase in fishing harvests and the pressure to fish more than could be sustained, in 1996 Congress passed the Sustainable Fisheries Act to amend and enhance the Magnuson-Stevens Act. The new amendments included new guidelines for conservation of both targeted fisheries and bycatch, or incidentally-caught fish and other marine life. The Act required that overfished stocks be rebuilt within a 10 year timeframe. In addition, the provisions added a requirement for the protection of all essential fish habitat for each fishery.

The overarching goal of the Sustainable Fisheries Act was to ensure prosperity for all United States fisheries by ending overfishing and rebuilding depleted stocks. This goal, and the means for achieving it, are as important today as they were in 1996. I supported the Act, because I saw in it great potential for sustaining fishing communities and the stocks upon which they depend.

In the nearly 8 years since we last renewed and reauthorized the Magnuson-Stevens Act, however, we have witnessed both prosperity and degradation in different fisheries affected by this law. According to the National Marine Fisheries Service's Annual Report in 2003, certain fisheries have thrived; for example, sea scallops on Georges Bank have increased 20-fold from 1994 to 2002, silver hake in the Northeast was declared fully rebuilt in 2002, and recovery of dozens of other stocks is well underway. The National Marine Fisheries Services' most recent survey of young Georges Bank haddock indicates a population boom with the potential to be the largest ever recorded, putting that fishery well on the road to its recovery goal. Conversely, other fisheries have not fared as well, as demonstrated by the fact that overfishing commenced in 13 U.S. fisheries between 1997 and 2002.

As Chair of the Oceans, Fisheries, and Coast Guard Subcommittee of the Commerce Committee, I have sought answers as to why the Magnuson-Stevens Act has apparently worked well for some fisheries, but not others. Representing a state with scores of fishing communities and thousands of fisheries workers, I understand the great importance of making sure that our federal fisheries laws are working for all of our Nation's fisheries.

In seeking these answers, during the 106th Congress I traveled across the country and held a series of hearings on the Magnuson-Stevens Act. In Washington, D.C. Maine, Louisiana, Alaska, Washington, and Massachusetts, I heard official testimony from over 70 witnesses. Our subcommittee received hundreds of comments, views, and recommendations from federal and state officials, regional council chairmen and members, other fisheries managers, commercial and recreational fishermen, members of the conservation community, and many others interested in fisheries management.

What the subcommittee learned during these hearing—and which continues to be reinforced by more recent fisheries events, comments, and recommendations—is that most of the shortcomings in our federal fisheries policy are products of how the Magnuson-Stevens Act has been interpreted and applied to real-life fisheries problems. While the underpinnings of the Act are sound, it has become clear that implementation of the Act has often been inconsistent with Congressional intent. That is the primary challenge before us today: to clarify how the goals of conservation and management can be achieved for our Nation's fisheries, and ensure effective implementation of the Act.

What we need is a federal fisheries policy that can be interpreted and applied in ways that recognize and respond to the unique conditions facing each individual fishery. Of the hundreds of fisheries occurring around our Nation's coastline, no two are exactly alike. The conservation measures that work in one fishery cannot always be transferred to another. The Magnuson-Stevens act must express enough flexibility to accommodate these variations, so that managers can craft unique, innovative solutions based on the conditions and needs of the fish stocks and fishing communities in question.

I first attempted to address these issues when I introduced S. 2832, the

Magnuson-Stevens Reauthorization Act of 2000, as well as bills authorizing national standards for fishing quota systems. During the last several years, the need for these amendments—as well as new amendments to meet evolving fisheries needs—has only intensified. It is this fact that underlies the bill I introduce today, the Fishery Conservation and Management Act Amendments of 2004.

This bill contains several specific measures for enhancing management flexibility. First and foremost, this bill would repeal the 10-year timeline for rebuilding fish stocks and the unnecessarily-rigid measures that stem from it. This provision of the Sustainable Fisheries Act is not based on fish population dynamics, but instead imposes a stringent and arbitrary time-frame inappropriate for the diverse needs of each individual fishery. This bill would replace it with a system that allows a more adaptive approach for determining harvest rates. I am proposing that fishing mortality rates simply be limited to the maximum sustainable yield that a stock can produce in any given year. This fishing rate would not permit overfishing; it would allow stocks to rebuild over time to a level that achieves ecosystem balance.

Another new proposal in this bill would improve managers' ability to fairly distribute access to distant-water fish stocks. As is now occurring in the New England groundfishery, fishermen from different states are unevenly impacted by management measures that treat them as if they are all from the same state. Currently, fishermen who live farther away from healthy fish stocks need to expend their extremely limited number of permitted days-at-sea simply steaming to and from these stocks, while those who live closer to the stocks can spend more of their days-at-sea actually fishing. I am proposing that regional fishery management councils analyze these impacts and, if necessary, take action to eliminate such inequities.

Other key features of this Magnuson-Stevens Act reauthorization would address essential fish habitat and areas of particular concern; authorizations for cooperative research, capacity reduction, and fishing quota systems; and language to improve social and ecological impact assessments, data and information management, public meeting notices, and scientific peer reviews. Individually and collectively, the provisions in this bill present a way forward in improving federal fisheries management. This bill preserves the goal and intent of the Magnuson-Stevens Act, yet it enhances the abilities of managers and fishermen to apply it in a way that can better achieve the Act's objectives and actually achieve sustainability in our fisheries.

Finally, I would like to thank all those fishermen, managers, scientists, and special interest groups that contributed ideas and information to the long process of developing this reauthorization bill. Their countless contributions serve as invaluable pieces to a very complex puzzle, and I am confident that our efforts will improve the state of federal fisheries management.

I look forward to receiving additional fisheries policy comments and recommendations in the weeks and months ahead, including those from the U.S. Commission on Ocean Policy, and I encourage my colleagues throughout Congress to take action in support of this Magnuson-Stevens reauthorization effort. Through our collective efforts, sustainable fisheries in the United States can and will become a reality.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2067. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am introducing legislation today that would ban oil and gas drilling in the Los Padres National Forest. Congresswoman CAPPS is introducing this legislation in the House of Representatives.

Despite strong local opposition to drilling in the forest, the Forest Service released a Draft Environmental Impact Statement in October 2001 that recommended opening up additional lands in the forest to oil and gas exploration. By failing to consider the irreparable harm these activities would cause to the forest's resources and the recreational opportunities available to both nearby residents and tourists, the Forest Service's proposal is shortsighted and misguided.

The opening of the spectacular, unspoiled lands in Los Padres National Forest to oil and gas drilling threatens one of California's most pristine places. Los Padres National Forest provides habitat for various threatened and endangered wildlife species, including the endangered California condor. Also within the Los Padres National Forest are unexplored archeological sites that contain Native American historical artifacts. These could be damaged or destroyed by oil and gas development.

Los Padres National Forest provides a variety of recreational opportunities, such as fishing, hiking, hunting, and backpacking. These activities would be hindered by new oil and gas exploration and development, as streams and trails are contaminated by runoff and sedimentation and as air pollution is increased.

This legislation is a critical step toward protecting the irreplaceable natural and cultural resources of the Los Padres National Forest. I encourage my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 298—DESIGNATING MAY 2004 AS "NATIONAL CYSTIC FIBROSIS AWARENESS MONTH"

Mr. CAMPBELL (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. MURRAY, Ms. LANDRIEU, Mr. BIDEN, Mr. BUNNING, Mr. DORGAN, Mr. JOHNSON, and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 298

Whereas cystic fibrosis, characterized by chronic lung infections and digestive disorders, is a fatal lung disease;

Whereas cystic fibrosis is 1 of the most common genetic diseases in the United States and 1 for which there is no known cure;

Whereas more than 10,000,000 Americans are unknowing carriers of the cystic fibrosis gene;

Whereas 1 of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas newborn screening for cystic fibrosis has been implemented by 11 States and facilitates early diagnosis and treatment which improves health and longevity;

Whereas approximately 30,000 people in the United States have cystic fibrosis, many of them children;

Whereas the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas this innovative research is progressing faster and is being conducted more aggressively than ever before, due in part to the establishment of a model clinical trials network by the Cystic Fibrosis Foundation; and

Whereas education of the public on cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as "National Cystic Fibrosis Awareness Month";

(2) requests that the President issue a proclamation—

(A) designating the month of May 2004 as "National Cystic Fibrosis Awareness Month"; and

(B) calling on the people of the United States to promote awareness of cystic fibrosis and actively participate in support of research to control or cure cystic fibrosis, by observing the month with appropriate ceremonies and activities; and

(3) supports the goals of—

(A) increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses;

(B) encouraging increased resources for research; and

(C) increasing levels of support for people who have cystic fibrosis and their families.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution recognizing the month of May, 2004, as National Cystic Fibrosis Awareness Month. I am pleased to be joined by nine of my colleagues who are original cosponsors of the resolution. We are hopeful that greater awareness of cystic fibrosis (CF) will lead to a cure.

The resolution is similar to one which I submitted last year, S. Res. 98, declaring a National Cystic Fibrosis Awareness Week, which was agreed to by unanimous consent on September 25, 2003. Since then, I have received input from the National Cystic Fibrosis Foundation (CFF) and the National Cystic Fibrosis Awareness Committee and have updated the information accordingly.

Cystic fibrosis is one of the most common fatal genetic diseases in the United States and there is no known cure. It affects approximately 30,000 children and adults in the United States. As recently as 25 years ago, most children born with cystic fibrosis died in early childhood and few survived to their teenage years.

Today, the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short. The difference stems from productive research which has led to an understanding of the way cystic fibrosis causes life-threatening damage and to the development of preventive techniques and treatments.

While there is no cure, early detection and prompt treatment can significantly improve and extend the lives of those with CF. My home state of Colorado was one of the first States to require CF screening for newborns. Happily, many more States are now performing this simple test.

And, since the discovery of the defective CF gene in 1989, CF research has greatly accelerated. I am proud that Colorado is home to the University of Colorado Health Sciences Center, including the Children's Hospital, the National Jewish Medical and Research Center and the Anschutz Centers for Advanced Medicine, all of which are actively involved in CF research and care. The Children's Hospital is one of a number of innovative Therapeutics Development Centers nationwide performing cutting edge clinical research to develop new treatments for CF.

Currently, the CF Foundation oversees potential CF products in its drug development pipeline, including those in clinical trials. In addition, small pilot trials and large clinical studies are carried out in the CF Foundation-accredited care centers across the United States. Organizations such as the Cystic Fibrosis Research, Inc. also sponsor studies for treatment of the disease. Efforts such as these throughout the nation are providing a greater quality of life for those who have CF. We applaud these efforts.

While I am encouraged by the CF research in Colorado and elsewhere, more needs to be done. I believe we can increase the quality of life for individuals with Cystic Fibrosis by promoting public knowledge and understanding of the disease in a manner that will result in earlier diagnoses, more fund raising efforts for research, and increased levels of support for those who have CF and their families.

Therefore, I urge my colleagues to act on this resolution so we can move another step closer to eradicating this disease.

SENATE RESOLUTION 299—RECOGNIZING, AND SUPPORTING EFFORTS TO ENHANCE THE PUBLIC AWARENESS OF, THE SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT

Mr. CAMPBELL (for himself, Mr. SPECTER, Mr. DEWINE, Ms. MURKOWSKI, Mr. AKAKA, Mr. INHOFE, Mr. ALLEN, and Mr. DORGAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 299

Whereas each year in the United States approximately 3,000,000 reports of suspected or known child abuse and neglect, involving 5,000,000 children, are made to child protective service agencies;

Whereas 588,000 children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that every year in the United States more than 1,200 children, 85 percent of whom are under the age of 6 years, of whom 44 percent are under the age of 1 year, lose their lives as a direct result of abuse and neglect;

Whereas this tragic social problem results in human and economic costs through crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a Day of Hope to be observed on Wednesday, April 7, 2004, during Child Abuse Prevention Month, to focus public awareness on child abuse and neglect: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep the victims of child abuse and neglect in their thoughts and prayers;

(B) all Americans should seek to break the cycle of child abuse and neglect and to give victimized children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist abused and neglected children; and

(2) the Senate—

(A) supports the goals and ideas of the Day of Hope, which will be observed on April 7, 2004, as part of Child Abuse Prevention Month; and

(B) commends the individuals working on behalf of abused and neglected children throughout the United States.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution declaring Wednesday, April 7, 2004, as a National Day of Hope dedicated to remembering the victims of child abuse and neglect and recognizing Childhelp USA for initiating such a day. I am pleased to be joined in this effort by my colleagues Senators SPECTER, DEWINE, MURKOWSKI, INHOFE, ALLEN, DORGAN, and AKAKA who are original cosponsors of the resolution.

This resolution is similar to one I submitted last year, S. Res. 52, which passed the Senate by unanimous consent on March 26, 2004. It expresses the sense of Congress that we must break the cycle of child abuse and neglect by mobilizing all our resources including the faith community, non-profit organizations and volunteers.

The resolution also recognizes Childhelp USA, one of our oldest national organizations dedicated to meeting the needs of abused and neglected children. Childhelp and many other non-profits or faith-based organizations nationwide are performing a vital service to these children that they would not have otherwise, and they are to be commended for their efforts.

More than 3 million children are reported as suspected victims of child abuse and neglect each year. That is 3 million children too many. And, it is estimated that more than 1,200 children lose their lives as a direct result of abuse and neglect every year. That is not acceptable. We must do something to change these disturbing statistics.

I know first-hand the importance of having help when it is needed. The National Day of Hope Resolution calls on each of us to renew our duty and responsibility to the vulnerable children and families caught in the cycle of child abuse and neglect.

While we are encouraged by the efforts of many organizations nationwide, more needs to be done. That is why we urge our colleagues to act quickly on this resolution so we can move another step closer to erasing the horror of child abuse from our nation's history.

SENATE RESOLUTION 300 EXPRESSING THE SENSE OF THE SENATE ON PROJECT EARMARKING IN SURFACE TRANSPORTATION ACTS

Mr. GRAHAM of Florida (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 300

Whereas the House of Representatives adopted a rule in 1914 stating that it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road;

Whereas diverting funds to low-priority earmarks diminishes the ability of States and local communities to set their own priorities and address their own mobility problems;

Whereas the General Accounting Office has reported that demonstration projects reviewed were not considered by State and regional transportation officials as critical to their transportation needs and that over half of the projects reviewed were not included in State and local transportation plans;

Whereas some earmarks have nothing to do with transportation and may worsen congestion by diverting scarce resources from higher priorities;

Whereas the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) contained 10 earmarks at a cost of $385,925,000;

Whereas the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 132) contained 157 projects at a cost of $1,416,000,000;

Whereas the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914) contained 538 projects at a cost of $6,082,873,000;

Whereas the Transportation Equity Act for the 21st Century (112 Stat. 107) contained 1,851 projects at a cost of $9,359,850,000;

Whereas annual transportation appropriations acts show the same trend in increasing earmarking of projects;

Whereas the funding earmarked for many projects does not cover the full cost of the project and requires State and local communities to cover the unfunded costs; and

Whereas funding of earmarked projects can have a dramatic effect on the rate of return that a State receives on its contributions to the Federal Highway Trust Fund: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 should not include project earmarks;

(2) if earmarked projects are included, the projects should be included within the funding that a State would otherwise receive so as not to penalize other States; and

(3) any earmarked projects should be included in the funding equity provisions of the next surface transportation Act so that the projects do not adversely affect the rate of return that a State receives from its contributions to the Highway Trust Fund.

SEANTE RESOLUTION 301—HONORING THE 30TH ANNIVERSARY OF CONGRESSMAN MURTHA'S SERVICE

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 301

Whereas John "Jack" Murtha, during 5 decades of service to our Nation, has been an exemplar of dedication, drive, sacrifice, and patriotism;

Whereas John Murtha left Washington and Jefferson College after only 1 year of study to join the Marine Corps during the Korean War out of a sense of obligation to his country;

Whereas John Murtha ran a small business in Johnstown, Pennsylvania while starting a family with his wife, Joyce, and attending the University of Pittsburgh on the GI Bill;

Whereas he volunteered in Vietnam in 1966–67, already in his mid-30s;

Whereas in 1974, he became the first combat Vietnam veteran elected to Congress, representing the 12th Congressional District of Pennsylvania;

Whereas he continuously works to attract and keep jobs in and around his District and to develop essential sewer, water, and transportation infrastructure;

Whereas in his position as a senior member of the House Appropriations Committee, he is a national leader on defense, health care, and social issues and uses his position to benefit Pennsylvania, the region, and the people;

Whereas he founded the House Steel Caucus and regularly defends our steel industry from unfair imports; and

Whereas he has been 1 of the strongest advocates for children, seniors, and veterans: Now, therefore, be it

Resolved,

SECTION 1. CONGRATULATION AND COMMENDATION.

The Senate—

(1) honors the lifelong commitment of John Murtha to the ideals of our Nation;

(2) recognizes John Murtha's exceptional dedication to his constituents, to the State of Pennsylvania, and to the United States; and

(3) congratulates John Murtha on 30 years of superior service in the United States Congress.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to Congressman John Murtha.

Mr. SPECTER. Mr. President, I rise to honor one of our most dedicated and patriotic colleagues—and a fellow Pennsylvanian—Congressman JOHN MURTHA, on the 30th anniversary of his service in the United States House of Representatives.

JACK MURTHA, during five decades of service to our Nation, has been an exemplar of dedication, drive, sacrifice and patriotism. He left Washington and Jefferson College after only one year of study to join the Marine Corps during the Korean War. Returning home, he ran a small business in Johnstown while starting a family with his wife, Joyce, and attending the University of Pittsburgh on the GI Bill. But his country called again and JACK MURTHA volunteered in Vietnam in 1966–67, already in his mid-30s.

In 1974, he became the first combat Vietnam veteran elected to Congress, representing the 12th Congressional District of Pennsylvania.

JACK MURTHA has worked tirelessly to attract and keep jobs in and around his District and to develop essential sewer, water and transportation infrastructure. As a senior member of the House Appropriations Committee, he has established himself as a national leader on defense, health-care and social issues. He founded the House Steel Caucus and regularly defends our steel industry from unfair imports, and has been one of the strongest advocates in Congress for children, seniors and veterans.

I hope my colleagues will join me in honoring JACK MURTHA for his lifelong commitment to the ideals of our Nation; for his exceptional dedication to his constituents, to the State of Pennsylvania and to our country; and for 30 years of superior service in the United States Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2297. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 2298. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2299. Mr. BINGAMAN (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2300. Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2301. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mr. KENNEDY, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2302. Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2303. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2304. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2305. Mr. LAUTENBERG (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2306. Mr. LAUTENBERG (for himself, Mr. DEWINE, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2308. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2309. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2310. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2311. Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms.

STABENOW) proposed an amendment to the bill S. 1072, supra.

SA 2312. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2313. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2314. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2315. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2316. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2317. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2318. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2319. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2320. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2321. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2322. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2323. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2324. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2325. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2326. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2327. Mr. BOND proposed an amendment to amendment SA 2311 proposed by Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) to the bill S. 1072, supra.

SA 2328. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2329. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2330. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2331. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2332. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2333. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2334. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2335. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2336. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2337. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2338. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2339. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2340. Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2341. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2342. Mr. TALENT (for himself, Mr. ALLEN, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2343. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2344. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2345. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2347. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2348. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2349. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2350. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2351. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2352. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2353. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2354. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2355. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2356. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2357. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2358. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2359. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2360. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2361. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2362. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2363. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2364. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2365. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2366. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2367. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2368. Mr. GRASSLEY (for himself and Mr. Baucus) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2369. Mr. GRASSLEY (for himself and Mr. Baucus) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2370. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2371. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2372. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2373. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2374. Ms. SNOWE (for herself, Mr. Nelson, of Florida, Ms. Collins, Mr. Graham, of Florida, and Mr. Johnson) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2375. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2376. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2377. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2378. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2379. Mr. McCAIN (for himself and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2380. Mr. McCAIN (for himself and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2381. Mr. McCAIN (for himself and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2382. Mr. McCAIN (for himself and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2383. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2384. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2385. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2386. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2387. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2388. Mrs. HUTCHISON (for herself, Mr. Kyl, Mr. Levin, Mr. Graham, of Florida, Mr. McCain, Ms. Stabenow, and Mrs. Feinstein) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2389. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2390. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2391. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2392. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2393. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2394. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2395. Mr. McCAIN (for himself and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2396. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2397. Mr. CAMPBELL (for himself and Mr. Inouye) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2398. Mr. CAMPBELL (for himself and Mr. Inouye) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2399. Mr. GRASSLEY (for himself and Mr. Baucus) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2400. Mr. GRASSLEY (for himself and Mr. Baucus) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2401. Mr. STEVENS (for himself and Mr. Inouye) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2402. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2403. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2404. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2405. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2406. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2407. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2408. Mr. FITZGERALD (for himself and Mr. Durbin) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2409. Mrs. BOXER (for herself, Mr. Dodd, and Mrs. Feinstein) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2410. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2411. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2412. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2413. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2414. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2415. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2416. Mr. BAYH (for himself, Mr. Lugar, and Mrs. Clinton) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2417. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2418. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2419. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2420. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2421. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2422. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2423. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2424. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2425. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2426. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2427. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2428. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2429. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2430. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2431. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2432. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2433. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2434. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2435. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2436. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2437. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2438. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2439. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2440. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2441. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2442. Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2443. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2444. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2445. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2446. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2447. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2448. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2449. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2450. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2451. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2452. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2453. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2454. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2455. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2456. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2457. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2458. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2459. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2460. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2461. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2462. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2463. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2464. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2465. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2466. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2467. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2468. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2469. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2470. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2471. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2472. Mr. CHAFEE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2473. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2474. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2475. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2476. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2477. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2478. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2479. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2480. Mrs. LINCOLN (for herself and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2481. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2482. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2483. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2484. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2485. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2486. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2487. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2488. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2489. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2490. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2491. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2492. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2493. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2494. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2495. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2496. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2497. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2498. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2499. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2500. Ms. MURKOWSKI (for herself, Mr. INHOFE, Mr. STEVENS, and Mr. CAMPBELL) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2501. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2502. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2504. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2505. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2506. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2507. Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2508. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2509. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2510. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2511. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2512. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2513. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2514. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2515. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2516. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2517. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2518. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2519. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2520. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2521. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2522. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2523. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2524. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2525. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2526. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2527. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2528. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2529. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2531. Mr. CRAPO (for himself, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2532. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2533. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2534. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2535. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2537. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2538. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2539. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2540. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2541. Mr. SMITH submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2542. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2543. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2544. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2545. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2546. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2547. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2548. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2549. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2550. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2551. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2552. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2341 submitted by Mr. TALENT (for himself and Mr. WYDEN) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2553. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2340 submitted by Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE , and Mr. COLEMAN) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2554. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2555. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2556. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2302 submitted by Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2557. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2441 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2297. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . LIMITATION ON THE APPLICATION OF THE DAVIS-BACON ACT.

The provisions of subchapter IV of chapter 31 of title 40, United States Code (40 U.S.C. 3141 et seq.), commonly known as the Davis-Bacon Act, shall not apply to projects that receive funding under this Act (or an amendment made by this Act).

SA 2298. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In the blank in the appropriate clause in section 510(a)(4)(B) of title 23, United States Code (as added by section 2101(a)), insert "the Southwest Bridge Research Center, comprising New Mexico State University and the Oklahoma Transportation Center".

SA 2299. Mr. BINGAMAN (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 733, strike lines 6 through 10 and insert the following:

wildlife;

"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones; or

"(xviii) if the State in which the lanes are located certifies to the Secretary that the upgrading of the lanes will provide a safety benefit, upgrading to 4 lanes portions of rural, 2-lane highways that have high accident rates and that are on—

"(I) the National Highway System; or

"(II) a high priority corridor identified under section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032).

SA 2300. Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SOUTHWEST PASSAGE INITIATIVE FOR REGIONAL AND INTERSTATE TRANSPORTATION.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

"(45) The corridor extending from the point on the border between the United States and Mexico in the State of Texas at which United States Route 54 begins, along United States Route 54 through the States of Texas, New Mexico, Oklahoma, and Kansas, and ending in Wichita, Kansas, to be known as the 'Southwest Passage Initiative for Regional and Interstate Transportation Corridor' or 'SPIRIT Corridor'.".

SA 2301. Mrs. MURRAY (for herself and Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mr. KENNEDY, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 1, strike "$2,000,000,000" and insert "$1,328,000,000".

On page 39, line 6, strike "$38,000,000" and insert "$150,000,000".

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION, MAINTENANCE, AND OPERATION.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction, maintenance, and operation

"(a) DEFINITIONS.—In this section:

"(1) INSTITUTE.—The term 'Institute' means the National Ferry Transportation Institute established under subsection (d).

"(2) OFFICE.—The term 'Office' means the Ferry Joint Program Office established under subsection (c).

"(b) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES.—

"(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal and maintenance facilities in accordance with section 129(c).

"(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

"(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

"(A) carry the greatest number of passengers and vehicles;

"(B) carry the greatest number of passengers in passenger-only service; or

"(C) provide critical access to areas that are not well-served by other modes of surface transportation.

"(c) FERRY JOINT PROGRAM OFFICE.—

"(1) ESTABLISHMENT.—The Secretary shall establish an office, to be known as the 'Ferry Joint Program Office'—

"(A) to coordinate Federal programs affecting ferry boat and ferry facility construction, maintenance, and operations; and

"(B) to promote ferry service as a component of the transportation system of the United States.

"(2) RESPONSIBILITIES.—The Office shall—

"(A) coordinate ferry and ferry-related programs (including policy)—

"(i) within the Department of Transportation (including the Federal Highway Administration, the Federal Transit Administration, the Maritime Administration, and the Bureau of Transportation Statistics); and

"(ii) with the Department of Homeland Security and other Federal and State agencies, as appropriate; and

"(B) with respect to the administration of ferry and ferry-related programs—

"(i) ensure resource accountability;

"(ii) provide strategic leadership for ferry research, development, testing, and deployment; and

"(iii) promote ferry transportation as a means to reduce social, economic, and environmental costs associated with traffic congestion.

"(d) NATIONAL FERRY DATABASE.—

"(1) IN GENERAL.—Using the results of the study under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185), the Secretary shall—

"(A) maintain a national ferry database, which shall contain current information regarding—

"(i) ferry systems, routes, and vessels;

"(ii) passengers and vehicles carried;

"(iii) funding sources; and

"(iv) such other matters as the Secretary determines to be appropriate: and

"(B) in accordance with paragraph (2), update the database and results of the study, as appropriate.

"(2) UPDATED DATABASE.—The Secretary shall update the national ferry database—

"(A) with respect to the initial updated version, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(B) with respect to subsequent updated versions, every 2 years thereafter.

"(3) PUBLIC ACCESSIBILITY.—The Secretary shall ensure that the national ferry database is easily accessible to the public.

"(e) NATIONAL FERRY TRANSPORTATION INSTITUTE.—

"(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall make grants to an institution of higher education to establish an institute to be known as the 'National Ferry Transportation Institute'.

"(2) ADMINISTRATION.—The Secretary shall develop and administer the Institute in cooperation with—

"(A) the Department of Transportation;

"(B) State transportation departments and State agencies;

"(C) public ferry transportation authorities;

"(D) private ferry operators;

"(E) ferry boat builders;

"(F) ferry employees;

"(G) other institutions of higher education; and

"(H) research institutes.

"(3) FUNCTIONS.—The Institute shall—

"(A) conduct research and recommend development activities on methods of improving ferry transportation programs in the United States, including methods of reducing wake and providing alternative propulsion;

"(B) develop and conduct training programs for ferry system employees, Federal employees, and other individuals, as appropriate, on recent developments, techniques, and procedures pertaining to the construction and operation of ferries;

"(C) encourage and assist collaborative efforts by public and private entities to preserve, improve, and expand the use of ferries as a mode of transportation; and

"(D) preserve, use, and display historical information about the use of ferries in the United States and in foreign countries.

"(4) LOCATION.—In selecting the location for the Institute, the Secretary shall consider, with respect to the region in which the Institute is to be located—

"(A) the importance of public and private ferries to the transportation system of the region, including both regional travel and long-range travel and service to isolated communities;

"(B) the historical importance of ferry transportation to the region;

"(C) the history and diversity of the maritime community of the region, including ferry construction and repair and other shipbuilding activities;

"(D) the anticipated growth of ferry service and ferry boat building in the region;

"(E) the availability of public-private collaboration in the region; and

"(F) the presence of nationally recognized research colleges and universities in the region.

"(5) REPORT.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Institute under, and the progress in carrying out, this section.

"(6) FUNDING.—The Secretary may authorize the acceptance and expenditure of funding provided to the Institute by public and private entities.

"(f) SET-ASIDE.—Of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $112,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 129(c) of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1), by inserting "and maintenance" after "terminal"; and

(B) in paragraph (3), by inserting "or maintenance" after "terminal" each place it appears.

(2) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(3) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SA 2302. Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADJUSTMENT OF EQUITY BONUS PROGRAM TO REFLECT TAX PAYMENTS RELATING TO ETHANOL.

(a) IN GENERAL.—Subsection (d) of section 105 of title 23, United States Code, (as amended by section 1104) is amended to read as follows:

"(d) LIMITATION ON ADJUSTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

"(B) the sum of—

"(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

"(ii) an amount which is equivalent to—

"(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

"(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

"(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent;

"(E) for fiscal year 2008, 145 percent; and

"(F) for fiscal year 2009, 250 percent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if made by section 1104 of this Act.

SA 2303. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 175, strike line 18 and all that follows through page 179, line 13, and insert the following:

"(4) EFFECT ON OTHER REVIEWS.—

"(A) IN GENERAL.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

"(B) CONFLICT.—

"(i) IN GENERAL.—In the case of a conflict described in clause (ii), the Governor of a State, the lead agency, the project sponsor, or the cooperating agency shall promptly convene a meeting with representatives of the relevant cooperating agencies, the lead agency, the project sponsor, and the Governor to resolve the conflict.

"(ii) CONFLICT SITUATIONS.—A conflict in clause (i) is a situation in which—

"(I) after the cooperating agency has commented, a conflict arises between a cooperating agency and the lead agency regarding the objectives in the statement of purpose of, and need for, a project; and

"(II) the cooperating agency demonstrates that the ability of the cooperating agency to enforce a law (including a regulation) would be impaired if the objectives were not modified.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) CONTENTS.—

"(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

"(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

"(7) FACTORS TO CONSIDER.—The lead agency shall ensure that the following factors and documents are considered in determining the purpose of, and need for, a project:

"(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

"(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

"(C) Economic development plans adopted by—

"(i) units of State, local, or tribal government; or

"(ii) established economic development planning organizations or authorities.

"(D) Environmental protection plans, including plans for the protection or treatment of—

"(i) air quality;

"(ii) water quality and runoff;

"(iii) habitat needs of plants and animals;

"(iv) threatened and endangered species;

"(v) invasive species;

"(vi) historic properties; and

"(vii) other environmental resources.

"(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

"(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

"(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

"(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

"(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

"(B) ALTERNATIVES.—The lead agency shall consider—

"(i) alternatives that meet the objectives in the purpose and need statement for the project;

"(ii) alternatives that satisfy most of the objectives in the purpose and need statement for the project but that are more protective of public health and the environment than other alternatives; and

"(iii) the alternative of no action.

"(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

"(4) EFFECT ON OTHER REVIEWS.—

"(A) IN GENERAL.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

"(B) CONFLICT.—

"(i) IN GENERAL.—In the case of a conflict described in clause (ii), the Governor of a State, the lead agency, the project sponsor, or the cooperating agency shall promptly convene a meeting with representatives of the relevant cooperating agencies, the lead agency, the project sponsor, and the Governor to resolve the conflict.

"(ii) CONFLICT SITUATIONS.—A conflict in clause (i) is a situation in which—

"(I) after the cooperating agency has commented, a conflict arises between a cooperating agency and the lead agency regarding the objectives in the statement of purpose of, and need for, a project; and

"(II) the cooperating agency demonstrates that the ability of the cooperating agency to enforce a law (including a regulation) would be impaired if the objectives were not modified.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) FACTORS TO CONSIDER.—The lead agency shall ensure that the following factors and documents are considered in determining the purpose of, and need for, a project:

SA 2304. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . MULTI-STATE INTELLIGENT TRANSPORTATION SYSTEM OPERATIONS.

(a) IN GENERAL.—The Secretary shall encourage regional operating organizations, in multi-state, metropolitan areas having multiple metropolitan planning organizations, to promote regional coordination and cooperation in the efficient, safe, and secure operation of regional transportation systems; and, to implement these regional programs in a manner consistent with the needs of the public safety community.

(b) TRANSCOM'S INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—The Secretary shall make annual grants of $9 million to TRANSCOM for funding the capital costs as well as the annual operations and maintenance costs of intelligent transportation system (ITS) projects, in the New Jersey New York/Connecticut metropolitan region. These ITS projects shall also assist the public safety community by providing comprehensive transportation for responding to major regional incidents and by supporting evacuation planning for natural and manmade emergencies.

SA 2305. Mr. LAUTENBERG (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, strike line 10 and insert the following:

SEC. 1403. HIGHER-RISK IMPAIRED DRIVERS.

On page 137, line 11, insert "(a) LICENSE SUSPENSION DEFINITION.—" before "Section".

On page 138, between lines 2 and 3, insert the following:

(b) OTHER DEFINITIONS.—Section 164 of title 23, United States Code, is further amended—

(1) by striking subsection (a)(5) and inserting the following:

"(5) HIGHER-RISK IMPAIRED DRIVER LAW.—

"(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that an individual described in subparagraph (B) shall—

"(i) receive a driver's license suspension for not less than 1 year;

"(ii) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 90 days and for the remainder of the license suspension period require the installation of a certified alcohol ignition interlock device on the vehicle;

"(iii) be subject to an assessment by a certified substance abuse official of the State that assesses the individual's degree of abuse of alcohol and assigned to a treatment program or impaired driving education program as determined by the assessment;

"(iv) be imprisoned for not less than 10 days, have an electronic monitoring device for not less than 100 days, or be assigned to a DUI/DWI specialty facility for not less than 30 days;

"(v) be fined a minimum of $1,000, with the proceeds of such funds to be used by the State or local jurisdiction for impaired driving related prevention, enforcement, and prosecution programs, or for the development or maintenance of a tracking system of offenders driving while impaired;

"(vi) if the arrest resulted from involvement in a crash, pay court-mandated restitution to the victims of the crash;

"(vii) be placed on probation by the court for a period of not less than 2 years;

"(viii) if diagnosed with a substance abuse problem, during the first year of the probation period referred to in clause (vii), attend a treatment program for a period of 12 consecutive months sponsored by a State certified substance abuse treatment agency and meet with a case manager at least once each month; and

"(ix) be required by the court to attend a victim impact panel, if such a panel is available.

"(B) INDIVIDUALS TO WHOM PENALTIES APPLY.—An individual is described in this subparagraph if that individual—

"(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a minimum of 10 consecutive years;

"(ii) is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration of 0.15 percent or greater; or

"(iii) is convicted of a driving-while-suspended offense if the suspension was the result of a conviction for driving under the influence.";

(2) by adding at the end of subsection (a) the following:

"(6) SPECIAL DUI/DWI FACILITY.—The term 'special DUI/DWI facility' means a facility that houses and treats offenders arrested for driving while impaired and allows such offenders to work or attend school.

"(7) VICTIM IMPACT PANEL.—The term 'victim impact panel' means a group of impaired driving victims who speak to offenders about impaired driving for the purpose of trying to change attitudes and behaviors in order to deter impaired driving recidivism,"; and

(3) by striking subsection (b) and inserting the following:

"(b) IMPOSITION OF HIGHER-RISK IMPAIRED DRIVING LAW REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any provision of section 104 to the contrary, as a condition of receiving the full amount of funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b), a State shall enact and enforce a higher-risk impaired driver law.

"(2) ENFORCEMENT BY WITHHOLDING FUNDS.—On October 1st of the following fiscal years, the Secretary shall withhold the applicable percentage of the amount required to be apportioned for Federal-aid highways to a State on that date under each of paragraphs (1), (3), and (4) of section 104(b) if the State has not enacted or is not enforcing a higher-risk impaired driver law:

"(A) For fiscal year 2008, the applicable percentage is 2 percent.

"(B) For fiscal year 2009, the applicable percentage is 4 percent.

"(C) For fiscal year 2010, the applicable percentage is 6 percent.

"(D) For fiscal year 2011, the applicable percentage is 8 percent.".

SA 2306. Mr. LAUTENBERG (for himself, Mr. DEWINE, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERMINATION OF DETERMINATIONS OF GRANDFATHER RIGHTS.

(a) IN GENERAL.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(h) GRANDFATHER RIGHTS.—

"(1) GENERAL RULE.—After the 270th day following the date of enactment of this subsection, a State may not allow, on a segment of the Interstate System, the operation of a vehicle or combination (other than a longer combination vehicle) exceeding an Interstate weight limit unless the operation is specified on the list published under paragraph (2).

"(2) LIST OF VEHICLES AND COMBINATIONS.—

"(A) PROCEEDING.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that the Department of Transportation, any other Federal agency, or a State has determined on or before June 1, 2003, could be lawfully operated within such State—

"(i) on July 1, 1956;

"(ii) in the case of the overall gross weight of any group of 2 or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974; or

"(iii) under a special rule applicable to a State under subsection (a).

"(B) LIMITATIONS.—

"(i) ACTUAL AND LAWFUL OPERATIONS REQUIRED.—An operation of a vehicle or combination may be included on the list published under subparagraph (A) only if the vehicle or combination was in actual and lawful operation in the State on a regular or periodic basis on or before June 1, 2003.

"(ii) STATE AUTHORITY NOT SUFFICIENT.—An operation of a vehicle or combination may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the vehicle or combination at some prior date by permit or otherwise.

"(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall publish a final list of vehicles and combinations described in subparagraph (A).

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from reducing the gross vehicle weight limitation, the single and tandem axle weight limitations, or the overall maximum gross weight on a group of 2 or more consecutive axles applicable to portions of the Interstate System in the State for operations on the list published under paragraph (2)(C) but in no event may any such reduction result in a limitation that is less than an Interstate weight limit.

"(4) APPLICABILITY OF EXISTING REQUIREMENTS.—All vehicles and combinations included on the list published under paragraph (2) shall be subject to all routing-specific, commodity-specific, and weight-specific designations in force in a State on June 1, 2003.

"(5) INTERSTATE WEIGHT LIMIT DEFINED.—In this subsection, the term 'Interstate weight limit' means the 80,000 pound gross vehicle weight limitation, the 20,000 pound single axle weight limitation (including enforcement tolerances), the 34,000 pound tandem axle weight limitation (including enforcement tolerances), and the overall maximum gross weight (including enforcement tolerances) on a group of 2 or more consecutive axles produced by application of the formula in subsection (a).".

(b) CONFORMING AMENDMENT.—The fourth sentence of section 127(a) of title 23, United States Code, is amended by striking "the State determines".

SEC. ___. NONDIVISIBLE LOAD PROCEEDING.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

"(i) NONDIVISIBLE LOADS.—

"(1) PROCEEDING.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to define the term 'vehicles and loads which cannot be easily dismantled or divided' as used in subsection (a) and section 31112 of title 49.

"(2) LIST OF COMMODITIES.—

"(A) IN GENERAL.—The definition developed under paragraph (1) shall include a list of commodities (or classes or types of commodities) that do not qualify as nondivisible loads.

"(B) LIMITATION.—The list of commodities developed under paragraph (1) shall not be interpreted to be a comprehensive list of commodities that do not qualify as nondivisible loads.

"(3) REGULATIONS.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall issue final regulations setting forth the determination of the Secretary made under paragraph (1). The Secretary shall update the regulations as necessary.

"(4) APPLICABILITY.—Regulations issued under paragraph (2) shall apply to all vehicles and loads operating on the National Highway System.

"(5) STATE REQUIREMENTS.—A State may establish any requirement that is not inconsistent with regulations issued under paragraph (2).

"(6) STATEMENT OF POLICY.—The purpose of this subsection is to promote conformity with Interstate weight limits to preserve publicly funded infrastructure and protect motorists by limiting maximum vehicle weight on key portions of the Federal-aid highway system.".

SEC. . WAIVERS OF WEIGHT LIMITATIONS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

"(j) WAIVERS DURING PERIODS OF NATIONAL EMERGENCY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section or section 126, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section or section 126 with respect to a highway route during a period of national emergency in order to respond to the effects of the national emergency.

"(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.".

SEC. . VEHICLE WEIGHT LIMITATIONS—NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 125 the following:

"§126. Vehicle weight limitations—National Highway System

"(a) NON-INTERSTATE HIGHWAYS ON NHS.—

"(1) IN GENERAL.—After the 270th day following the date of enactment of this section, any Interstate weight limit that applies to vehicles and combinations (other than longer combination vehicles) operating on the Interstate System in a State under section 127 shall also apply to vehicles and combinations (other than longer combination vehicles) operating on non-Interstate segments of the National Highway System in such State, unless such segments are subject to lower State weight limits as provided for in subsection (d).

"(2) EXISTING HIGHWAYS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), in the case of a non-Interstate segment of the National Highway System that is open to traffic on June 1, 2003, a State may allow the operation of any vehicle or combination (other than a longer combination vehicle) on such segment that the Secretary determines under subsection (b) could be lawfully operated on such segment on June 1, 2003.

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

"(3) NEW HIGHWAYS.—Subject to subsection (d)(1), the gross vehicle weight limitations and axle loading limitations applicable to all vehicles and combinations (other than longer combination vehicles) on a non-Interstate segment of the National Highway System that is not open to traffic on June 1, 2003, shall be the Interstate weight limit.

"(b) LISTING OF VEHICLES AND COMBINATIONS.—

"(1) IN GENERAL.—The Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that could be lawfully operated on a non-Interstate segment of the National Highway System on June 1, 2003.

"(2) REQUIREMENTS.—In publishing a list of vehicles and combinations under paragraph (1), the Secretary shall identify—

"(A) the gross vehicle weight limitations and axle loading limitations in each State applicable, on June 1, 2003, to vehicles and combinations (other than longer combination vehicles) on non-Interstate segments of the National Highway System; and

"(B) operations of vehicles and combinations (other than longer combination vehicles), exceeding State gross vehicle weight limitations and axle loading limitations identified under subparagraph (A), which were in actual and lawful operation on a regular or periodic basis (including seasonal operations) on June 1, 2003.

"(3) LIMITATION.—An operation of a vehicle or combination may not be included on the list published under paragraph (1) on the basis that a State law or regulation could have authorized such operation at some prior date by permit or otherwise.

"(4) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of vehicles and combinations described in paragraph (1).

"(5) UPDATES.—The Secretary shall update the list published under paragraph (1) as necessary to reflect new designations made to the National Highway System.

"(c) APPLICABILITY OF LIMITATIONS.—The limitations established by subsection (a) shall apply to any new designation made to the National Highway System and remain in effect on those non-Interstate highways that cease to be designated as part of the National Highway System.

"(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—

"(1) STATE ENFORCEMENT OF MORE RESTRICTIVE WEIGHT LIMITS.—This section does not prevent a State from maintaining or imposing a weight limitation that is more restrictive than the Interstate weight limit on vehicles or combinations (other than longer combination vehicles) operating on a non-Interstate segment of the National Highway System.

"(2) STATE ACTIONS TO REDUCE WEIGHT LIMITS.—This section does not prevent a State from reducing the State's gross vehicle weight limitation, single or tandem axle weight limitations, or the overall maximum gross weight on 2 or more consecutive axles on any non-Interstate segment of the National Highway System.

"(e) LONGER COMBINATION VEHICLES.—

"(1) PROHIBITION.—

"(A) IN GENERAL.—After the 270th day following the date of enactment of this section, a longer combination vehicle may continue to operate on a non-Interstate segment of the National Highway System only if the operation of the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation on June 1, 2003, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2003.

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

"(2) LISTING OF VEHICLES AND COMBINATIONS.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Secretary shall initiate a proceeding to determine and publish a list of longer combination vehicles that could be lawfully operated on non-Interstate segments of the National Highway System on June 1, 2003.

"(B) LIMITATION.—A longer combination vehicle may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of such vehicle at some prior date by permit or otherwise.

"(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of longer combination vehicles described in subparagraph (A).

"(D) UPDATES.—The Secretary shall update the list published under subparagraph (A) as necessary to reflect new designations made to the National Highway System.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a longer combination vehicle; except that such restrictions or prohibitions shall be consistent with the requirements of section 127 of this title and sections 31112 through 31114 of title 49, United States Code.

"(f) MODEL SCHEDULE OF FINES.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall establish a model schedule of fines to be assessed for violations of this section.

"(2) PURPOSE.—The purpose of the schedule of fines shall be to ensure that fines are sufficient to deter violations of the requirements of this section and to permit States to recover costs associated with damages caused to the National Highway System by the operation of such vehicles.

"(3) ADOPTION BY STATES.—The Secretary shall encourage but not require States to adopt the schedule of fines.

"(g) DEFINITIONS.—In this section, the following definitions apply:

"(1) INTERSTATE WEIGHT LIMIT.—The term 'Interstate weight limit' has the meaning given such term in section 127(h).

"(2) LONGER COMBINATION VEHICLE.—The term 'longer combination vehicle' has the meaning given such term in section 127(d).".

(b) ENFORCEMENT OF REQUIREMENTS.—Section 141(a) of title 23, United States Code, is amended—

(1) by striking "the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System" and inserting "the National Highway System, including the Interstate System,"; and

(2) by striking "section 127" and inserting "sections 126 and 127".

(c) CONFORMING AMENDMENT.—The analysis for title 23, United States Code, is amended by inserting after the item relating to section 125 the following:

"126. Vehicle weight limitations—National Highway System.".

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—MEASURES TO CONSERVE PETROLEUM

SEC. 7001. REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) Report.—

(1) In general.—Not later than February 1, 2005, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing dependence on imported petroleum sources by 2014.

(2) Contents.—The report under subsection (a) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under existing law relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

(C) describe the progress in developing and implementing measures under subsection (b).

(b) Measures To Reduce Import Dependence Through Increased Domestic Petroleum Conservation.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2014 in the reference case contained in the report of the Energy Information Administration entitled "Annual Energy Outlook 2004".

(2) Contents.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) Implementation.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 2308. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 762, between lines 12 and 13 insert the following new paragraph:

"(6) The costs of operating programs that impound the vehicle of an individual arrested as an impaired operator of a motor vehicle for not less than 12 hours after the operator is arrested.

SA 2309. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. IMPOUNDING VEHICLES OF INTOXICATED ARRESTEES.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 176. Impounding vehicles of intoxicated arrestees

"(a) Definition of Motor Vehicle.—In this section, the term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated only on a rail.

"(b) Withholding of Apportionments for Noncompliance.—

"(1) Fiscal year 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

"(2) Subsequent fiscal years.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

"(3) Requirements.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that is substantially provides for each of the following:

"(A) If a person has been arrested for public intoxication, the arresting law enforcement agency shall impound the vehicle that the person was operating at the time of arrest.

"(B) A vehicle impounded pursuant to this subparagraph shall be impounded for a period of 12 hours after the time of arrest or until such later time as the arrestee claiming the vehicle meets the conditions for release under subparagraph (D).

"(C) A vehicle impounded pursuant to this subparagraph may be released to a person other than the arrestee prior to the end of the impoundment period only if—

"(i) the vehicle is not owned or leased by the person under arrest and the person who owns or leases the vehicle claims the vehicle and meets the conditions for release under subparagraph (D); or

"(ii) the vehicle is owned or leased by the arrestee, the arrestee gives permission to another person, who has acknowledged in writing receipt of the statement to operate the vehicle and the conditions for release under subparagraph (D).

"(D) A vehicle impounded pursuant to this subparagraph shall not be released unless the person claiming the vehicle—

"(i) presents a valid operator's license, proof of ownership or lawful authority to operate the vehicle, and proof of valid motor vehicle insurance for that vehicle;

"(ii) is able to operate the vehicle in a safe manner and would not be in violation driving while intoxicated laws; and

"(iii) meets any other conditions for release established by the law enforcement agency.

"(E) A law enforcement agency impounding a vehicle pursuant to this subparagraph is authorized to charge a reasonable fee for towing and storage of the vehicle. The law enforcement agency is further authorized to retain custody of the vehicle until that fee is paid.

"(c) Period of Availability; Effect of Compliance and Noncompliance.—

"(1) Period of availability of withheld funds.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

"(2) Apportionment of withheld funds after compliance.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (b) that remain available for apportionment to the State.

"(3) Period of availability of subsequently apportioned funds.—

"(A) In general.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

"(B) Treatment of certain funds.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

"(4) Effect of noncompliance.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).".

(b) Conforming Amendment.—The.analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

"176. Impounding vehicles of impounded arrestees.".

SA 2310. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . MOBILE TELEPHONE USE WHILE OPERATING MOTOR VEHICLES.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 176. Mobile telephone use while operating motor vehicles

"(a) Definition of Motor Vehicle.—In this section, the term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated only on a rail.

"(b) Withholding of Apportionments for Noncompliance.—

"(1) Fiscal Year 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

"(2) Subsequent Fiscal Years.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

"(3) Requirements.—

"(A) In General.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that prohibits an individual from using a mobile telephone (other than a mobile telephone used as described in subparagraph (B)) while operating a motor vehicle, except in the case of an emergency or other exceptional circumstance (as determined by the State).

"(B) Hands-Free Devices.—A State law described in subparagraph (A) may permit an individual operating a motor vehicle to use a mobile telephone with a device that permits hands-free operation of the telephone if the State determines that such use does not pose a threat to public safety.

"(c) Period of Availability; Effect of Compliance and Noncompliance.—

"(1) Period of Availability of Withheld Funds.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

"(2) Apportionment of Withheld Funds After Compliance.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (b) that remain available for apportionment to the State.

"(3) Period of Availability of Subsequently Apportioned Funds.—

"(A) In General.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

"(B) Treatment of Certain Funds.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

"(4) Effect of Noncompliance.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

"176. Mobile telephone use while operating motor vehicles.".

SA 2311. Mrs. CLINTON (for herself, Mr. Bingaman, Mr. Byrd, Mr. Dodd, Mr. Sarbanes, Mr. Corzine, Mr. Lieberman, Mr. Rockefeller, Mr. Harkin, and Ms. Stabenow) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING THE OUTSOURCING OF AMERICAN JOBS.

(a) Findings.—The Senate finds that—

(1) the President's Chairman of the Council of Economic Advisors recently described the outsourcing of American jobs overseas "as a good thing" and said, "outsourcing is just a new way of doing international trade";

(2) the President's economic policies have either failed to address or exacerbated the loss of manufacturing jobs that our country has experienced over the last 3 years;

(3) American families are facing an economy with the fewest jobs created since the Great Depression;

(4) 2,900,000 private sector jobs have been lost since January 2001, including 2,800,000 manufacturing jobs;

(5) on several occasions the Senate has supported reforming our tax laws to eliminate policies that make it cheaper to move jobs overseas; and

(6) job creation is essential to the economic stability of the United States and the Administration should pursue policies that serve as an engine for economic growth, higher wage jobs, and increased productivity.

(b) Sense of the Senate.—It is the sense of the Senate that the Senate should—

(1) oppose any efforts to encourage the outsourcing of American jobs overseas; and

(2) adopt legislation providing for a manufacturing tax incentive to encourage job creation in the United States and oppose efforts to make it cheaper to send jobs overseas.

SA 2312. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 724, strike line 19 and all that follows through page 725, line 2, and insert the following:

(A) by redesignating clause (6) as clause (8);

(B) by inserting after "involving school buses," at the end of clause (5) the following: "(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,"; and

(C) by inserting "aggressive driving, distracted driving," after "school bus accidents,".

On page 731, between lines 12 and 13, insert the following:

"(5) Research on Distracted, Inattentive, and Fatigued Drivers.—In conducting research under subsection (a)(3), the Secretary shall carry out not less than 10 demonstration projects to evaluate new and innovative means of combatting traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

On page 770, between lines 7 and 8, insert the following:

"(2) Data on Use of Electronic Devices.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

On page 770, line 8, strike "(2)" and insert "(3)".

On page 770, line 19, strike "(3)" and insert "(4)".

On page 770, line 23, strike "(4)" and insert "(5)".

SA 2313. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of section 3032 insert the following:

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333 is amended—

(1) in subsection (a), by striking "(a) Prevailing Wages Requirement.—"; and

(2) by striking subsection (b).

SA 2314. Mr. CAMPBELL (for himself and Mr. Inouye) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, between lines 6 and 7, insert the following:

"( ) Indian Land.—The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe;

"(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

"(iii) by a dependent Indian community; and

"(C) land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(____) Indian Reservation.—The term 'Indian reservation' includes—

"(A) an Indian reservation in existence as of the date of enactment of the Indian Tribal Surface Transportation Improvement Act of 2003;

"(B) a public domain Indian allotment;

"(C) a former reservation in the State of Oklahoma;

"(D) a parcel of land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

"(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

“(i) on original or acquired territory of the community; or

“(ii) within or outside the boundaries of any particular State.

On page 20, after line 25, add the following:

“( ) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

On page 31, between lines 15 and 16, insert the following:

“(___) TRIBAL TRANSPORTATION FACILITY.—The term ‘tribal transportation facility’ means any transportation-related project, facility, or physical infrastructure for an Indian tribe that is funded under this title.

Beginning on page 321, strike line 14 and all that follows through page 323, line 10, and insert the following:

“(B) FUNDING.—

“(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,”; and

(B) by adding at the end the following:

“(ii) AVAILABILITY.—Funds made available to carry out this subparagraph—

“(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

“(II) shall not be available to the Bureau of Indian Affairs to pay administrative costs.”; and

(5) by adding at the end the following:

“(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

“(1) CONTRACT AUTHORITY.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the administrative expenses of the Bureau for the Indian reservation roads program (including the administrative expenses relating to individual projects that are associated with the program).

“(B) AVAILABILITY.—Amounts made available to pay administrative expenses under subparagraph (A) shall be made available to an Indian tribal government, on the request of the government, to be used for the associated administrative functions assumed by the Indian tribe under contracts and agreements entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

“(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105–178) or its successor Act of Congress that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

“(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

“(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

“(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.”.

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . INDIAN TRIBAL SURFACE TRANSPORTATION.

(a) FUNDING FOR INDIAN RESERVATION ROADS PROGRAM.—Section 1101(a)(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking subparagraph (A) and inserting the following:

“(A) INDIAN RESERVATION ROADS.—

“(i) IN GENERAL.—Subject to clause (ii), for Indian reservation roads under section 204 of that title—

“(I) $330,000,000 for each of fiscal years 2004 through 2005;

“(II) $425,000,000 for each of fiscal years 2006 through 2007; and

“(III) $550,000,000 for each of fiscal years 2008 through 2009.

“(ii) MAINTENANCE.—Of the amounts made available for each fiscal year under clause (i), not less than $50,000,000 shall be used—

“(I) to maintain roads on Indian land; and

“(II) to maintain tribal transportation facilities serving Indian communities.”.

(b) OBLIGATION CEILING.—Section 1102(c)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended—

(1) by striking “distribute obligation” and inserting the following: “distribute—

“(A) obligation”;

(2) by inserting “and” after the semicolon at the end; and

(3) by adding at the end of the following:

“(B) for each of fiscal years 2004 through 2009, any amount of obligation authority made available for Indian reservation road bridges under section 202(d)(4), and for Indian reservation roads under section 204, of title 23, United States Code.”.

(c) TRIBAL CONTRACTING DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 202(d)(3) of title 23, United States Code, is amended by adding at the end the following:

“(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

“(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

“(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

“(iii) SELECTION OF PARTICIPATING TRIBES.—

“(I) PARTICIPANTS.—

“(aa) IN GENERAL.—In addition to those Indian tribes or tribal organizations already contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

“(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

“(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

“(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

“(aa) has successfully completed the planning phase described in subclause (IV);

“(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

“(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

“(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe’s self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

“(IV) PLANNING PHASE.—

“(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

“(bb) ELIGIBILITY.—A tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

“(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall prepare and submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4 of the Indian Self-Determination andEducation Assistance Act (25 U.S.C. 450b(i)) is amended by striking subsection (i) and inserting the following:

“(i) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means any 1 or more of the following, as appropriate:

“(1) The Secretary of Health and Human Services.

“(2) The Secretary of the Interior.

“(3) The Secretary of Transportation.”

(B) Section 401 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa) is amended—

(i) by striking "The Secretary" and inserting "(a) IN GENERAL.—The Secretary"; and

(ii) by adding at the end the following:

"(b) SECRETARY OF TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary of Transportation may enter into self-governance compacts and annual funding agreements with Indian tribes and tribal organizations to carry out tribal transportation programs (including transit programs) authorized under title 23 or 49, United States Code, in accordance with the terms, conditions, and procedures of this Act (including regulations promulgated under this Act (part 1000 of title 25 Code of Federal Regulations)).".

(d) INDIAN RESERVATION ROAD PLANNING.—Section 204(j) of title 23, United States Code, is amended in the first sentence by striking "2 percent" and inserting "5 percent".

(e) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—Section 204 of title 23, United States Code (as amended by section 1816), is amended by adding at the end the following:

"(p) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COMMISSION.—The term 'Commission' means the Alaska Native Transportation Commission established under paragraph (4)(A).

"(B) NATIVE.—The term 'Native' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(C) NATIVE AUTHORITY.—The term 'Native authority' means a governing board of a Regional Corporation, a regional Native nonprofit entity, a tribal government, or an alternative regional entity that is designated by the Secretary as a Native regional transportation authority under paragraph (3)(A).

"(D) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(E) PROGRAM.—The term 'program' means the Alaska Native village transportation program established under paragraph (2).

"(F) REGION.—The term 'region' means a region in the State specified in section 11(b)(1) of the Alaska Native Claims Settlement Act (43 U.S.C 1610(b)(1)).

"(G) REGIONAL CORPORATION.—The term 'Regional Corporation' has the meaning given the term in section 2 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(H) STATE.—The term 'State' means the State of Alaska.

"(2) ESTABLISHMENT.—The Secretary shall establish an Alaska Native village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified in accordance with this section.

"(3) ALASKA NATIVE REGIONAL TRANSPORTATION AUTHORITIES.—

"(A) DESIGNATION.—The Secretary shall designate a Native authority for each region.

"(B) RESPONSIBILITIES.—A Native authority shall, with respect to each Native village or region, as appropriate, covered by the Native authority—

"(i) prepare—

"(I) a regional transportation plan for the Native village; and

"(II) a comprehensive transportation plan for the region;

"(ii) prioritize and select projects to be funded with amounts made available under this section for the region;

"(iii) coordinate transportation planning with other regions, the State, and other governmental entities; and

"(iv) ensure that transportation projects under this section are constructed and implemented.

"(4) ALASKA NATIVE TRANSPORTATION COMMISSION.—

"(A) ESTABLISHMENT.—As soon as practicable after the date of enactment of this subsection, the Secretary shall establish a commission, to be known as the 'Statewide Alaska Native Transportation Commission', consisting of 1 representative selected from each Native authority designated by the Secretary under paragraph (3)(A).

"(B) DUTIES.—The Commission shall—

"(i) allocate funds made available under this section among regions in accordance with paragraph (5);

"(ii) coordinate transportation planning among the regions, the State, and other governmental entities; and

"(iii) facilitate transportation projects involving 2 or more regions.

"(5) ALLOCATION OF FUNDING.—

"(A) FISCAL YEAR 2004.—Funds made available for the program for fiscal year 2004 shall be allocated to each region by the Secretary as follows:

"(i) 50 percent of the funds shall be allocated based on the proportion that—

"(I) the Native population of Native villages in the region; bears to

"(II) the Native population of all Native villages in the State.

"(ii) 50 percent of the funds shall be allocated as equally as practicable among all Native villages in the region.

"(B) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—Funds made available for the program for fiscal year 2005 and each fiscal year thereafter shall be allocated among regions by the Commission, in accordance with a formula to be developed by the Commission after taking into consideration—

"(i) the health, safety, and economic needs of each region for transportation infrastructure, as identified through the regional planning process;

"(ii) the relative costs of construction in each region; and

"(iii) the extent to which transportation projects for each region are ready to proceed to design and construction.

"(6) TRIBAL CONTRACTING.—Funds allocated among regions under this subsection may be contracted or compacted in accordance with the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

"(7) MATCHING FUNDS.—Notwithstanding any other provision of law, funds made available under this subsection may be used to pay a matching share required for receipt of any other Federal funds that would further a purpose for which allocations under this section are made.

"(8) MAINTENANCE.—

"(A) IN GENERAL.—At the request of a Native authority or Native village, the Secretary may increase an amount of funds provided under this subsection for a construction project by an additional amount equal to 100 percent of the total cost of construction of the project, as determined by the Secretary.

"(B) USE OF RETAINED FUNDS.—An increase in funds provided under subparagraph (A) for a construction project shall be retained, and used only, for future maintenance of the construction project.".

(f) INDIAN RESERVATION ROAD SAFETY PROGRAM.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"SEC. 412. INDIAN RESERVATION ROAD SAFETY PROGRAM.

"(a) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a program to provide to eligible Indian tribes (as determined by the Secretary) competitive grants for use in establishing tribal transportation safety programs on

"(A) Indian reservations; and

"(B) other land under the jurisdiction of an Indian tribe.

"(2) USE OF FUNDS.—Funds from a grant provided under paragraph (1) may be used to carry out a project or activity—

"(A) to prevent the operation of motor vehicles by intoxicated individuals;

"(B) to promote increased seat belt use rates;

"(C) to eliminate hazardous locations and conditions on, or hazardous sections or elements of—

"(i) a public road;

"(ii) a public surface transportation facility;

"(iii) a publicly-owned bicycle or pedestrian pathway or trail; or

"(iv) a traffic calming measure;

"(D) to eliminate hazards relating to railway-highway crossings; or

"(E) to increase transportation safety by any other means, as determined by the Secretary.

"(b) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under this section shall be 100 percent.

"(c) FUNDING.—Notwithstanding any other provision of law, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(1) $6,000,000 for each of fiscal years 2004 and 2005; and

"(2) $9,000,000 for each of fiscal years 2006 through 2009.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

"412. Indian reservation road safety program.".

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United States Code, is amended by adding at the end the following:

"(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

"(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

"(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.".

(h) COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) COMMERCIAL VEHICLE DRIVING.—The term "commercial vehicle driving" means the driving of—

(i) a vehicle that is a tractor-trailer truck; or

(ii) any other vehicle (such as a bus or a vehicle used for the purpose of construction) the driving of which requires a commercial license.

(B) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) GRANTS.—The Secretary shall provide grants, on a competitive basis, to entities described in paragraph (3)(A) to support programs providing training and certificates leading to the licensing of Native Americans with respect to commercial vehicle driving.

(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

(A) be a tribal college or university (as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059(b)(3)); and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) PRIORITY.—In providing grants under paragraph (1), the Secretary shall give priority to grant applications that—

(A) propose training that exceeds proposed minimum standards for training tractor-trailer drivers of the Department of Transportation;

(B) propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute; and

(C) propose an education partnership with a private trucking firm, trucking association, or similar entity in order to ensure the effectiveness of the grant program under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for the period of fiscal years 2004 through 2009.

SA 2315. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5101. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) is amended—

(A) in the matter before subparagraph (A), by striking "2004" and inserting "2005",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) is amended—

(A) in the matter before subparagraph (A), by striking "2004" and inserting "2005",

(B) by striking "or" at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ", or",

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) is amended by striking "2004" and inserting "2005".

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "2004" and inserting "2005", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "2004" and inserting "2005".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of this Act and ending on February 28, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of this Act.

SEC. 5102. TRANSFER OF CERTAIN ETHANOL TAXES INTO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) is amended—

(1) by adding "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

SEC. 5103. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5104. INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.

(a) IN GENERAL.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(K)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(O) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.

"Subpart B. Special provisions applicable to fuels tax."

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

"In the case of any taxable fuel which is aviation-grade kerosene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.".

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any

trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

"(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

"(i) $395,000,000 in fiscal year 2005,

"(ii) $425,000,000 in fiscal year 2006,

"(iii) $429,000,000 in fiscal year 2007,

"(iv) $432,000,000 in fiscal year 2008, and

"(v) $435,000,000 in fiscal year 2009.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

"(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking "ENTRY.—The penalty" and inserting: "ENTRY.—

"(A) FORFEITURE.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) IN GENERAL.—Every", and

(2) by adding at the end the following new paragraph:

"(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

"(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).", and

(2) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) ELECTRONIC FILING.—Section 4481 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

SA 2316. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

Sec. 5000. Short title; amendment of 1986 code; table of contents.

Subtitle A—Trust Fund Reauthorization

Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.
Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
Sec. 5003. Modification of adjustments of apportionments.

Subtitle B—Biodiesel Income Tax Credit

Sec. 5101. Biodiesel income tax credit.

Subtitle C—Fuel Fraud Prevention

Sec. 5200. Short title.

PART I—AVIATION JET FUEL

Sec. 5211. Taxation of aviation-grade kerosene.
Sec. 5212. Transfer of certain amounts from the Airport and Airway Trust Fund to the Highway Trust Fund to reflect highway use of jet fuel.

PART II—DYED FUEL

Sec. 5221. Dye injection equipment.
Sec. 5222. Elimination of administrative review for taxable use of dyed fuel.
Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
Sec. 5224. Termination of dyed diesel use by intercity buses.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

Sec. 5231. Authority to inspect on-site records.
Sec. 5232. Assessable penalty for refusal of entry.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

Sec. 5241. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones.
Sec. 5244. Penalties for failure to register and failure to report.
Sec. 5245. Information reporting for persons claiming certain tax benefits.

PART V—IMPORTS

Sec. 5251. Tax at point of entry where importer not registered.
Sec. 5252. Reconciliation of on-loaded cargo to entered cargo.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 5261. Tax on sale of diesel fuel whether suitable for use or not in a diesel-powered vehicle or train.
Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
Sec. 5263. Taxable fuel refunds for certain ultimate vendors.
Sec. 5264. Two-party exchanges.
Sec. 5265. Modifications of tax on use of certain vehicles.
Sec. 5266. Dedication of revenues from certain penalties to the Highway Trust Fund.
Sec. 5267. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.

PART VII—TOTAL ACCOUNTABILITY

Sec. 5271. Total accountability.
Sec. 5272. Excise tax reporting.
Sec. 5273. Information reporting.

Subtitle D—Definition of Highway Vehicle

Sec. 5301. Exemption from certain excise taxes for mobile machinery.
Sec. 5302. Modification of definition of off-highway vehicle.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

Sec. 5401. Dedication of gas guzzler tax to Highway Trust Fund.

Sec. 5402. Repeal certain excise taxes on rail diesel fuel and inland waterway barge fuels.

PART II—AQUATIC EXCISE TAXES

Sec. 5411. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.

PART III—AERIAL EXCISE TAXES

Sec. 5421. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
Sec. 5424. Certain sightseeing flights exempt from taxes on air transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

Sec. 5431. Repeal of special occupational taxes on producers and marketers of alcoholic beverages.
Sec. 5432. Suspension of limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands.

PART V—SPORT EXCISE TAXES

Sec. 5441. Custom gunsmiths.
Sec. 5442. Modified taxation of imported archery products.
Sec. 5443. Treatment of tribal governments for purposes of Federal wagering excise and occupational taxes.

PART VI—OTHER PROVISIONS

Sec. 5451. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
Sec. 5452. Credit for taxpayers owning commercial power takeoff vehicles.
Sec. 5453. Credit for auxiliary power units installed on diesel-powered trucks.

Subtitle F—Miscellaneous Provisions

Sec. 5501. Motor Fuel Tax Enforcement Advisory Commission.
Sec. 5502. National Surface Transportation Infrastructure Financing Commission.
Sec. 5503. Treasury study of fuel tax compliance and interagency cooperation.
Sec. 5504. Expansion of Highway Trust Fund expenditure purposes to include funding for studies of supplemental or alternative financing for the Highway Trust Fund.
Sec. 5505. Treasury study of highway fuels used by trucks for non-transportation purposes.
Sec. 5506. Delta regional transportation plan.
Sec. 5507. Treatment of employer-provided transit and van pooling benefits.
Sec. 5508. Study of incentives for production of biodiesel.
Sec. 5509. Reduction of expenditures from the Highway Trust Fund.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGERS AUTOMOBILES

Sec. 5601. Expansion of limitation on depreciation of certain passenger automobiles.

PART II—PROVISION TO REPLENISH THE GENERAL FUND

Sec. 5611. Modification to corporate estimated tax requirements.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ", or",

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "March 1, 2004" and inserting "October 1, 2009", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2009":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2009":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended

(A) by striking "2003" and inserting "2007", and

(B) by striking "2004" each place it appears and inserting "2008".

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking "2007" in subparagraph (C)(ii) and inserting "2010", and

(2) by striking "October 1, 2007" in subparagraph (D) and inserting "January 1, 2011".

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.".

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking "paragraph (4)(D) or (5)(B)" and inserting "paragraph (3)(D) or (4)(B)".

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: "The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.".

(3) Section 9504(a)(2) is amended by striking "section 9503(c)(4), section 9503(c)(5)" and inserting "section 9503(c)(3), section 9503(c)(4)".

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking "section 9503(c)(5)" and inserting "section 9503(c)(4)".

(5) Section 9504(e) is amended by striking "section 9503(c)(4)" and inserting "section 9503(c)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 YEARS"" in the heading for paragraph (3) and inserting "4 YEARS"".

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Biodiesel Income Tax Credit

SEC. 5101. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(K)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(O) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.

"Subpart B. Special provisions applicable to fuels tax.".

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

"In the case of any taxable fuel which is aviation-grade keorsene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.".

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

"(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

"(i) $395,000,000 in fiscal year 2005,

"(ii) $425,000,000 in fiscal year 2006,

"(iii) $429,000,000 in fiscal year 2007,

"(iv) $432,000,000 in fiscal year 2008, and

"(v) $435,000,000 in fiscal year 2009.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

"(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking "ENTRY.—The penalty" and inserting: "ENTRY.—

"(A) FORFEITURE.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) IN GENERAL.—Every", and

(2) by adding at the end the following new paragraph:

"(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

"(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).", and

(2) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person, that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE. Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating

subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) OFF-HIGHWAY VEHICLES.—

"(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.".

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.".

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.".

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes shall be transferred", and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4) is amended by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "Account in the Aquatic Resources".

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund".

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking "Account in the Aquatic Resources" in subparagraph (A), and

(ii) by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund" in subparagraph (B).

(b) Merging of Accounts.—

(1) In general.—Subsection (a) of section 9504 is amended to read as follows:

"(a) Creation of Trust Fund.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).".

(2) Conforming amendments.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "Trust Fund", and

(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "AQUATIC RESOURCES" in the heading,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sports Fish Restoration", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund".

(D) Section 9504 is amended by striking "AQUATIC RESOURCES" in the heading and inserting "SPORT FISH RESTORATION".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration".

(c) Phaseout of Boat Safety Account.—Subsection (c) of section 9504 is amended to read as follows:

"(c) Expenditures From Boat Safety Account.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) In General.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end the following new paragraph:

"(5) an LED display.".

(b) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) In General.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) Nonapplicability of Tax to Exports.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) Conforming Amendments.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) Effective Date.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) In General.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) Imposition of tax.—

"(A) In general.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) Limitation on tax imposed on fishing rods and poles.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) Conforming Amendments.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) In General.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting "or a portable aerated bait container" after "fish".

(b) Conforming Amendment.—The heading of section 4161(a)(2) is amended by striking "ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH" and inserting "CERTAIN SPORT FISHING EQUIPMENT".

(c) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) No Waiver by Farm Owner, Tenant, or Operator Necessary.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) Exemption Includes Fuel Used Between Airfield and Farm.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) Exemption From Tax on Air Transportation of Persons for Forestry Purposes Extended to Fixed-Wing Aircraft.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) Exemption for Certain Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) Effective Date.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) In General.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) Effective Date.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) In General.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Exemption for Seaplanes.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "and rate of tax" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers.".

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.".

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.

"Sec. 5733. Provisions relating to liability for occupational taxes.

"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking "January 1, 2004" and inserting "October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) ARROWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "ARROWS.—" in the heading and inserting "ARROW COMPONENTS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) for purposes of chapter 35 (relating to taxes on wagering).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler—

"(i) the number of cases of bottled distilled spirits—

"(I) which were bottled in the United States, and

"(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5101 of this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5101 of this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.".

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the commercial power takeoff vehicles credit under section 45G(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

"(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Commercial power takeoff vehicles credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

"(1) purchased by the taxpayer, and

"(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

"(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

"(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

"(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

"(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

"(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the auxiliary power unit credit under section 45H(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

"Sec. 45H. Auxiliary power unit credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) Establishment.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) Function.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) Terms.—Members shall be appointed for the life of the Commission.

(3) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Travel expenses.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) Chairman.—The Chairman of the Commission shall be elected by the members.

(d) Funding.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) Consultation.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) Obtaining Data.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) Termination.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) Establishment.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) Function.—

(1) In general.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) Time frame of investigation and study.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) Preparation of report.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) Qualifications.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) Terms.—Members shall be appointed for the life of the Commission.

(4) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) Travel expenses.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) Chairman.—The Chairman of the Commission shall be elected by the members.

(d) Staff.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) Funding.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) Staff of Federal Agencies.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) Obtaining Data.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) Report.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes.

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN. The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5509. REDUCTION OF EXPENDITURES FROM THE HIGHWAY TRUST FUND.

The amount made available under titles I, II, III, and IV of this Act shall be reduced on a pro rata basis, so that the total of such reductions equals $214,000,000,000.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

PART II—PROVISION TO REPLENISH THE GENERAL FUND

SEC. 5611. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS.

The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2009, and before October 1, 2009, shall be 119 percent of such amount.

SA 2317. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1006, between lines 7 and 8, insert the following:

SEC. 4603. SENSE OF THE SENATE

It is the sense of the Senate that, notwithstanding amendment to section 24104 of title 49, United States Code, by section 4601, no amounts in excess of the amounts appropriated for Amtrak for fiscal year 2004 should be appropriated for any fiscal year before the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation).".

SA 2318. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, line 18, strike "There" and insert "Upon the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation), there".

SA 2319. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, line 21, after "expenses." insert "Notwithstanding the preceding sentence, no amounts in excess of the amounts appropriated for Amtrak for fiscal year 2004 are authorized to be appropriated for any fiscal year until the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation),".

SA 2320. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (c).

SA 2321. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (b)(1)(B).

SA 2322. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (d).

SA 2323. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Redesignate subsection (g) of section 105 of title 23, United States Code, as it would be amended by section 1104 of the amendment, as subsection (h) and insert after subsection (f) the following:

"(g) FURTHER ADJUSTMENT.—The Secretary shall reduce any funds apportioned to a State under this section by an amount equal to any discretionary allocation directed in an annual Appropriations Act, or its accompanying explanatory material, made from a program funded from the Highway Trust Fund (other than the mass transit account) or any other direct appropriation from the Highway Trust Fund (other than the mass transit account) received by such State, or any other entity in such State, in the prior fiscal year.

SA 2324. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, beginning with line 15, strike through line 7 on page 1006 and insert the following:

TITLE VI—RAIL TRANSPORTATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Rail Passenger Service Restructuring, Reauthorization, and Development Act".

SEC. 602. TABLE OF CONTENTS; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 601. Short title.
Sec. 602. Table of contents; amendment of title 49, United States Code.

SUBTITLE A—NETWORK RESTRUCTURING AND COST-SHARING

PART 1—RESTRUCTURING

Sec. 611. Statement of purposes.

Sec. 612. Passenger rail service restructuring.
Sec. 613. Definitions.
Sec. 614. Operating grants for corridor routes.
Sec. 615. Operating grants for long distance routes
Sec. 616. Long distance route restructuring commission.
Sec. 617. Criteria for restructuring.
Sec. 618. Implementation of restructuring plan.

PART 2—NORTHEAST CORRIDOR

Sec. 621. Redemption of common stock.
Sec. 622. Retirement of preferred stock; transfer of assets.
Sec. 623. Real estate and asset sales; other.
Sec. 624. Interstate compact for the Northeast Corridor.
Sec. 625. Shut-down of commuter or freight operations.
Sec. 626. Capital grants for the Northeast Corridor.

PART 3—RELATED MATTERS

Sec. 631. Fair and open competition.
Sec. 632. Access to other railroads.
Sec. 633. Limitations on rail passenger transportation liability.
Sec. 634. Train operations insurance pool.
Sec. 635. Collective bargaining arrangements.

SUBTITLE B—RAIL DEVELOPMENT

Sec. 651. Capital assistance for intercity passenger rail service.
Sec. 652. Final regulations on applications by States for development grants.
Sec. 653. Authority for interstate compacts for corridor development.

SUBTITLE C—REFORMS

Sec. 671. Management of secured debt.
Sec. 672. Employee transition assistance.
Sec. 673. Termination of authority for GSA to provide services to Amtrak.
Sec. 674. Amtrak reform board of directors.
Sec. 675. Limitations on availability of grants.
Sec. 676. Repeal of obsolete and executed provisions of law.
Sec. 677. Establishment of financial accounting system for the American Passenger Railway Corporation by independent auditor.
Sec. 678. Restructuring of long-term debt and capital leases.
Sec. 679. Authorization of appropriations.

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SUBTITLE A—NETWORK RESTRUCTURING AND COST-SHARING

PART 1—RESTRUCTURING

SEC. 611. STATEMENT OF PURPOSE OF CORPORATE RESTRUCTURING.

Section 24101 is amended to read as follows:

§24101. Findings, purpose, and goals

"(a) FINDINGS.—

"(1) It is in the public interest of the United States to encourage and promote the development of various modes of transportation and transportation infrastructure to efficiently maximize the mobility of passengers and goods.

"(2) Despite Federal subsidies of nearly $27 billion over the past 34 years, intercity rail passenger service still accounts for less than 1 percent of all intercity travel.

"(3) Intercity rail passenger service can be competitive with other modes of transportation and achieve a significant share of the travel market in short-distance corridors connecting metropolitan areas.

"(4) Rail passenger transportation can help alleviate overcrowding of airways and airports, and can provide needed intermodal connections to airports, bus terminals, and mass transit services.

"(5) Short-distance corridor trains account for approximately 85 percent of Amtrak's ridership but only one-third of Amtrak's operating losses, excluding depreciation.

"(6) A number of Amtrak's long-distance routes may be more efficiently operated and attract higher ridership as connected corridors.

"(7) Service over long-distance routes that cannot be restructured as connected corridors, do not receive State financial support, or are not an essential link to the rest of the intercity passenger rail network, should be consolidated or discontinued.

"(8) Some States with short-distance corridor services provide significant financial support for such services, while other States with short-distance routes and all states with long-distance routes contribute nothing for such services. More equitable cost-sharing is needed to justify Federal investment in intercity rail passenger service.

"(9) The need to invest taxpayer dollars in intercity rail passenger service demands that fair and open competition be permitted for the provision of such services to ensure that service is provided in the most efficient manner, without jeopardizing the safety of such operations.

"(10) A greater degree of cooperation is necessary among intercity passenger service operators, freight railroads, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to achieve the performance sufficient to justify the expenditure of additional public money on intercity rail passenger service.

"(11) Transportation services provided by the private freight railroads are vital to the economy and national defense and should not be disadvantaged by the operation of intercity passenger rail service over their rights-of-way.

"(12) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation and should be restored to a state of good repair.

"(b) PURPOSE.—The purpose of this chapter is to assist in the preservation and development of conventional and high-speed intercity rail passenger services where such services can play an important role in facilitating passenger mobility in the United States.

"(e) GOALS.—The goals of this chapter are—

"(1) to move toward a national network of interconnected short-distance passenger rail corridor services.

"(2) to return the Northeast Corridor to a state of good repair;

"(3) to establish a framework for the development of new conventional and high-speed rail services;

"(4) to allow for train services to be operated under contract to a State or group of States, with the operator of the service selected by the State or group of States;

"(5) to establish equitable cost-sharing for capital expenses and operating losses with the States; and

"(6) to encourage greater participation in the provision of intercity rail passenger services by the private sector.".

SEC. 612. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) IN GENERAL.—Chapter 243 is amended by inserting before section 24301 the following:

"§24300. Restructuring mandate

"(a) IN GENERAL.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall restructure Amtrak as 2 independent entities, as follows:

"(1) THE NATIONAL RAILROAD PASSENGER CORPORATION.—One entity shall be the National Railroad Passenger Corporation, otherwise known as Amtrak, that shall provide overall supervision of the restructuring of the intercity passenger rail program.

"(2) THE AMERICAN PASSENGER RAILWAY CORPORATION.—The other entity shall be a for profit corporation, to be known as the American Passenger Railway Corporation, that shall be responsible for conducting the passenger operations, infrastructure maintenance, and related services, including operation of reservation centers and ownership and management of rolling stock, that were conducted by Amtrak before the restructuring required by this subsection.

"(b) ARTICLES OF INCORPORATION AND OTHER DOCUMENTATION.—The Amtrak Reform Board shall—

"(1) file appropriate articles of incorporation under State law for the American Passenger Railway Corporation; and

"(2) amend the articles of incorporation and bylaws of the National Railroad Passenger Corporation to reflect its changed functions and responsibilities.

"(c) ROLES AND RESPONSIBILITIES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

"(1) RAILROAD ACTIVITIES.—Consistent with the business corporation law of the State of incorporation of the American Passenger Railway Corporation, the Corporation shall be qualified to undertake railroad activities of an operational or infrastructure nature.

"(2) RAIL OPERATIONS AND RELATED FUNCTIONS.—The American Passenger Railway Corporation—

"(A) shall have the exclusive right, until October 1, 2005, to continue to provide the intercity passenger service provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act;

"(B) shall, beginning October 1, 2005, operate intercity passenger service only on a contractual basis under negotiated terms and conditions;

"(C) shall operate a national reservations system; and

"(D) subject to fulfillment of its contractual obligations, shall have the exclusive right, until management of the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, is transferred to the interstate compact created under section 624 or to another entity, to continue to provide the train operations, dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, but may provide such services beginning October 1, 2005, only on a contractual basis with the National Railroad Passenger Corporation under negotiated terms and conditions.

"(4) STATUS OF CORPORATION.—

"(A) The American Passenger Railway Corporation—

"(1) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

"(ii) shall be operated and managed as a for-profit corporation; and

"(iii) is not a department, agency, or instrumentality of the United States Government nor a Government corporation (as defined in section 103 of title 5).

"(B) Chapter 105 of this title does not apply to the Corporation, except that laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to chapter 105 apply to the Corporation.

"(C) Subsections (c) through (1) of section 24301 of this title shall apply to the Corporation.

"(5) CHIEF EXECUTIVE OFFICER.—Subject to further action by the board of directors of the American Passenger Railway Corporation, the president of Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act shall be offered the position of chief executive officer of the American Passenger Railway Corporation.".

§24300A. American Passenger Railway Corporation board of directors

'(a) IN GENERAL.—

"(1) MEMBERSHIP.—The American Passenger Railway Corporation shall be governed by a board of directors consisting of 7 members appointed by the President, by and with the advice and consent of the Senate. No individual who is an officer or employee of the United States may serve as a member of the board.

"(2) TERM OF OFFICE.—Each member shall serve for a term of 5 years. An individual may not serve for more than 2 terms.

"(3) QUORUM.—A majority of the board members who have been lawfully appointed and qualified at any moment shall constitute a quorum for the conduct of business.

"(b) BYLAWS.—The board of directors shall adopt bylaws governing the corporation consistent with the provisions of this section arid its articles of incorporation, and may amend, repeal, and otherwise modify the bylaws from time to time as necessary or appropriate.

"(c) TRANSITION BOARD MEMBERS.—Individuals who are serving as members of the Amtrak Reform Board on the day before the date on which the American Passenger Railway Corporation is established, with the exception of the Secretary of Transportation, shall serve as members of the board of directors of the American Passenger Railway Corporation until 4 members of that board have been appointed and qualified.

"§24300B. National Railroad Passenger Corporation board after restructuring

"(a) IN GENERAL.—After the American Passenger Railway Corporation is established, the Reform Board established under section 24302(a) shall be dissolved, and Amtrak shall be governed by a board of directors consisting of—

"(1) the Secretary of Transportation;

"(2) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

"(3) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

"(b) ROLES AND RESPONSIBILITIES.—

"(1) SUPERVISION AND MANAGEMENT.—After the board of directors described in subsection (a) takes office, the National Railroad Passenger Corporation shall—

"(A) provide overall supervision of the restructuring of the intercity passenger rail program;

"(B) provide management of residual responsibilities; and

"(C) retain and manage Amtrak's legal rights, including it's legal right of access to other railroads, and ownership of Amtrak's real property, until that property is transferred to the Secretary of Transportation under section 622.

"(2) CONTRACTS FOR SERVICE.—The National Railroad Passenger Corporation shall, by contract, permit an operator to provide intercity passenger rail service over routes operated by Amtrak on the date prior to the date the restructuring required by this Act becomes effective, at the frequencies in effect on that date, on its behalf and to use its right of access to any segment of rail line owned by another rail carrier and needed for the operation of that train. The operator may be the American Passenger Railway Corporation or another operator designated by the Secretary, but there shall be no more than 1 intercity passenger rail operator at a time over any segment of rail line owned by another rail carrier, except in terminal areas as determined by the Secretary or as may otherwise be provided by agreement among the National Railroad Passenger Corporation, the operators, and the owner of the rail line.

"(3) USE OF AMTRAK NAME.—

"(A) IN GENERAL.—Amtrak shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

"(B) USE BY AMERICAN PASSENGER RAILWAY CORPORATION.—Amtrak shall by contract, permit the American Passenger Railway Corporation to market its services under the Amtrak name.

"(4) AMTRAK PERSONNEL.—All Amtrak employees shall become American Passenger Railway Corporation employees unless retained by the National Railroad Passenger Corporation. The American Passenger Railway Corporation shall succeed to the collective bargaining agreements in effect between Amtrak and labor organizations that are in effect on the day before the date on which that Corporation is established. An employee who elects employment with National Railroad Passenger Corporation shall become an employee of that Corporation, with only such rights regarding pay and benefits as that Corporation shall determine.

"(5) FREIGHT AND COMMUTER OPERATIONS.—The National Railroad Passenger Corporation shall ensure that the implementation of the restructuring required by section 24300 gives due consideration to the needs of freight and commuter operations that, as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, operate on the Northeast Corridor using Amtrak rights-of-way.

"(6) ROLLING STOCK.—The National Railroad Passenger Corporation shall set the terms under which the American Passenger Railway Corporation must make available to any replacement operator the legacy equipment associated with any intercity passenger rail service provided as of the date of enactment of that Act.".

(b) SPINNING-OFF OF RESERVATIONS SYSTEM.—Not later than 2 years after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the American Passenger Railway Corporation shall provide to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure recommendations on the feasibility, advantages, and disadvantages of spinning off the reservation system as a private for-profit entity.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting the following after the item relating to section 24309:

"24300. Restructuring mandate
"24300A. American Passenger Railway Corporation board of directors
"24300B. Amtrak board after restructuring".

SEC. 613. DEFINITIONS.

Section 24102 is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(2) by redesignating paragraphs (3) through (8), as redesignated, as paragraphs (4) through (9), respectively, and inserting after paragraph (2) the following:

"(3) 'corridor train' means—

"(A) a train route operated by Amtrak as of January 1, 2004, with a route length of 750 miles or less; or

"(B) a new conventional or high-speed route eligible for funding under chapter 244 of this title.";

(3) by redesignating paragraphs (6) through (9), as redesignated, as paragraphs (7) through (10), respectively, and inserting after paragraph (5) the following:

"(6) 'long distance train' means a train route operated by Amtrak as of January 1, 2004, with a route length greater than 750 miles.".

SEC. 614. OPERATING GRANTS FOR CORRIDOR ROUTES.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

"§24316. Operating grants for corridor routes

"(a) IN GENERAL.—

"(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to States for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of corridor routes over which intercity passenger service was provided on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act for the operating expenses incurred in operating those routes or those frequencies to provide intercity passenger rail transportation.

"(2) CONDITIONS.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

"(b) FEDERAL SHARE OF OPERATING LOSSES.—

"(1) REIMBURSABLE AMOUNT.—A grant to a State under this section for any fiscal year may not exceed an amount equal to the lower of—

"(A) the applicable percentage of the Federal operating subsidy for that fiscal year; or

“(B) the percentage of the operating subsidy for a route not borne by a State during the last fiscal year ending before the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage of the operating subsidy for a fiscal year is—

“(A) 70 percent for fiscal year 2006;

“(B) 60 percent for fiscal year 2007;

“(C) 50 percent for fiscal year 2008;

“(D) 40 percent for fiscal year 2009; and

“(E) 30 percent for fiscal year 2010.

“(c) DETERMINATION OF EXPENSES ELIGIBLE FOR REIMBURSEMENT.—

“(1) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on corridor routes operated by the American Passenger Railway Corporation under contract with a State without competitive bid. The operating loss on such routes shall—

“(A) reflect the fully allocated costs of operating the route, including an appropriate share of overhead expenses, including general and administrative expenses; and

“(B) exclude depreciation and interest expense on long-term debt.

“(2) AGGREGATION OF NORTHEAST CORRIDOR LOSSES.—Operating losses on corridor trains operated exclusively on the mainline of the Northeast Corridor extending from Washington, D.C. to Boston, MA may be aggregated for purposes of determining the operating subsidy required on the routes.

“(3) DETERMINATION WITH COMPETITIVE BIDDING.—Expenses eligible for Federal support pursuant to paragraph (b)(2) for reimbursement for a corridor route that has been competitively bid shall consist of the operating subsidy agreed upon by the State, group of States, or other entity and the operator.

“(d) EXCEPTION TO DATE COST-SHARING REQUIRED.—For any State whose legislature has not convened in regular session after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and before October 1, 2005, the additional cost-sharing requirements of this section shall become effective on October 1, 2006.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

“(1) $125,000,000 for fiscal year 2006;

“(2) $100,000,000 for fiscal year 2007;

“(3) $90,000,000 for fiscal year 2008;

“(4) $75,000,000 for fiscal year 2009; and

“(5) $50,000,000 for fiscal year 2010.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by adding at the end the following:

“24316. Operating grants for corridor routes”.

SEC. 615. OPERATING GRANTS FOR LONG DISTANCE ROUTES.

(a) IN GENERAL.—Chapter 243, as amended by section 614, is amended by adding at the end the following:

“§ 24317. Operating grants for long distance routes

“(a) IN GENERAL.—

“(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to the American Passenger Railway Corporation or to a State for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of long distance routes over which intercity passenger service was provided on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, for operating subsidies required in operating those routes or those frequencies to provide intercity passenger rail transportation.

“(2) CONDITIONS.—

“(A) A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

“(B) The Secretary shall require the American Passenger Railway Corporation, as a condition of a grant under this section, to systematically reduce its fiscal year 2003 route and system-wide overhead expenses by a minimum of 5 percent annually through fiscal year 2010. A contract between the National Railroad Passenger Corporation and the American Passenger Railway Corporation for the operation of a long distance route or routes must provide for reimbursement of operating losses to be reduced to reflect such cost reductions and productivity enhancements.

“(3) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on long distance routes operated by the American Passenger Railway Corporation.

“(b) FEDERAL SHARE OF OPERATING LOSSES.—Pending completion of the restructuring of long distance intercity passenger rail routes required by sections 615 through 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Federal share for an operating grant may be 100 percent of the qualifying operating subsidy for the route.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

“(1) $550,000,000 for fiscal year 2006;

“(2) $400,000,000 for fiscal year 2007;

“(3) $350,000,000 for fiscal year 2008;

“(4) $325,000,000 for fiscal year 2009; and

“(5) $300,000,000 for fiscal year 2010.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 614 of this Act, is amended by adding at the end the following:

“24317. Operating grants for long distance routes

SEC. 616. LONG DISTANCE ROUTE RESTRUCTURING COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Long Distance Route Restructuring Commission.

(b) DUTY.—

(1) IN GENERAL.—The Commission shall submit a plan to Congress for restructuring long distance intercity passenger rail routes on a timely basis by—

(A) retaining routes that provide a unique service that can be contracted out by the National Railroad Passenger Corporation on a for-profit basis;

(B) restructuring other routes as linked corridor routes between major metropolitan areas; and

(C) consolidating or discontinuing service over remaining routes.

(2) PRESERVATION OF NATIONAL NETWORK.—The restructuring plan submitted by the Commission shall ensure that no corridor train is completely isolated from the rest of the intercity passenger rail network.

(3) EXCEPTIONS.—

(A) IN GENERAL.—A route will be excluded from consideration for restructuring, consolidation, or closure if a State or group of States commits, by contractual arrangement with the American Passenger Railway Corporation or another operator selected through a competitive process, to provide financial operating support at a level sufficient to offset at least

(i) 30 percent of the operating subsidy for fiscal year 2007;

(ii) 40 percent of the operating subsidy for fiscal year 2008; and

(iii) 50 percent of the operating subsidy thereafter.

(B) FAILURE OF SUPPORT.—If a State or group of States fails to provide the support to which it committed under this paragraph, then service over the route shall be discontinued.

(4) CONSULTATION REQUIRED.—In carrying out its duties, the Commission shall consult with the American Passenger Railway Corporation, State and local officials, freight railroads, companies with expertise in intercity passenger transportation, and other persons with an interest in the restructuring of the long distance train routes.

(c) APPOINTMENT.—

(1) The Commission shall be composed of 7 members appointed by the President within 6 months after the date of enactment of this Act.

(2) The Commission members shall elect 1 member to serve as Chairman.

(d) TERMINATION.—The Commission shall terminate 90 days after the Commission's recommendations for consolidation and closure are submitted to Congress.

(e) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(f) DETAILEES.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail personnel of that department or agency to the Commission to assist the Commission in carrying out its duties.

(g) COMPENSATION; REIMBURSEMENT.—Members of the Commission shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(h) OTHER AUTHORITY.—

(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the use of the Commission in carrying out its responsibilities under this section for each of fiscal years 2005 and 2006, $4,000,000, such sums to remain available until expended.

SEC. 617. CRITERIA FOR RESTRUCTURING.

(a) RESTRUCTURING AS LINKED CORRIDORS.—

(1) PREREQUISITE FOR RESTRUCTURING.—A long distance route or portion thereof may be recommended for restructuring as a linked corridor if—

(A) the origin-to-destination travel time of each corridor link in the new route, at conventional train speeds, including all station stops, will be competitive with other modes of transportation;

(B) each corridor link in the new route connects at least 2 major metropolitan areas or provides a link between 2 or more existing corridor trains;

(C) the restructured train can be reasonably expected to attract at least 10 percent of the combined common carrier market in the markets served;

(D) the projected cash operating loss of each of the restructured links does not exceed 11 cents per passenger-mile on a fully allocated cost basis; and

(E) the Federal operating subsidy will not be more than 50 percent of the operating subsidy for the route for fiscal year 2003.

(2) HOURS OF OPERATION.—In addition to the eligibility criteria in paragraph (1), any long distance routes recommended for restructuring as linked corridors shall be designed to operate between the hours of 6:00 a.m. and 11:00 p.m.

(3) MODIFICATION OF ROUTES.—With the concurrence of the affected States, existing routes may be modified to improve ridership and financial performance.

(4) NEW CAPITAL PLANS.—As part of the restructuring plan for reconfigured routes, the Commission shall develop a capital plan, if additional capital is needed to reconfigure the route as linked corridors.

(b) CONTRACTING-OUT OF PROFITABLE LONG DISTANCE ROUTES AND SERVICES.—The Commission shall determine which long distance routes or services on such routes, including auto-ferry transportation, food service, and sleeping accommodations, could be contracted to a private operator on a for-profit basis. In making these determinations, the Commission shall solicit expressions of interest from the private sector in operating long distance routes or services, including the conditions under which private companies may be interested in operating such services.

(c) CONSOLIDATION AND CLOSURE.—The Commission shall make recommendations to Congress for consolidating and closing long distance train routes or portions of routes that cannot be restructured under subsection (a) or contracted out under subsection (b), to reduce the Federal operating subsidy required by at least 50 percent compared to the operating subsidy required in fiscal year 2003, taking into consideration—

(1) the operating loss on a fully allocated cost basis, including capital costs, of the route or portion thereof;

(2) the extent to which train service is the only available public transportation to the cities and towns along the route or portion;

(3) whether an alternate route could significantly reduce operating losses or increase ridership;

(4) available capacity on the rights-of-way of the host railroad or railroads; and

(5) interest from the private sector in operating the route or portion thereof on a subsidized basis.

(d) COOPERATION OF AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) The American Passenger Railway Corporation shall cooperate and comply, subject to the agreement of the Commission to protect the confidentiality of proprietary information, with all requests for financial, marketing, and other information affecting the routes under consideration by the Commission.

(2) The Secretary of Transportation may withhold all or part of an operating or capital grant to the Corporation if the Secretary determines the American Passenger Railway Corporation is not cooperating with the Commission as required by this Act.

(e) REPORT.—The Commission shall submit its recommendations for consolidation and closure to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 18 months after the date of enactment of this Act. The report shall include a description of—

(1) the analysis performed by the Commission to reach its conclusions;

(2) options considered in the development of a restructuring plan;

(3) the impact of the restructuring on employees of the American Passenger Railway Corporation for any long distance route restructured under this section; and

(4) the costs and benefits of implementing the plan.

SEC. 618. IMPLEMENTATION OF RESTRUCTURING PLAN.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation shall implement the restructuring plan submitted by the Long Distance Route Restructuring Commission in its report to Congress pursuant to section 617 unless a joint resolution is enacted by the Congress disapproving such recommendations of the Commission before the earlier of—

(A) the end of the 45-day period beginning on the date the Commission submits its report to Congress; or

(B) the adjournment of Congress sine die for the session during which such report is submitted.

(2) For purposes of paragraph (1) of this subsection, the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

PART 2—NORTHEAST CORRIDOR

SEC. 621. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all Amtrak assets and liabilities with an estimated value in excess of $1,000,000 as of the date of enactment of this Act by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation's Appraisal Standards Board and shall be completed within 1 year after the date of enactment of this Act.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 622 of this Act, and within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall redeem all common stock in Amtrak issued prior to the date of enactment of this Act at the fair market value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of Amtrak.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the National Railroad Passenger Corporation and the owners of the Amtrak common stock have not completed the redemption of such stock within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The value assigned to the common stock under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311 (a) (1) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking "Amtrak." in subparagraph (B) and inserting "Amtrak; or"; and

(3) by adding at the end the following:

"(C) necessary to redeem Amtrak's common stock from any, holder thereof, including a rail carrier.".

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of Amtrak retained under section 622 of this Act for 10 shares of common stock in the National Railroad Passenger Corporation.

(2) The National Railroad Passenger Corporation may not issue any other common stock, and may not issue preferred stock, without the express written consent of the Secretary.

(f) TERMINATION OF SECTION 24907 NOTE AND MORTGAGE AUTHORITY.—Section 24907 is amended by adding at the end the following:

"(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to obtain a note of indebtedness from, and make a mortgage agreement with, the American Passenger Railway Corporation under subsection (a) is terminated as of the date of the transfer of assets under section 622 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.".

SEC. 622. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.—Not later than 30 days after the redemption or acquisition of stock under section 621 of this Act, the National Railroad Passenger Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to—

(1) the portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels, repair facilities, and all other improvements owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline);

(2) Chicago Union Station and rail-related assets in the Chicago Metropolitan area; and

(3) all other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—

(1) ASSUMPTION BY FEDERAL GOVERNMENT.—Any outstanding debt on the mainline of the Northeast Corridor (other than debt associated with rolling stock) shall become a debt obligation of the United States as of the date of transfer of title under subsection (a)(1).

(2) RESTRUCTURING.—Except as provided in paragraph (1), the obligation of the American Passenger Railway Corporation or its successors or assigns to repay in full any indebtedness to the United States incurred since January, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (a), the Secretary shall—

(1) deliver to the National Passenger Railroad Corporation all but one share of the preferred stock of Amtrak field by the Secretary and forgive Amtrak's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) release Amtrak from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into a contract with American Passenger Railway Corporation under which American Passenger Railway Corporation will exercise care, custody, maintenance, and operational control of the assets to be transferred. The term of the contract shall be for 1 year, which shall be renewed annually without action on the part of either party unless canceled by either party with 90 days notice.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(f) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of the assets described in subsection (e) shall be credited as off-setting collection to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 623. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary of Transportation shall transfer all stations, track, and other fixed facilities outside the Northeast Corridor mainline to which the Secretary has assumed title under section 622 of this title, other than equipment repair facilities, to States, municipalities, railroads, or other entities for maximum consideration.

(b) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of assets under this section shall be credited as offsetting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 624. INTERSTATE COMPACT FOR THE NORTHEAST CORRIDOR.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to manage railroad operations and rail service and conduct related activities on the Northeast Corridor mainline between Boston, Massachusetts, and Washington, District of Columbia.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the "participating States"); and

(ii) the mayor of the District of Colombia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—

(1) The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(A) full authority for 99 years to succeed to the responsibilities of the American Passenger Railway Corporation as operator of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation, including—

(i) responsibility for Corridor maintenance and improvement;

(ii) operation of intercity passenger rail service;

(iii) arrangements for operation of freight railroad operations and commuter operations;

(iv) authority to make use of the Corridor for non-rail purposes; and

(v) assumption of financial responsibility for Northeast Corridor functions;

(B) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions; and

(C) participation by the Department of Transportation, as the non-voting representative of the United States.

(2) The compact terms shall, at a minimum, conform to the requirements of subsections (e) through (i) of this section.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than 18 months after the date of enactment of this Act.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation and a freight railroad that conducts operations on the Northeast Corridor as ex officio members participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for its management of rail services in the Northeast Corridor.

(f) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(g) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(h) ADOPTION OF COMPACT; TURNOVER.—

(1) IN GENERAL.—The participating States and the District of Columbia shall adopt a final compact agreement within 5 years after the date of enactment of this Act, and the Compact shall thereafter assume responsibility for the Northeast Corridor operations on a date that is not later than 6 months after adoption of the Compact.

(2) OPERATIONS.—Upon leasing the Northeast Corridor to the Compact, the Secretary

shall assign to the Compact and the Compact shall assume the then-current contract for operation of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for operation of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor to operate the Northeast Corridor, the contract shall be awarded competitively.

(3) MAINTENANCE.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for maintenance of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for maintenance of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor to maintain the Northeast Corridor, the contract shall be awarded competitively.

(4) NON-COMPACT ALTERNATIVE.—In the event that the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation, through a competitive bidding process, may contract with another public or private entity to manage the Northeast Corridor, with a goal of maximizing the return to the Federal government from such operations.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

(1) $3,000,000 for fiscal year 2005, and

(2) $2,000,000 for fiscal year 2006,

such sums to remain available until expended.

SEC. 625. SHUT-DOWN OF COMMUTER OR FREIGHT OPERATIONS.

(a) IN GENERAL.—Section 11123 is amended by striking "National Railroad Passenger Corporation" each place it appears and inserting "American Passenger Railway Corporation".

(b) AUTHORIZATION OF APPROPRIATIONS.—From the funds made available for the American Passenger Railway Corporation for fiscal years 2005 through 2010, the Secretary of Transportation shall in each fiscal year hold in reserve such sums as may be necessary to carry out directed service orders issued under section 1123 of title 49, United States Code, to respond to the shut-down of commuter rail operations or freight operations due to a shut-down of operations by the American Passenger Railway Corporation. The Secretary shall make the reserved funds available through an appropriate grant instrument during the fourth quarter of each fiscal year to the extent that no grant orders have been issued by the Surface Transportation Board during that fiscal year prior to the date of transfer of the reserved funds or there is a balance of reserved funds not needed by the Board to pay for any directed service order in that fiscal year.

(c) EFFECTIVE DATE FOR SUBSECTION (a).—The amendment made by subsection (a) shall take effect on the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed.

SEC. 626. CAPITAL GRANTS FOR NORTHEAST CORRIDOR.

(a) IN GENERAL.—Chapter 243, as amended by section 615, is amended by adding at the end the following:

"§24318. Capital authorizations for the Northeast Corridor

"(a) IN GENERAL.—The Secretary of Transportation, in consultation with State and regional transportation officials, shall develop and implement a capital program to restore the rail infrastructure on the mainline Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, to a state of good repair.

"(b) AUTHORIZATION OF APPROPRIATIONS FOR CAPITAL PROJECTS ON THE NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary of Transportation to make capital grants under this section $200,000,000 for fiscal year 2005 and $300,000,000 for each of fiscal years 2006 through 2010.

"(c) ACHIEVEMENT OF STATE-OF-GOOD-REPAIR ON NORTHEAST CORRIDOR.—

"(1) USE OF FUNDS.—Sums authorized for the Northeast Corridor under subsection (b) may be used solely for the purpose of funding deferred maintenance and safety projects, including the negotiated Federal share for life-safety improvements in the New York Penn Station tunnels.

"(2) STATE OF GOOD REPAIR.—The Northeast Corridor shall be considered to be in a state of good repair upon the completion of the capital program developed under subsection (a).".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 615, is amended by adding at the end thereof the following:

"24318. Capital authorizations for the Northeast Corridor".

PART 3—RELATED MATTERS

SEC. 631. FAIR AND OPEN COMPETITION.

(a) IN GENERAL.—The Secretary of Transportation shall consult with States that competitively bid intercity passenger rail services to ensure that their bidding processes provide for fair and open competition for all bidders, including the American Passenger Railway Corporation.

(b) USE OF FEDERAL OR STATE FUNDS.—The Secretary shall ensure that the American Passenger Railway Corporation may not use Federal or State financial support for a passenger rail route to subsidize a competitive bid to operate intercity passenger rail service on another route.

SEC. 632. ACCESS TO OTHER RAILROADS.

(a) TERMS AND CONDITIONS FOR ACCESS TO OTHER RAILROADS.—

(1) EXISTING ROUTES AND FREQUENCIES.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall be responsible for negotiating the terms and conditions under which the American Passenger Railway Corporation, a State, or other entity may access the property of any freight railroad to provide intercity passenger rail service over routes operated by Amtrak on the day before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed at the frequencies in effect on that clay.

(B) PRESERVATION OF RAILROAD BENEFITS.—The access and liability terms and conditions of the contracts between the National Railroad Passenger Corporation and railroads following that restructuring shall be no less favorable to the host railroads than the access and liability terms and conditions under contracts in effect on the day before the date, as so determined by the Secretary, on which the restructuring is completed.

(C) INCENTIVE PAYMENTS; PENALTIES.—The Secretary shall retain a system of incentive payments and performance penalties in negotiating compensation payments to freight railroads under subparagraph (A) that encourages on-time performance.

(3) CONDITIONS FOR NEW ROUTES AND TRAIN FREQUENCIES.—

(A) IN GENERAL.—The terms and conditions for the operation of a new intercity passenger rail route or frequency added after the date of enactment of this Act shall be determined by negotiation and mutual agreement between the host railroad and the operator or sponsor of the route or frequency to be added, with no preferential right of access.

(B) STANDARD OF COMPENSATION.—The standard of compensation for the rental change shall be fully allocated costs, excluding capital investments associated with an added route or frequency.

(C) FAILURE OF NEGOTIATION.—If the parties cannot agree on the terms and conditions of the rental charge, either party may seek a prescription of appropriate terms and conditions under section 24308 of title 49, United States Code.

(b) FITNESS QUALIFICATIONS FOR PASSENGER RAIL.—

(1) IN GENERAL.—No person may operate intercity passenger rail service over freight railroad property unless that person demonstrates to the satisfaction of the Secretary of Transportation that—

"(A) its intercity passenger rail operations will meet all applicable Federal safety rules and regulations;

"(B) it will operate the service on a sound financial basis; and

"(C) it has the technical expertise to operate intercity passenger rail service.".

(2) MINIMUM STANDARDS.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall by regulation establish minimum safety and financial qualifications for operators of intercity passenger rail service.

SEC. 633. LIMITATIONS ON RAIL PASSENGER TRANSPORTATION LIABILITY.

Section 28103 is amended by striking "Amtrak shall maintain a total" in subsection (c) and inserting "each operator of intercity passenger rail service shall maintain".

SEC. 634. TRAIN OPERATIONS INSURANCE POOL.

(a) IN GENERAL.—Chapter 281 is amended by adding at the end the following:

"§28104. Train operations insurance pool

"(a) IN GENERAL.—The Secretary of Transportation is authorized to encourage and otherwise assist insurance companies and other insurers that meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

"(1) to provide the insurance coverage required by section 28103; and

"(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers to assume a reasonable proportion of responsibility for the adjustment and payment of claims under section 28103.

"(b) REGULATIONS TO ESTABLISH INSURER QUALIFICATION REQUIREMENTS.—In order to promote the effective administration of the intercity rail passenger program, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe requirements for insurance companies and other insurers participating in an insurance pool under subsection (a), including minimum requirements for capital or surplus or assets.

(c) AUTHORITY TO COLLECT AND PAY PREMIUMS AND OTHER COSTS.—In order to provide adequate insurance coverage at affordable cost to operators of intercity passenger rail service at no cost to the United States, the

Secretary is authorized to divide the insurance premiums and all other costs of forming and operating the insurance pool created pursuant to this section, including the costs of any contractors or consultants the Secretary may hire, among all the operators of intercity passenger rail service and collect from each operator of intercity passenger rail service the insurance premiums and other costs the Secretary has allocated to it. Notwithstanding any other provisions of law, the Secretary may receive funds collected under this section directly from each operator of intercity passenger rail service, credit the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool, and use those funds to pay insurance premiums and other costs of forming and operating the insurance pool, including the costs of any contractors or consultants the Secretary may hire. The Secretary may advance such sums as may be necessary to pay insurance premiums and other costs of forming and operating the insurance pool from unobligated balances available to the Federal Railroad Administration for intercity passenger rail service, to be reimbursed from payments received from operators of intercity passenger rail service. Where the Secretary is making a grant of operating funds for a route, the Secretary may collect the insurance premiums and other costs the Secretary has allocated to it by withholding those funds from the grant and crediting them to the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool.

"§ 28105. Use of insurance pool, companies, or other private organizations for certain payments

"(a) AUTHORIZATION TO ENTER INTO CONTRACTS FOR CERTAIN REQUIREMENTS.—In order to provide for maximum efficiency in the administration of the intercity rail passenger program, the Secretary of Transportation may enter into contracts with the pool formed or otherwise created under section 28104, or any insurance company or other private organizations, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

"(1) Estimating and later determining any amounts of payments to be made.

"(2) Receiving from the Secretary, disbursing, and accounting for payments of insurance premiums.

"(3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.

"(4) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

"(b) TERMS AND CONDITIONS OF CONTRACT.—Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

"(e) COMPETITIVE BIDDING.—Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

"(d) FINDINGS OF SECRETARY.—No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

"(e) BOND; LIABILITY OF CERTIFYING OFFICERS AND DISBURSING OFFICERS.—

"(1) SURETY BOND.—Any contract entered into under subsection (a) of this section may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

"(2) PERSONAL LIABILITY FOR CERTIFICATION.—No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by that individual under this section.

"(3) PERSONAL LIABILITY FOR PAYMENT.—No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by that officer under this section if it was based upon a voucher signed by an individual designated to certify such payments.

"(f) TERM OF CONTRACT; RENEWALS; TERMINATION.—Any contract entered into under this section shall be for a term of 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if the Secretary finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the intercity rail passenger program.

"§ 28106. Reinsurance coverage

"(a) AVAILABILITY FOR EXCESS LOSSES.—The Secretary of Transportation is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 28104, reinsurance for losses which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c) of this section.

"(b) AVAILABILITY PURSUANT TO CONTRACT, AGREEMENT, OR OTHER ARRANGEMENT; PAYMENT OF PREMIUM, FEE, OR OTHER CHARGE.—Reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the Secretary finds necessary to cover anticipated losses and other costs of providing such reinsurance.

"(c) EXCESS LOSS AGREEMENT; NEGOTIATION.—The Secretary is authorized to negotiate an excess loss agreement, from time to time, under which the amount of insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this chapter, consistent with the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

"(d) SUBMISSION OF EXCESS LOSSES ON PORTFOLIO BASIS.—All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) Chapter 281 is amended by striking "LAW ENFORCEMENT" in the chapter heading and inserting "LAW ENFORCEMENT; LIABILITY; INSURANCE".

(2) The part analysis of subtitle V is amended by striking the item relating to chapter 281 and inserting, the following:

"281. Law enforcement; liability; insurance .... 28101".

(3) The table of contents of the title is amended by striking the item relating to chapter 281 and inserting the following:

"281. Law enforcement; liability; insurance .... 28101".

(4) The chapter analysis for chapter 281 is amended by adding at the end the following:

"28104. Train operations insurance pool
"28105. Use of insurance pool, companies, or other private organizations for certain payments
"28106. Reinsurance coverage".

SEC. 635. COLLECTIVE BARGAINING ARRANGEMENTS.

(a) STATUS AS EMPLOYER OR CARRIER.

(1) IN GENERAL.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

(2) COLLECTIVE BARGAINING AGREEMENT.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this Act, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(3) REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—

(A) NEGOTIATIONS.—An entity providing replacement intercity rail passenger service under paragraph (2) shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of 7 arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in subparagraphs (A) through (D) of paragraph (2). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties, but all other expenses shall be paid by the party incurring them.

(C) SERVICE COMMENCEMENT.—An entity providing replacement intercity rail passenger service under paragraph (2) shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (2) or the decision of the arbitrator has been rendered.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations for carrying out this section.

SUBTITLE B—RAIL DEVELOPMENT

SEC. 651. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V is amended by inserting after chapter 243 the following:

"CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

"Sec.
"24401. Definitions
"24402. Capital investment grants to support intercity passenger rail service
"24403. Project management oversight
"24404. Operating expenses
"24405. Local share and maintenance of effort
"24406. Grants for maintenance and modernization

"§24401. Definitions

"In this chapter:

"(1) APPLICANT.—The term 'applicant' means a State, a group of States, including an Interstate Compact formed under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note), or a public corporation, board, commission, or agency established by one or more States designated as the lead agency of a State for providing intercity passenger rail service.

"(2) CAPITAL PROJECT.—The term 'capital project' means a project for—

"(A) acquiring or constructing equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, inspecting, supervising, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), alternatives analysis related to the development of such train services, capacity improvements on the property over which the service will be conducted, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements or closures on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

"(B) rehabilitating or remanufacturing rail rolling stock and associated facilities used primarily in intercity passenger rail service;

"(C) leasing equipment or a facility for use in intercity passenger rail service, subject to regulations (to be prescribed by the Secretary of Transportation) limiting such leasing arrangements to arrangements that are more cost-effective than purchase or construction;

"(D) modernizing existing intercity passenger rail service facilities and information systems;

"(E) the introduction of new technology, through innovative and improved products, other than magnetic levitation; or

"(F) defraying, with respect to new service established under section 24402, the cost of rental charges to freight railroads.

"(3) INTERCITY CORRIDOR PASSENGER RAIL SERVICE.—The term 'intercity corridor passenger rail service' means the transportation of passengers between major metropolitan areas by rail, including high-speed rail (as defined in section 26105(2) of this title), in corridors of 300 miles or less in length with trip times of 4 hours or less, and multiple frequencies daily.

"(4) NET PROJECT COST.—The term 'net project cost' means that portion of the cost of a project than cannot be financed from revenues reasonably expected to be generated by the project.

"§24402. Capital investment grants to support new intercity passenger rail service

"(a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing capital investments for new high-speed intercity passenger rail service, the establishment of new, conventional services, or the expansion of existing high-speed or conventional service by adding additional frequencies.

"(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and pro visions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

"(3) APPLICATION WITH CHAPTER 53.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

"(b) PROJECT AS PART OF APPROVED PROGRAM.—

"(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 135 of title 23 and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

"(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

"(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

"(4) RAIL AGREEMENT.—The Secretary of Transportation may not approve a grant under this section unless the applicant demonstrates that the railroad or railroads over which the intercity passenger rail service will operate concur with the applicant's operating plans and infrastructure improvement requirements.

"(c) CRITERIA FOR GRANTS FOR INTERCITY CORRIDOR PASSENGER RAIL PROJECTS.—

"(1) IN GENERAL.—The Secretary may approve a grant under this section for a capital project only if the Secretary determines that the proposed project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

"(C) supported by an acceptable degree of State and local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

"(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

"(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall—

"(A) consider the direct and indirect costs of relevant alternatives;

"(B) consider the ability of the service to compete with other modes of transportation;

"(C) consider the extent to which the project fills an unmet transportation need;

"(D) consider the ability of the service to fund its operating expenses from fare revenues;

"(E) consider population density in the corridor;

"(F) consider the technical capability of the grant recipient to construct the project;

"(G) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigating cost increases necessary to carry out each alternative analyzed;

"(H) consider the level of private sector financial participation and risk sharing in the project;

"(I) adjust the project justification to reflect differences in local land, construction, and operating costs; and

"(J) consider other factors that the Secretary determines appropriate to carry out this chapter.

"(4) LOCAL FINANCIAL COMMITMENT.—

"(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed State or local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and “(iii) State or local resources are available to operate the proposed service.

“(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

“(i) existing grant commitments;

“(ii) the degree to which financing sources are dedicated to the purposes proposed;

“(iii) any debt obligation that exists or is proposed by the applicant for the proposed project or other intercity passenger rail service purpose; and

“(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

“(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required under this subsection.

“(6) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as ‘highly recommended’, ‘recommended’, or ‘not recommended’, based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (5).

“(7) PULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

“(d) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

“(1) LETTER OF INTENT.—

“(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

“(B) At least 60 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

“(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

“(D) An obligation or administrative commitment may be made only when amounts are appropriated.

“(2) FULL FUNDING AGREEMENT.—

“(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

“(i) establish the terms of participation by the United States Government in a project under this section;

“(ii) establish the maximum amount of Government financial assistance for the project, which, with respect to a high-speed rail project, shall be sufficient to complete at least an operable segment;

“(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

“(iv) make timely and efficient management of the project easier according to the law of the United States.

“(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(3) EARLY SYSTEMS WORK AGREEMENT.—

“(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(i) a full funding grant agreement for the project will be made; and

“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

“(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this section, when combined with obligations under section 5309 of this title, may be not more than the amount authorized under section 5338(b) of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

“(e) FEDERAL SHARE OF NET PROJECT COST.—

“(1) IN GENERAL.—

“(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

“(B) A grant for the project may be for up to 50 percent of the net project cost. The remainder shall be provided in cash from non-Federal sources.

“(f) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) IN GENERAL.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

“(A) the applicant applies for the payment.

“(B) the Secretary approves the payment; and

“(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

“(2) INTEREST COSTS.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

“(3) USE OF COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

“(g) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for purposes of this section—

“(A) $525,000,000 for fiscal year 2006.

“(B) $550,000,000 for fiscal year 2007.

“(C) $675,000,000 for fiscal year 2008.

“(D) $750,000,000 for fiscal year 2009, and

“(E) $800,000,000 for fiscal year 2010, such sums to remain available until expended.

“§ 24403. Project management oversight

“(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

"(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

"(3) a construction schedule for the project;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

"(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

"(8) material testing policies and procedures;

"(9) internal plan implementation and reporting requirements,

"(10) criteria and procedures to be used for testing the operational system or its major components;

"(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

"(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

"(b) Plan Approval.—

"(1) 60-day decision.—The Secretary shall approve or disapprove a plan not later than 60 days after it is submitted. If the approval process cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

"(2) Explanation of disapproval.—If the Secretary disapproves a plan, the Secretary shall inform the applicant of the reasons for disapproval of the plan.

"(c) Secretarial Oversight.—

"(1) In general.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

"(2) Use of funds.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

"(3) Federal share.—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

"(d) Access to Sites and Records.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

"(e) Regulations.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

"(1) a definition of 'major capital project' for this section;

"(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight; and

"(3) a formula based on infrastructure ownership, boardings, and passenger-miles traveled in the prior fiscal year by which the funds authorized for modernization of existing services will be allocated among the States; and

"(4) a requirement that, if a State does not apply for its share of formula grant funds under paragraph (3) of this subsection in a timely manner, those funds will be made available to other States.

"(f) Financial Plan.—A recipient of financial assistance for a project under this section with an estimated total cost of $100,000,000, or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"§ 24404. Operating expenses

"The Secretary of Transportation may not make grants under this chapter for operating expenses.

"§ 24405. Local share and maintenance of effort

"(a) In General.—Notwithstanding any other provision of law, a recipient of assistance under this title may use, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds.

"(b) Maintenance of Effort.—The Secretary of Transportation shall approve the use of proceeds from the issuance of revenue bonds for the non-Federal share of the net project cost only if the aggregate amount of financial support for intercity passenger rail service from the State is not less than the average annual amount provided by the State during the preceding 3 years.

"§ 24406. Grants for maintenance and modernization

"(a) In General.—The Secretary of Transportation may make capital grants for maintenance and modernization of intercity passenger rail services to—

"(1) the American Passenger Railway Corporation for services it operates under contract with the Secretary of Transportation; or

"(2) to States for intercity passenger rail services operated under a contract with a State or group of States.

"(b) Use of Funds.—Grants under this section may be used—

"(1) to purchase, lease, rehabilitate, or remanufacture rolling stock and associated facilities used primarily in intercity passenger rail service;

"(2) to modernize existing intercity passenger rail service facilities and information systems; or

"(3) to defray the cost of rental charges to freight railroads for the addition of train frequencies.

"(c) Federal Share.—The Federal share for a capital grant under this section may be 100 percent, except that the Federal share for a grant made under subsection (b)(3) may not exceed 50 percent.

"(d) Allocation Formula.—Funds made available by this section shall be allocated equitably among the States based on a formula to be determined by the Secretary.

"(e) Sleeping and Dining Cars.—Pending the restructuring of long distance routes under sections 615 through 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, grants may be made to the American Passenger Railway Corporation for sleeping and dining cars only to the extent necessary to maintain the equipment in good working order and not for the purpose of refurbishing, rebuilding, or renewing such equipment to extend the equipment's useful life.

"(f) Long Distance Restructuring Plan.—Unless the restructuring plan submitted by the Long Distance Route Restructuring Commission under section 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act is disapproved by Congress, from the sums authorized for capital projects outside of the Northeast Corridor, the Secretary may reserve up to $20,000,000 in each of fiscal years 2007 through 2010 to assist in the restructuring of long distance routes as linked corridors, and the Federal share of such assistance shall be 100 percent.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation $200,000,000 for each of fiscal years 2005 through 2010 to carry out this section.".

SEC. 652. FINAL REGULATIONS ON APPLICATIONS BY STATES FOR DEVELOPMENT GRANTS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations setting forth procedures for application and minimum requirements for the award of grants under chapter 244 of title 49, United States Code.

SEC. 653. AUTHORITY FOR INTERSTATE COMPACTS FOR CORRIDOR DEVELOPMENT.

(a) Consent to Compacts.—

(1) 2 or more States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) may enter into interstate compacts to implement the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of rolling stock; and

(iii) operational improvements, including communications, signals, and other systems.

(2) A compact entered into under the authority of this section shall be submitted to Congress for its consent. It is the sense of Congress that rapid consent to the Compact is a priority for the Congress.

(b) Financing.—

(1) An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(2) Bonds and other indebtedness incurred under the authority of this subsection shall under no circumstances be backed by the full faith and credit of the United States.

Subtitle C—Amtrak Reforms

SEC. 671. MANAGEMENT OF SECURED DEBT.

Except as approved by the Secretary of Transportation to refinance existing secured debt, Amtrak (until the American Passenger Railway Corporation is established) and the American Passenger Railway Corporation thereafter, may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used for working capital purposes.

SEC. 672. EMPLOYEE ASSISTANCE.

(a) Transition Financial Incentives.—

(1) In general.—To reduce operating expenses in preparation for competition from other rail carriers, the American Passenger Railway Corporation may institute a program under which it may, at its discretion, provide financial incentives to employees who voluntarily terminate their employment with the Corporation and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation.

(2) Conditions for financial incentives.—As a condition for receiving financial assistance grants under this section, the American Passenger Railway Corporation shall certify to the Secretary of Transportation that—

(A) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(B) the financial assistance results in a net reduction in total employment expenses equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(C) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(3) Amount of financial incentives.—The financial incentives authorized under this section may not exceed 1 year's base pay.

(4) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Transportation $25,000,000 for each of fiscal years 2005, 2006, and 2007 to make grants to the American Passenger Railway Corporation to fund financial incentive payments to employees under this subsection.

(b) Labor Protection for Employees of the American Passenger Railway Corporation.—

(1) In general.—The American Passenger Railway Corporation, or other operator of intercity passenger rail transportation service, shall be responsible for obligations imposed by law or collective bargaining agreement for compensation and benefits payable to employees terminated in connection with the restructuring of passenger rail service under this title and the amendments made by this title. The responsibility of the Corporation and such other operator under the preceding sentence, and the obligations for which it is responsible under that sentence, may not be transferred to any other entity in connection with such restructuring by contract or otherwise.

(2) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Transportation for the use of the American Passenger Railway Corporation in meeting its responsibility under paragraph (1) $75,000,000 for each of fiscal years 2007 through 2010.

SEC. 673. TERMINATION OF AUTHORITY FOR GSA TO PROVIDE SERVICES TO AMTRAK.

Section 1110 of division A of H.R. 5666 (114 Stat. 2763A–202), as enacted by section 1(a)(4) of the Consolidated Appropriations Act, 2001, is repealed.

SEC. 674. AMTRAK REFORM BOARD OF DIRECTORS.

Section 24302 is amended by adding at the end the following:

"(d) Asset Transition Committee.—

"(1) In general.—The Reform Board shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

"(2) Powers and duties.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

"(A) the contractual right of access of Amtrak to rail lines of other railroads;

"(B) Amtrak's secured debt;

"(C) Northeast Corridor real property and assets; and

"(D) rolling stock.

"(3) Approval required.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit Amtrak management action with regard to those assets, that is not approved by the asset transition committee.".

SEC. 675. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) In General.—Chapter 243, as amended by section 627 of this Act is amended by inserting after section 24318 the following:

"§ 24319. Limitations on availability of grants

"Grants under this title to the American Passenger Railway Corporation are subject to the following conditions:

"(1) The Secretary of Transportation may approve funding to cover operating losses or operating expenses (including advance purchase orders) only after receiving and approving a grant request for each specific train route to which the grant relates.

"(2) Each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure program justifying the Federal support to the Secretary's satisfaction.

"(3) Not later than December 31st prior to each fiscal year in which grants are made to the American Passenger Railway Corporation, the Corporation shall transmit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) of this title.

"(4) The business plan shall include—

"(A) targets, as applicable, for ridership, revenues, and capital and operating expenses;

"(B) a separate accounting for such targets—

"(i) on the Northeast Corridor;

"(ii) each intercity train route:

"(iii) as a group for long distance trains and corridor services; and

"(iv) commercial activities, including contract operations and mail and express; and

"(C) a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

"(5) Each month of each fiscal year in which grants are made to the American Passenger Railway Corporation, the Corporation shall submit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a supplemental report in electronic format regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

"(6) None of the funds authorized by this subtitle or the Rail Passenger Service Restructuring, Reauthorization, and Development Act may be disbursed to the American Passenger Railway Corporation for operating expenses, including advance purchase orders and capital projects not approved by the Secretary nor in the American Passenger Railway Corporation's business plan.

"(7) The American Passenger Railway Corporation shall display the business plan and all subsequent supplemental plans on its website within a reasonable time after they are submitted to the Secretary and the Congress under this section.

"(8) The Secretary may not make any grant to the American Passenger Railway Corporation until Amtrak agrees to continue abiding by the provisions of paragraphs (1), (2), (5), (9), and (11) of the summary of conditions on the direct loan agreement of June 28, 2002, until the loan is repaid.

"(9) No grant authorized by this title shall be made to the American Passenger Railway Corporation unless, within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Corporation prepares a capital spending plan that addresses capital needs, consistent with the funding levels authorized to bring the Northeast Corridor capital assets to a state of good repair, as defined by the Secretary, and transmits that plan to the Secretary.

"(10) With respect to any route on which intercity passenger rail service is provided on the day before the date on which the restructuring required by sections 24300, 24300A, and 24300B is completed (as determined by the Secretary), the American Passenger Railway Corporation shall make available to any replacement operator the legacy equipment that is associated with the service on the route.

(11) The American Passenger Railway Corporation shall provide interline reservations services to any other provider of intercity passenger rail transportation on the same basis and at the same rates as those services are provided to the operating entities that provide passenger rail service within Amtrak as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act".

(b) Interim Application of Section 24319.—Until the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed (as determined by the Secretary of Transportation), section 24319 of title 49, United States Code, as added by subsection (a), shall be applied by substituting "Amtrak" for "American Passenger Railway Corporation" or "the Corporation" each place it appears.

(c) Conforming Amendment.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24318 the following:

"24319. Limitations on availability of grants".

SEC. 676. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) In General.—The following sections are repealed:

(1) Section 24701.
(2) Section 24706.
(3) Section 24901.
(4) Section 24902.
(5) Section 24904.
(6) Section 24906.
(7) Section 24909.

(b) AMENDMENT OF SECTION 24305.—Section 24305 is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2); and

(2) by inserting "With regard to items acquired with funds provided by the Federal Government," before "Amtrak" in subsection (f)(2).

(c) CONFORMING AMENDMENTS.—The chapter analyses for chapters 243, 247, and 249 are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

SEC. 677. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR THE AMERICAN PASSENGER RAILWAY CORPORATION BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant—

(1) to assess Amtrak's financial accounting and reporting system and practices as of the date of enactment of this Act,

(2) to design and assist the American Passenger Railway Corporation in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable the American Passenger Railway Corporation to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(C) SEPARATE FINANCIAL STATEMENTS FOR NORTHEAST CORRIDOR INFRASTRUCTURE.—Beginning with fiscal year 2006, the American Passenger Railway Corporation shall issue separate financial statements for activities related to the infrastructure of the Northeast Corridor.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2.500.000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 678. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, shall restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2009.

(c) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2009 to restructure or redeem Amtrak's secured debt.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $110,000,000.
(B) For fiscal year 2006, $115,000,000.
(C) For fiscal year 2007, $205,000,000.
(D) For fiscal year 2008, $165,000,000.
(E) For fiscal year 2009, $155,000,000.
(F) For fiscal year 2010, $150,000,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $155,000,000.
(B) For fiscal year 2006, $150,000,000.
(C) For fiscal year 2007, $140,000,000.
(D) For fiscal year 2008, $130,000,000.
(E) For fiscal year 2009, $125,000,000.
(F) For fiscal year 2010, $115,000,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

(g) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under subsection (f) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 679. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak for fiscal year 2005 $750,000,000 for operating expenses.

SA 2325. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 476, line 18, strike the period and the closing quotation marks and insert the following:

"§ 512. Transportation Analysis Simulation System

"(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

"(1) The Secretary shall continue the development and deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS'" developed by the Los Alamos National Laboratory.

"(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

"(A) further improve TRANSIMS to reduce the cost and complexity of using the model;

"(B) continue development of TRANSIMS for applications to transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

"(C) assist State departments of transportation and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance;

"(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section to—

"(1) further develop TRANSIMS for additional applications, including congestion analyses, major investment studies, economic impact analyses, alternative analyses, freight movement studies, emergency evacuation studies, port studies, and airport access studies;

"(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

"(3) develop methods to simulate the national transportation infrastructure as a single, integrated system of the movement of people and goods; and

"(4) provide funding to state transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

"(c) Allocation of Funds.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent of the funds shall be allocated to activities in subsection (b)(3).

"(d) Funding.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible and Efficient Transportation Act of 2003 for each of fiscal years 2004 through 2009, the Secretary shall use $6,000,000 to carry out this section.

"(e) Availability of Funds.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary of Transportation.".

SA 2326. Mr. BINGAMAN (for himself and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended—

(1) in paragraph (1), by inserting "(except Arizona)" after "each State"; and

(2) in paragraph (5)(A), by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2004 through 2009".

SA 2327. Mr. BOND proposed an amendment to amendment SA 2311 proposed by Mrs. Clinton (for herself, Mr. Bingaman, Mr. Byrd, Mr. Dodd, Mr. Sarbanes, Mr. Corzine, Mr. Lieberman, Mr. Rockefeller, Mr. Harkin, and Ms. Stabenow) to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) In General.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

"(a) In General.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

"(b) Construction.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

"(c) Applicability and Effective Date.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

"(d) Definitions.—In this section:

"(1) Motor vehicle.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

"(2) Owner.—The term 'owner' means a person who is—

"(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

"(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

"(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

"(3) Person.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

"(4) State.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

"30106. Rented or leased motor vehicle safety and responsibility.".

SA 2328. Mr. DeWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, between lines 15 and 16, insert the following:

Part 3—Miscellaneous Provisions

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) National Office of Driver Licensing and Education.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

"(2) The head of the National Office of Driver Licensing and Education is the Director.

"(3) The functions of the National Office of Driver Licensing and Education are as follows:

"(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

"(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

"(i) vehicle handling and crash avoidance;

"(ii) driver behavior and risk reduction;

"(iii) roadway features and associated safety implications;

"(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

"(v) parent education; and

"(vi) other issues identified by the Director.

"(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

"(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

"(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

"(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

"(G) To provide States with financial assistance under section 412 of title 23 for—

"(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

"(ii) the establishment or improved administration of multistage graduated licensing systems; and

"(iii) the support of other improvements in motor vehicle driver education and licensing programs.

"(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

"(I) To examine different options for delivering driver education in the States.

"(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

"(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).".

(b) Grant Program for Improvement of Driver Education and Licensing.—

(1) Authority.—

(A) In general.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 412. DRIVER EDUCATION AND LICENSING.

"(a) Authority.—

"(1) In general.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

"(2) Administrative office.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) Eligibility Requirements.—

"(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

"(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

"(i) driver licensing and education programs;

"(ii) instructor certification testing; and

"(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

"(B) Improvement of motor vehicle driver education curricula.

"(C) Training of instructors for motor vehicle driver education programs.

"(D) Testing and evaluation of motor vehicle driver performance.

"(E) Public education and outreach regarding motor vehicle driver education and licensing.

"(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

"(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Other relevant experts.

"(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.".

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"412. Driver education and licensing.".

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(3) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out section 412 of title 23, United States Code (as added by paragraph (1)).

(c) GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

"SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

"(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

"(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Representatives of private sector organizations recognized for relevant expertise.".

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"413. Organ donation through driver licensing.".

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(3) AUTHORIZATION OF EXPENDITURES.—Of the amounts available under Section 412(c)(3), as amended, no more than $1,000,000 may be utilized for this program annually.

(d) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

"(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

"(A) frontal impact crash test ratings are based on risk of head and chest injury;

"(B) side impact crash test ratings are based on risk of chest injury; and

"(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

"(3) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

"(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements added pursuant to subsection (a).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking "and" after the semicolon; and

(2) in subsection (f)—

(A) by adding "and" at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and subsection (c) shall take effect on a production year basis not earlier than one year after the regulations are prescribed, and no later than Sept. 1, 2006.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available

to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39. Traffic signal preemption transmitters

"(a) OFFENSES.—

"(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

"(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

"(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

SA 2329. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, after line 13, insert the following:

"(iii) $50,000,000 to the State of California to be used for the seismic retrofit and homeland security protection of the Golden Gate Bridge, San Francisco, California.

SA 2330. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—BORDER SECURITY PROVISIONS

SEC. 7101. SECURE AND FAST ENTRY AT THE BORDER.

(a) SHORT TITLE.—This section may be cited as the "Secure and Fast Entry at the Border Act of 2004" or the "SAFE Border Act of 2004" .

(b) PORTPASS PROGRAM.—

(1) FINDINGS.—Congress finds the following:

(A) Port Passenger Accelerated Service System (PortPASS) is a group of pre-inspection technology programs used at ports of entry to facilitate the speedy passage of low-risk travelers.

(B) Ports of entry constitute vital links in our Nation's economic and social life.

(C) Southern and northern land border inspections combined comprise over 80 percent of the total number of inspections performed at all ports of entry.

(D) PortPASS programs strengthen our borders without impeding legitimate traffic needed for our Nation's economic health.

(E) Secure Electronic Network for Travelers Rapid Inspection (SENTRI), a PortPASS program, incorporates an extensive screening process to move pre-screened, low-risk travelers quickly and safely through the inspection process while preserving border security. There are currently over 45,000 SENTRI participants.

(F) PortPASS programs must expand their existing infrastructure to meet border management issues. The success and effectiveness of the programs demonstrate they are deserving of increased resource allocation to meet growth and security challenges.

(2) AMENDMENT TO IMMIGRATION AND NATIONALITY ACT.—Section 286(q)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(q)(1)(A)) is amended adding at the end the following:

"(iv) The Port Passenger Accelerated Service System (PortPASS) is authorized as a permanent land border inspection project under this subparagraph.".

(3) SENTRI PARTICIPATION APPROVALS.

(A) EXTENSION OF VALIDITY OF SENTRI APPROVALS FOR PARTICIPATION.—Notwithstanding any other provision of law, and beginning not later than 30 days after the date of enactment of this Act, approval shall be issued for participation in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), carried out by the Bureau of Citizenship and Immigration Services within the Department of Homeland Security, for non-commercial vehicle border crossers. Such approval shall be valid for not less than 2 years.

(B) PRECLUSION OF CERTAIN PERSONS.—Any person convicted of a felony or under active criminal investigation shall be prohibited from participating in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program.

(4) SENSE OF CONGRESS.—It is the sense of the Congress that—

(A) the Department of Homeland Security must ensure the permanence of the Port Passenger Accelerated Service System (PortPASS) in the transition of PortPASS from the Department of Justice to the Department of Homeland Security;

(B) all land PortPASS programs should utilize interoperable technology to offer program enrollees increased access at all participating dedicated commuter lanes;

(C) the Secretary of Homeland Security should—

(i) appoint dedicated staff with appropriate training and instruction to the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program;

(ii) increase staffing under the SENTRI program for actual inspections and necessary administrative tasks; and

(iii) allocate greater resources to the program to facilitate and expedite the processing of applications for SENTRI; and

(D) the Secretary of Homeland Security should create a pre-inspection low-risk traveler dedicated commuter lane for pedestrian land border crossers.

SA 2331. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 460, strike line 18 and all that follows through page 462, line 24, and insert the following:

"(2) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

"(A) comply with applicable requirements under subsection (c); and

"(B) be located at the institutions of higher learning specified in paragraph (3).

"(3) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

"(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

"(B) GROUP B.—Group B shall consist of the following:

"(i) [ ].
"(ii) [ ].
"(iii) [ ].
"(iv) [ ].
"(v) [ ].
"(vi) [ ].
"(vii) [ ].
"(viii) [ ]
"(ix) [ ].
"(x) [ ].
"(xi) [ ].

"(C) GROUP C.—Group C shall consist of the following:

"(i) [ ].
"(ii) [ ].
"(iii) [ ].
"(iv) [ ].
"(v) [ ].
"(vi) [ ].
"(vii) [ ].
"(viii) [ ].
"(ix) [ ].
"(x) [ ].
"(xi) [ ].

"(D) GROUP D.—Group D shall consist of the following:

"(i) [ ].
"(ii) [ ].
"(iii) [ ].
"(iv) [ ].
"(v) [ ].
"(vi) [ ].
"(vii) [ ].
"(viii) [ ].

SA 2332. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, strike lines 13 through 23 and insert the following:

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

(b) VEGETATION CONTROL.—To lower operating expenses and improve safety during road construction, rehabilitation, and maintenance, the Secretary shall strongly encourage State departments of transportation and local transportation authorities to use devices that have been approved by the Federal Highway Administration to control vegetation near structures in the rights-of-way of highways.

SA 2333. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

"(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.".

SA 2334. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 893, between lines 23 and 24, insert the following:

"(C) RESPONSIBILITY OF STATES.—

"(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds with the State under this section have emission reduction strategies for fleets of vehicles that are—

"(I) used in construction projects located in nonattainment and maintenance areas; and

"(II) funded under this title.

"(ii) REQUIREMENTS FOR STRATEGIES.—The emission reduction strategies referred to in clause (i) shall be consistent with guidance developed by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, including guidance on—

"(I) contract preferences;

"(II) requirements for the use of anti-idling equipment;

"(III) diesel retrofits; and

"(IV) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

"(iii) USE OF CMAQ FUNDS.—A State may use funds made available for the congestion mitigation and air quality program to ensure the deployment of the emission reduction strategies described in clause (i).

SA 2335. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SECTION 1. TAX TREATMENT OF STATE ACQUISITION OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State acquires all of the outstanding stock of a real estate investment trust which is a non-operating class III railroad and substantially all of the activities of which consist of the ownership, leasing, and operation by such trust of facilities, equipment, and other property used by the trust or other persons in railroad transportation, then, for purposes of section 115 of the Internal Revenue Code of 1986—

(1) such activities shall be treated as the exercise of an essential governmental function, and

(2) income derived from such activities shall be treated as accruing to the State.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986, no gain or less shall be recognized under section 336 or 337 of such Code because of the change of status of the real estate investment trust to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—Any obligation issued by the entity described in subsection (a) shall be treated as an obligation of the State for purposes of applying section 103 and part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986.

(d) DEFINITIONS.—For purposes of this section—

(1) REAL ESTATE INVESTMENT TRUST.—The term "real estate investment trust" has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term "non-operating class III railroad" has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.) and the regulations thereunder.

(3) STATE.—The term "State" includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—This section shall apply on and after the date of any acquisition described in subsection (a).

SA 2336. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

SA 2337. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

SA 2338. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) INCREASE FOR FUEL EFFICIENCY.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

"(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

"(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

"(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750

“If percentage of the maximum available power is:	The credit amount is:
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

“(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

“If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

“(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

“If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

“(B) INCREASE FOR FUEL EFFICIENCY.—

“(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

“(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

“(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

“(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

“(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

“(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

“(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

“(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

“(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

“(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

“If the model year is:	The increased credit amount is:
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

“(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

“If the model year is:	The increased credit amount is:
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

“(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

“If the model year is:	The increased credit amount is:
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

“(D) DEFINITIONS.—

“(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term ‘applicable heavy duty hybrid motor vehicle’ means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

“(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term ‘heavy duty hybrid motor vehicle’ means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

“(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower-hour of oxides of nitrogen and 0.01 per brake horsepower-hour of particulate matter.

“(II) A rechargeable energy storage system.

“(iii) MAXIMUM AVAILABLE POWER.—

“(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

“(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

“(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

“(A) which draws propulsion energy from onboard sources of stored energy which are both—

“(i) an internal combustion or heat engine using combustible fuel, and

“(ii) a rechargeable energy storage system,

“(B) which, in the case of a passenger automobile or light truck—

“(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(C) the original use of which commences with the taxpayer,

“(D) which is acquired for use or lease by the taxpayer and not for resale, and

“(E) which is made by a manufacturer.

“(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

“(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

“(A) 40 percent, plus

“(B) 30 percent, if such vehicle—

“(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

“(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

“(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

“(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(4)NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified alternative fuel motor vehicle’ means any motor vehicle—

“(i) which is only capable of operating on an alternative fuel,

“(ii) the original use of which commences with the taxpayer, "(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(f)(5).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3)".

(3) Section 6501(m) is amended by inserting "30B(f)(10)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

"(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(ii) $1,500.

"(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) $3,500, or

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.", and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(3) Section 55(c)(2), as amended by this Act, is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "BATTERY" after "QUALIFIED".

(C) The heading of section 30 is amended by inserting "**battery**" after "**qualified**".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B), as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen)",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) CONFORMING AMENDMENTS.—(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e)".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	**The applicable amount is—**
2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) SOLD AT RETAIL.—

"(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the alternative fuel retail sales credit determined under section 40A(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SA 2339. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 5442.

SA 2340. Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

Subtitle H—Build America Bonds

SEC. 5671. SHORT TITLE; ETC.

(a) SHORT TITLE.—This subtitle may be cited as the "Build America Bonds Act of 2004".

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 5672. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Our Nation's highways, public transportation systems, and rail systems drive our economy, enabling all industries to achieve growth and productivity that makes America strong and prosperous.

(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.

(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.

(4) The construction of infrastructure requires the skills of numerous occupations, including those in the contracting, engineering, planning and design, materials supply, manufacturing, distribution, and safety industries.

(5) Investing in transportation infrastructure creates long-term capital assets for the Nation that will help the United States address its enormous infrastructure needs and improve its economic productivity.

(6) Investment in transportation infrastructure creates jobs and spurs economic activity to put people back to work and stimulate the economy.

(7) Every billion dollars in transportation investment has the potential to create up to 47,500 jobs.

(8) Every dollar invested in the Nation's transportation infrastructure yields at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.

(9) The proposed increases to the Transportation Equity Act for the 21st Century (TEA-21) will not be sufficient to compensate for the Nation's transportation infrastructure deficit.

(b) PURPOSE.—The purpose of this subtitle is to provide financing for long-term infrastructure capital investments that are not currently being met by existing transportation and infrastructure investment programs, including mega-projects, projects of national significance and high priority projects, multi-State transportation corridors, intermodal transportation facilities, replacement and reconstruction of deficient and obsolete bridges, interstate highways, public transportation systems, and rail systems.

SEC. 5673. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Build America Bonds

"Sec. 54. Credit to holders of Build America bonds.

"SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Build America bond is 25 percent of the annual credit determined with respect to such bond.

"(2) Annual credit.—The annual credit determined with respect to any Build America bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) Applicable credit rate.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

"(4) Credit allowance date.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(5) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(e) Build America Bond.—For purposes of this part, the term 'Build America bond' means any bond issued as part of an issue if—

"(1) the net spendable proceeds from the sale of such issue are to be used—

"(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

"(B) for deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

"(2) the bond is issued by the Transportation Finance Corporation, is in registered form, and meets the Build America bond limitation requirements under subsection (g),

"(3) the Transportation Finance Corporation certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

"(4) the Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l),

"(5) except for bonds issued in accordance with subsection (g)(6), the term of each bond which is part of such issue does not exceed 30 years,

"(6) the payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

"(7) with respect to bonds described in paragraph (1)(A), the issue meets the requirements of subsection (h) (relating to arbitrage).

"(f) Qualified Project.—For purposes of this section—

"(1) In general.—The term 'qualified project' means any—

"(A) qualified highway project,

"(B) qualified public transportation project, and

"(C) congestion relief project,

proposed by 1 or more States and approved by the Transportation Finance Corporation.

"(2) Qualified highway project.—The term 'qualified highway project' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

"(3) Qualified public transportation project.—The term 'qualified public transportation project' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

"(4) Congestion relief project.—The term 'congestion relief project' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

"(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

"(B) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

"(g) Limitation on Amount of Bonds Designated; Allocation of Bond Proceeds.—

"(1) National limitation.—There is a Build America bond limitation for each calendar year. Such limitation is—

"(A) with respect to bonds described in subsection (e)(1)(A),

"(i) $11,000,000,000 for 2004,

"(ii) $16,000,000,000 for 2005,

"(iii) $16,000,000,000 for 2006,

"(iv) $6,000,000,000 for 2007,

"(v) $3,500,000,000 for 2008,

"(vi) $3,500,000,000 for 2009, and

"(vii) except as provided in paragraph (5), zero thereafter, plus

"(B) with respect to bonds described in subsection (e)(1)(B), such amount each calendar year as determined necessary by the Transportation Finance Corporation to provide funds in the Build America Trust Account for the repayment of Build America bonds at maturity.

"(2) Congestion relief projects.—From Build America bonds issued under the annual limitation in paragraph (1)(A), $1,000,000,000 of net spendable proceeds shall be reserved for each of the calendar years 2004, 2005, 2006, 2007, 2008, and 2009 for allocation to congestion relief projects.

"(3) Allocation of bonds for highway and public transportation purposes.—Except with respect to qualified projects described in subsection (j)(3), and subject to paragraphs (2) and (4)—

"(A) Qualified highway projects.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 80 percent of the net spendable proceeds to the States for qualified highway projects in the following manner:

"(i) 50 percent of such allocation shall be in accordance with the formulas for apportioning funds under sections 104(b) and 144 of title 23, United States Code.

"(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

"(B) Qualified public transportation projects.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 20 percent of the net spendable proceeds to the States for qualified public transportation projects in the following manner:

"(i) 50 percent of such allocation shall be in accordance with the distribution of public transportation formula grants under sections 5307, 5308, 5310, 5311, and 5327 of title 49, United States Code.

"(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

"(4) Minimum allocations to States.—In making allocations for each calendar year under paragraph (3), the Transportation Finance Corporation shall ensure that the amount allocated for qualified projects located in each State for such calendar year is not less than 1 percent of the total amount allocated for such year.

"(5) Carryover of unused issuance limitation.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Build America bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of Build America bonds.

"(6) Issuance of small denomination bonds.—From the Build America bond limitation for each year, the Transportation Finance Corporation shall issue a limited quantity of Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America's infrastructure.

"(h) Special Rules Relating to Arbitrage.—

"(1) In general.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Transportation Finance Corporation reasonably expects—

"(A) to spend at least 85 percent of the net spendable proceeds from the sale of the issue for 1 or more qualified projects within the 5-year period beginning on such date,

"(B) to incur a binding commitment with a third party to spend at least 10 percent of the net spendable proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 12-month period beginning on such date, and

“(C) to proceed with due diligence to complete such projects and to spend the net spendable proceeds from the sale of the issue.

“(2) SPENT PROCEEDS.—Net spendable proceeds are considered spent by the Transportation Finance Corporation when a sponsor of a qualified project obtains a reimbursement from the Transportation Finance Corporation for eligible project costs.

“(3) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at least 85 percent of the net spendable proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if the Transportation Finance Corporation uses all unspent net spendable proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period.

“(4) REALLOCATION.—In the event the recipient of an allocation under subsection (g) fails to demonstrate to the satisfaction of the Transportation Finance Corporation that its actions will allow the Transportation Finance Corporation to meet the requirements under this subsection, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

“(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

“(1) IN GENERAL.—If any bond which when issued purported to be a Build America bond ceases to be such a qualified bond, the Transportation Finance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

“(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

“(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

“(2) FAILURE TO PAY.—If the Transportation Finance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

“(3) SPECIAL RULES.—

“(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

“(i) the amount of any credit allowable under this part, or

“(ii) the amount of the tax imposed by section 55.

“(j) BUILD AMERICA TRUST ACCOUNT.—

“(1) IN GENERAL.—The following amounts shall be held in a Build America Trust Account by the Transportation Finance Corporation:

“(A) The proceeds from the sale of all bonds issued under this section.

“(B) The amount of any matching contributions with respect to such bonds.

“(C) The investment earnings on proceeds from the sale of such bonds.

“(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

“(2) USE OF FUNDS.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Transportation Finance Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

“(3) USE OF REMAINING FUNDS IN BUILD AMERICA TRUST ACCOUNT.—Upon the redemption of all Build America bonds issued under this section, any remaining amounts in the Build America Trust Account shall be available to the Transportation Finance Corporation to pay the costs of any qualified project.

“(4) COSTS OF QUALIFIED PROJECTS.—For purposes of this section, the costs of qualified projects which may be funded by amounts in the Build America Trust Account may only relate to capital investments in depreciable assets and may not include any costs relating to operations, maintenance, or rolling stock.

“(5) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

“(A) funds made available under the Build America Trust Account for similar qualified projects, including contributions required under subsection (k), and

“(B) similar qualified projects assisted by the Transportation Finance Corporation through the use of such funds.

“(6) INVESTMENT.—It shall be the duty of the Transportation Finance Corporation to invest in investment grade obligations such portion of the Build America Trust Account as is not, in the judgment of the Board of Directors of the Transportation Finance Corporation, required to meet current withdrawals. Such investments may be made in State and local transportation bonds.

“(k) STATE CONTRIBUTION REQUIREMENTS.—

“(1) IN GENERAL.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to any qualified project if the Transportation Finance Corporation has received from 1 or more States, not later than the date of issuance of the bond, written commitments for matching contributions of not less than 20 percent of the cost of the qualified project.

“(2) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

“(l) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (e)(4), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

“(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section

“(1) ADMINISTRATIVE COSTS.—The term ‘administrative costs’ shall only include costs of issuance of Build America bonds and operation costs of the Transportation Corporation.

“(2) BOND.—The term ‘bond’ includes any obligation.

“(3) NET SPENDABLE PROCEEDS.—The term ‘net spendable proceeds’ means the proceeds from the sale of any Build America bond issued under this section reduced by not more than 5 percent of such proceeds for administrative costs.

“(4) STATE.—The term ‘State’ shall have the meaning given such term by section 101 of title 23, United States Code.

“(5) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the net spendable proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Transportation Finance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions which may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

“(6) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

“(7) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

“(8) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

“(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

“(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

“(9) CREDITS MAY BE TRANSFERRED. Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

“(10) REPORTING.—The Transportation Finance Corporation shall submit reports similar to the reports required under section 149(e).

“(11) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, no funds derived from the

Highway Trust Fund established under section 9503 shall be used to pay costs associated with the Build America bonds issued under this section.".

(b) Amendments to Other Code Sections.—

(1) Reporting.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) Reporting of credit on build america bonds.—

"(A) In general.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) Reporting to corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) Regulatory authority.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) Treatment for estimated tax purposes.—

(A) Individual.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Special Rule for Holders of Build America Bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(B) Corporate.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

"(5) Special rule for holders of build america bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(c) Clerical Amendments.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Subpart H. Nonrefundable Credit for Holders of Build America Bonds.".

(2) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

(d) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 5674. TRANSPORTATION FINANCE CORPORATION.

(a) Establishment and Status.—There is established a body corporate to be known as the "Transportation Finance Corporation" (hereafter in this section referred to as the "Corporation"). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

(b) Principal Office; Application of Laws.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

(c) Functions of Corporation.—The Corporation shall—

(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code,

(3) act as a centralized entity to provide financing for qualified projects,

(4) leverage resources and stimulate public and private investment in transportation infrastructure,

(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds, and

(7) not later than February 15 of each year submit a report to Congress—

(A) describing the activities of the Corporation for the preceding year, and

(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to such section 54.

(d) Powers of Corporation.—The Corporation—

(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

(2) may adopt, alter, and use a seal, which shall be judicially noticed,

(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

(9) shall have such other powers as may be necessary and incident to carrying out this Act.

(e) Nonprofit Entity; Restriction on Use of Moneys; Conflict of Interests; Audits.—

(1) Nonprofit entity.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

(2) Restriction.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) Conflict of interests.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) Audits.—

(A) Audits by independent certified public accountants.—

(i) In general.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants that are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) Reporting requirements.—The report of each annual audit described in clause (i) shall be included in the annual report required by subsection (c)(8).

(B) Record keeping requirements.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance,

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance,

(II) the total cost of the project or undertaking in connection with which such assistance is given or used, and the extent to which such costs are for a qualified project, and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and

(iii) such other records as will facilitate an effective audit.

(C) Audit and examination of books.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance.

(f) Exemption From Taxes.—

(1) In general.—The Corporation, including its franchise, capital, reserves, surplus, sinking funds, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) Financial obligations.—Build America bonds or other obligations issued by the Corporation and the interest on or tax credits with respect to its bonds or other obligations shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(g) Assistance for Transportation Purposes.—

(1) IN GENERAL.—In order to carry out the corporate functions described in subsection (c), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in this subsection, the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate functions described in subsection (c), and

(B) to review the activities of State transportation agencies and other entities receiving assistance from the Corporation to assure that the corporate functions described in subsection (c) are carried out.

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as a department, agency, or instrumentality of the United States Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the United States Government.

(h) MANAGEMENT OF CORPORATION.—

(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 15 members appointed by the President, by and with the advice and consent of the Senate.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) INDIVIDUALS FROM PRIVATE LIFE.—Eleven members of the Board shall be appointed from private life.

(D) FEDERAL OFFICERS AND EMPLOYEES.—Four members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 8 members of the Board are members of any 1 political party.

(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 5 shall be appointed for terms of 1 year and 5 shall be appointed for terms of 2 years.

(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

SA 2341. Mr. TALENT (for himself, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1005, line 22, strike all through page 1020, line 9, and insert the following:

SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the "Build America Corporation". The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a more cost-effective alternative for efficiently maximizing mobility of individuals and goods than a passenger rail project.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "qualified project" means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term "qualified project" means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term "qualified highway project" means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term "qualified public transportation project" means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term "congestion relief project" means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART 2—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

“CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

“Sec.
“22301. Capital grants for railroad track.

“§ 22301. Capital grants for railroad track

“(a) ESTABLISHMENT OF PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

“(A) directly to the class II or class III railroad; or

“(B) with the concurrence of the class II or class III railroad, to a State or local government.

“(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

“(3) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

“(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

“(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

“(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

“(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

“(iv) ensure that all such grants are awarded on a competitive basis.

“(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

“(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

“(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

“(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

“(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

“(g) LABOR STANDARDS.—

“(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

“(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).”.

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

“223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301”.

SEC. 4633. REGULATIONS.

(a) REGULATIONS.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

“§ 20154. Capital grants for rail line relocation projects

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

“(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

“(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

“(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

“(3) meets the costs-benefits requirement set forth in subsection (c).

“(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

“(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

“(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

“(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

“(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

“(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

“(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

“(3) Equitable treatment of the various regions of the United States.

“(e) ALLOCATION REQUIREMENTS.—

“(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

“(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

"(g) STATE SHARE.—

"(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) COSTS NOT SHARED.—

"(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

SA 2342. Mr. TALENT (for himself, Mr. ALLEN, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 908, after line 23, add the following:

SEC. 4304A. DEFINITION OF INDIVIDUAL SHIPPER.

Section 13102 is amended—

(1) by redesignating paragraphs (12) through (24) as paragraphs (13) through (25), respectively; and

(2) by inserting after paragraph (11) the following new paragraph (12):

"(12) INDIVIDUAL SHIPPER.—The term 'individual shipper' means any person who is the shipper consignor or consignee of a household goods shipment, that is identified as either the shipper, consignor, or consignee on the face of the bill of lading, who owns the goods being or to be transported, and who pays his or her own tariff transportation charges. The term applies only to Cash-On-Deliver shippers of household goods.".

On page 910, strike lines 3 through 13 and insert the following:

"(C) ADDITIONAL TRANSPORTATION SERVICES.—

"(i) IN GENERAL.—Clauses (i) and (ii) of subparagraph (A) shall not apply to tariff transportation charges for transportation services made necessary by impracticable operations, as defined in the applicable carrier tariff, or for additional services requested by the shipper that are not included in the estimate.

"(ii) RESPONSIBILITY FOR PAYMENT.—A shipper shall be responsible to pay a carrier for charges described in clause (i), in full either by cash or certified funds, before the carrier shall be required to relinquish possession of the household goods shipment.

"(iii) PAYMENT BY CREDIT CARD.—Notwithstanding clause (ii) or any payment arrangement between a shipper and a carrier before the date of the delivery of a household goods shipment, a shipper shall, upon pre-approval from a recognized credit institution, be allowed to pay by credit card for tariff transportation charges described in clause (i).

"(D) FAILURE TO MAKE PAYMENT.—

"(i) IN GENERAL.—If a shipper is not able to pay tariff transportation charges described in subparagraph (C)(i) in full before the carrier shall be required to relinquish possession of the household goods shipment, the carrier may relinquish possession of the household goods shipment for payment of an amount equal to 100 percent of the binding estimated charges or 110 percent of the nonbinding estimated charges.

"(ii) CONTINUING REFUSAL.—If a shipper refuses to pay the balance of the tariff transportation charges described in subparagraph (C)(i), or the additional charges that exceed the estimated charges provided for under clauses (i) and (ii) of subparagraph (A), under this subparagraph within 30 days of the date of delivery of the household goods shipment, the carrier is required to institute litigation to collect such charges, and the carrier is successful in such litigation, the shipper shall be liable to the carrier for its reasonable attorney fees in such litigation. If the carrier is not successful in such litigation, the carrier shall be responsible for the reasonable attorney fees of the shipper in such litigation.".

On page 911, beginning on line 16, strike ". Before the execution" and all that follows through "provide the shipper" and insert "and".

On page 912, line 1, strike "The written" and insert "Unless waived in writing by the shipper, the written".

On page 912, beginning on line 4, strike "of the location" and all that follows through "preparing the estimate." and insert ", or within a one-hour driving radius, whichever is less, of the location of the carrier's disclosed household goods agent preparing the estimate.".

On page 912, line 11, strike "(e)" and insert "(d)".

On page 912, strike line 14 and all that follows through page 913, line 3.

On page 913, line 4, strike "(d)" and insert "(c)".

On page 915, strike lines 5 through 9 and insert the following:

(2) by striking "shippers of household goods concerning damage or loss to the household goods transported." and inserting "individual shippers of household goods concerning damage or loss to the household goods transported, concerning disputes over tariff transportation charges, or concerning the delay of delivery of the household goods transported."; and

On page 915, strike line 21 and all that follows through page 916, line 21.

On page 916, line 22, strike "(c)" and insert "(b)".

On page 917, line 20, strike "(d)" and insert "(c)".

On page 920, strike line 3 and all that follows through page 923, in the matter following line 14, and insert the following:

"§ 14710. Enforcement of Federal regulations by State attorneys general

"(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States—

"(1) to enforce a regulation or order of the Secretary or Board protecting an individual shipper of household goods, but only if such regulation or order governs the delivery of such household goods; or

"(2) to impose civil penalties authorized by section 14915 of this title whenever the attorney general of the State has reason to believe that the interests of its residents have been or are being threatened or adversely affected by—

"(A) a carrier or broker providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title by a pattern of violations of section 14915 of this title; or

"(B) a foreign motor carrier providing transportation registered under section 13902 of this title that is engaged in household goods transportation on behalf of individuals by a pattern of violations of section 14915 of this title.

"(b) EXCEPTION.—A State, as parens patriae, may not initiate a class civil action on behalf of its residents to enforce a regulation or order of the Secretary or the Board.

"(c) ENFORCEMENT OF STATE LAW.—Nothing in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following new item:

"14710. Enforcement of Federal regulations by State attorneys general.".

On page 923, beginning on line 23, strike "and Federal and local law enforcement officials" and insert "Federal and local law enforcement officials, and industries involved in the transportation of household goods".

On page 924, strike lines 7 through 9 and insert "the working group shall consult with the public and other interested parties.".

On page 925, strike line 18 and all that follows through page 927, line 20, and insert the following:

"The Secretary shall—

"(1) establish a system to file and log complaints made by shippers that relate to motor carrier transportation of household goods;

"(2) establish a database of such complaints; and

"(3) develop procedures—

"(A) to forward such a complaint to the motor carrier named in such complaint;

"(B) to permit motor carriers to challenge information in the database; and

"(C) to provide, for each motor carrier named in complaints in the database, the percentage of such complaints disputed by such motor carrier.".

On page 928, line 15, insert "and" after the semicolon.

On page 928, strike lines 19 through 21 and insert the following:

goods.

SA 2343. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, after line 4, insert the following:

TITLE VII—BUY AMERICAN ACT IMPROVEMENTS

SEC. 7001. SHORT TITLE.

This title may be cited as the "Buy American Improvement Act of 2003".

SEC. 7002. REQUIREMENTS FOR WAIVERS.

(a) IN GENERAL.—Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) IN GENERAL.—Notwithstanding"; and

(2) by adding at the end the following:

"(b) SPECIAL RULES.—The following rules shall apply in carrying out the provisions of subsection (a):

"(1) PUBLIC INTEREST WAIVER.—A determination that it is not in the public interest to enter into a contract in accordance with this Act may not be made after a notice of solicitation of offers for the contract is published in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(2) DOMESTIC BIDDER.—A Federal agency entering into a contract shall give preference to a company submitting an offer on the contract that manufactures in the United States the article, material, or supply for which the offer is solicited, if—

"(A) that company's offer is substantially the same as an offer made by a company that does not manufacture the article, material, or supply in the United States; or

"(B) that company is the only company that manufactures in the United States the article, material, or supply for which the offer is solicited.

"(3) USE OUTSIDE THE UNITED STATES.—

"(A) IN GENERAL.—Subsection (a) shall apply without regard to whether the articles, materials, or supplies to be acquired are for use outside the United States if the articles, materials, or supplies are not needed on an urgent basis or if they are acquired on a regular basis.

"(B) COST ANALYSIS.—In any case where the articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis, before entering into a contract an analysis shall be made of the difference in the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies in the United States (including the cost of shipping) and the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies outside the United States (including the cost of shipping).

"(4) DOMESTIC AVAILABILITY.—The head of a Federal agency may not make a determination under subsection (a) that an article, material, or supply is not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality, unless the head of the agency has conducted a study and, on the basis of such study, determined that—

"(A) domestic production cannot be initiated to meet the procurement needs; and

"(B) a comparable article, material, or supply is not available from a company in the United States.

"(c) REPORTS.—

"(1) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

"(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

"(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

"(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

"(C) A summary of—

"(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

"(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

"(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.".

(b) DEFINITIONS.—Section 1 of the Buy American Act (41 U.S.C. 10c) is amended by striking subsection (c) and inserting the following:

"(c) FEDERAL AGENCY.—The term 'Federal agency' means any executive agency (as defined in section 4(1) of the Federal Procurement Policy Act (41 U.S.C. 403(1))) or any establishment in the legislative or judicial branch of the Government.".

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Buy American Act (41 U.S.C. 10a) is amended by striking "department or independent establishment" and inserting "Federal agency".

(2) Section 3 of such Act (41 U.S.C. 10b) is amended—

(A) by striking "department or independent establishment" in subsection (a), and inserting "Federal agency"; and

(B) by striking "department, bureau, agency, or independent establishment" in subsection (b) and inserting "Federal agency".

(3) Section 633 of the National Military Establishment Appropriations Act, 1950 (41 U.S.C. 10d) is amended by striking "department or independent establishment" and inserting "Federal agency".

SEC. 7003. GAO REPORT AND RECOMMENDATIONS.

(a) REQUIREMENT FOR REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall report to Congress recommendations for determining, for purposes of applying the waiver provision of section 2(a) of the Buy American Act—

(A) unreasonable cost; and

(B) inconsistent with the public interest.

(2) REPORT TO INCLUDE RECOMMENDED DEFINITIONS.—The report shall include recommendations for a statutory definition of unreasonable cost and standards for determining inconsistency with the public interest.

(b) WAIVER PROCEDURES.—The report described in subsection (a) shall also include recommendations for establishing procedures for applying the waiver provisions of the Buy American Act that can be consistently applied.

SEC. 7004. DUAL-USE TECHNOLOGIES.

The head of a Federal agency (as defined in section 1(c) of the Buy American Act (as amended by section 7002)) may not enter into a contract, nor permit a subcontract under a contract of the Federal agency, with a foreign entity that involves giving the foreign entity plans, manuals, or other information that would facilitate the manufacture of a dual-use item on the Commerce Control List unless approval for providing such plans, manuals, or information has been obtained in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Export Administration Regulations (15 C.F.R. part 730 et seq.).

SA 2344. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1815. RURAL ROAD SAFETY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 176. Rural road safety program

"(a) Findings.—Congress finds that it is in the vital interest of the Nation that a rural road safety program be established to ensure that the safety of the traveling public is enhanced on rural two-lane highways.

"(b) Establishment.—The Secretary shall establish and implement a rural road safety program in accordance with this section.

"(c) Apportionments.—

"(1) In general.—On October 1 of each fiscal year, the Secretary shall apportion to each State to carry out this section an amount in the ratio of the percentage of the centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in each State bears to the total centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in all the States.

"(2) Allocation of apportioned funds.—Within each State, funds for the rural road safety program for each fiscal year shall be allocated among State, county, city, and other levels of government commensurate with each entity's ownership ratio of eligible two-lane road mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials.

"(d) Location of Projects.—Funds authorized to carry out this section shall be available for expenditure only for activities described in subsection (g).

"(e) Obligation of Funds.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and the same extent as if such funds were apportioned under section 104(b) of title 23, United States Code, except that the Secretary is authorized to waive provisions that the Secretary considers inconsistent with the purposes of this section.

"(f) Cost Sharing.—The Federal share of a project under this section shall be 80 percent of the total cost for such project.

"(g) Transferability.—Notwithstanding any other provision of law no portion of a State's apportionment allocated for the rural road safety program may be transferred to any other apportionment of the State for such fiscal year.

"(h) Use of Funds.—A State that receives an apportionment under this section may use funds—

"(1) to improve horizontal and vertical alignment;

"(2) to eliminate wheel lane rutting, increase skid resistance, and smooth roadways;

"(3) to improve sight distances;

"(4) to widen lanes and shoulders;

"(5) to install dedicated turn lanes;

"(6) to install and upgrade guardrails, traffic barriers, crash cushions, protective devices, and rumblestrips;

"(7) to install traffic and safety lights, improve signage and pavement markings; and

"(8) to implement other safety activities designated by the Secretary.

"(i) Program.—Not later than 180 days after the date of enactment of this Act, each State that receives an apportionment under this section shall conduct and systematically maintain an engineering survey of all two-lane rural roads classified as minor and major collectors and minor arterials—

"(1) to identify dangerous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, pedestrians, impaired, and "older" drivers;

"(2) to assign priorities for the correction of such locations, sections, and elements; and

"(3) establish and implement a schedule of projects for improvement of such roads.

"(j) Evaluation.—

"(1) In general.—Each State shall establish an evaluation process approved by the Secretary to analyze and assess results achieved by safety improvement projects carried out in accordance with the procedures and criteria established by this section.

"(2) Priorities.—Such evaluation process shall develop cost-benefit data for various types of corrections and treatments, which shall be used in setting priorities for safety improvement projects.

"(k) Reporting.—

"(1) In general.—Each State shall report to the Secretary not later than December 30 of each year, regarding the progress of implementing safety improvement projects for danger elimination and the effectiveness of such improvements.

"(2) State assessment.—Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate dangers and the previous and subsequent accident experience at dangerous locations.

"(3) Secretary's report.—The Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year regarding the progress of the States in implementing the rural road safety program. The report shall—

"(A) include the number of projects undertaken, their distribution by cost range, road system, means and methods used, the previous and subsequent accident experience at improved locations and a cost-benefit analysis; and

"(B) analyze and evaluate each State's program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a), and include recommendations for future implementation of the rural road safety program.

"(l) Definition of Rural Road.—In this section, the term "rural road" means all roads in rural areas.

"(m) Authorization of Appropriations Rural Road Safety Program.—To carry out the rural road safety program under this section there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2004 through 2009.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

"176. Rural road safety program.".

SA 2345. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 16___. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) Ethanol-Blended Gasoline.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is readily available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

"(b) Biodiesel.—

"(1) Definition of biodiesel.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) Requirement.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

"(A) as of the date that is 5 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency.

"(3) Requirement of Federal law.—This subsection does not constitute a requirement of Federal law for the purposes of section 312.

"(c) Exemption.—This section does not apply to fuel used in vehicles described in subparagraphs (A) through (H) of section 301(9).".

SA 2346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1-7, between lines 17 and 18, insert the following:

(17) Weather-related repair program.—For the weather-related repair program established under section 1204—

(A) $1,000,000,000 for each of fiscal years 2004 through 2005; and

(B) $1,500,000,000 for each of fiscal years 2006 through 2009.

On page 2-19, after the matter following line 13, insert the following:

SEC. 1204. WEATHER-RELATED REPAIR PROGRAM.

(a) Definitions.—In this section:

(1) Cold state.—The term "cold State" means any State in which the average temperature in the preceding year was below the average temperature for all States in the preceding year.

(2) Warm state.—The term "warm State" means any State in which the average temperature in the preceding year was above the average temperature for all States in the preceding year.

(b) Establishment.—The Secretary shall establish a weather-related repair program.

(c) Eligible Projects.—A State may obligate funds apportioned to the State under subsection (d) only for repair projects for the National Highway System that will—

(1) repair damage to pavement, bridges, or drainage systems that would not have been damaged but for weather conditions; and

(2) construct replacement facilities—

(A) to replace facilities that would otherwise have been subject to continuous repair because of weather conditions; and

(B) that would be less costly to maintain than the facilities being replaced because of the protection from inclement weather provided by the replacement facilities.

(c) APPORTIONMENT.—Of the amounts made available to carry out this section—

(1) at least 0.5 percent shall be set aside for warm States; and

(2) with respect to cold States—

(A) 50 percent shall be allocated based on the ratio that—

(i) the vehicle miles traveled on National Highway System routes in the State; bears to

(ii) the vehicle miles traveled on National Highway System routes in all cold States;

(B) 25 percent shall be allocated based on the ratio that—

(i) the amount of precipitation in the cold State; bears to

(ii) the precipitation in all cold States; and

(C) 25 percent shall be allocated based on the ratio that—

(i) the difference between the average temperature in the cold State and the average temperature for all cold States; bears to

(ii) the average temperature for all cold States.

SA 2347. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 841, strike line 19 and all that follows through page 849, line 19, and insert the following:

(a) REPEAL.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.

(b) LIMITATIONS ON TOLLING.—

(1) IN GENERAL.—Chapter 3 of title 23 is amended by striking section 301 and inserting the following:

"§301. Limitations on tolling

"(a) IN GENERAL.—Except as provided in subsection (b), there shall be no limitations on the imposition and collection of tolls with respect to highways constructed under this title.

"(b) EXCEPTIONS.—Notwithstanding subsection (a)—

"(1) the Secretary—

"(A) shall approve or disapprove any proposal to toll National Highway System roads that are not currently subject to a toll; and

"(B) in deciding whether to approve such a proposal, shall consider whether—

"(i) the proposed toll could negatively impact interstate commerce; and

"(ii) the proposed toll is likely to reduce congestion;

"(2) any toll program must attempt to mitigate congestion; and

"(3) any revenues from tolling shall be used to improve, maintain, or construct surface transportation.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the matter relating to section 301 and inserting the following:

"301. Limitations on tolling.".

SA 2348. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 690, between lines 9 and 10, insert the following:

"(J) a vital part of determining the future of the surface transportation system in the United States is determining the future financing of the system."

On page 694, on line 1, insert the following:

(L) the future of financing the surface transportation system in the United States and the Highway Trust Fund over at least the next 30 years, including assessment of—

(i) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(ii) practicable recommendations for the most promising revenues to support long-term Federal surface transportation financing;

(iii) the impact of other Federal policies on the funds available for surface transportation;

(iv) the barriers to transportation investment created by the modal structure of transportation financing existing as of the date of enactment of this Act; and

(v) coordination of the Federal transportation program with other Federal programs to maximize the use of all revenue sources.

SA 2349. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 693, between lines 16 and 17, insert the following:

(J) the impacts of transportation investments on low-income communities;

On page 693, line 17, strike "(J)" and insert "(K)".

On page 2-10, line 22, strike "(K)" and insert "(L)".

SA 2350. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 765, line 19, strike "and" at the end.

On page 765, strike line 22 and insert the following: "means, such as the World Wide Web; and

"(iv) develop a publicly available plan for involving economically disadvantaged populations.".

SA 2351. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 971, line 13, strike "Code—" and insert "Code, and section 2105 of this Act—".

On page 1061, after line 15, add the following:

SEC. 2104. TRANSPORTATION EQUITY COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a transportation equity cooperative research program.

(b) ELIGIBILITY.—To be eligible to receive a grant under the program, a person shall be engaged in collaborative research efforts with community-based organizations, which may be based anywhere in the United States.

(c) RESEARCH ACTIVITIES.—The program shall include research designed to—

(1) improve analysis of the distribution of transportation funding in the statewide and metropolitan transportation planning process and the impact of funding decisions on low-income communities (including tribal and Alaska Native communities), with a particular emphasis on health and economic impacts;

(2) improve the analysis of the distribution of transportation funding in the statewide and metropolitan transportation planning process and the impact of funding decisions on transit-dependent populations in urban, suburban, and rural communities;

(3) better understand effective mechanisms for public involvement, engagement, and control in the statewide, metropolitan, and local transportation planning and project delivery process;

(4) develop indicators of economic, social, and environmental performance of transportation systems, with an emphasis on the needs of low-income communities (including tribal and Alaska Native communities) and on the needs of transit-dependent populations in urban and rural areas, to facilitate the analysis of potential alternatives; and

(5) meet additional priorities as determined by the advisory board established under subsection (d).

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—In consultation with the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies, the Secretary shall establish an advisory board to—

(A) recommend research under this section relating to surface transportation and community impacts; and

(B) advise, monitor, and coordinate research efforts undertaken by recipients of grants under the program under subsection (a).

(2) MEMBERSHIP.—The advisory board shall include—

(A) representatives of environmental, justice, civil rights, and community-based organizations;

(B) researchers in the field of transportation equity and environmental justice; and

(C) representatives of State transportation agencies, metropolitan planning organizations, transit operating agencies, and local government.

(e) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2004, 2005, 2006, 2007, 2008 and 2009, the Secretary shall make grants under the program of not more than $750,000 to each of 4 research centers.

SA 2352. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 976, strike lines 7 through 12 and insert the following:

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $40,000,000 for each of fiscal years 2004 and 2005, $45,000,000 for each of fiscal years 2006 and 2007, and $50,000,000 for each of fiscal years 2008 and 2009 shall be available to carry out section 527 of title 23, United States Code.

On page 1079, line 18, insert "permits" after "information".

On page 1079, lines 25 and 26, insert ", including the exchange among the States of data that are not protected by taxpayer policy and the interoperability of systems among the States" after "development".

On page 1081, line 22, strike "intrastate,".

On page 1081, line 23, strike "requirements" and insert "permits".

On page 1081, line 24, insert ", including intrastate activities" after "materials".

Beginning on page 1083, strike line 15 and all that follows through page 1086, line 13, and insert the following:

"(d) APPORTIONMENTS.—

"(1) IN GENERAL.—The Secretary shall make funds available to all States for development, deployment, and operations and maintenance of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible to receive funds under this section, a State shall—

"(A) have a commercial vehicle information systems and networks program plan and a top-level system design approved by the Secretary;

"(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State, including hardware procurement, software and system development, and infrastructure modifications—

"(i) are consistent with the national intelligent transportation systems architecture, commercial vehicle information systems and networks architectures, and available standards; and

"(ii) promote interoperability and efficiency to the extent practicable;

"(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems in the State conform with the national intelligent transportation systems architecture, protocols for commercial vehicle information systems and networks, and applicable standards; and

"(D) limit the use of funds provided under this section to core deployment until the date on which all elements of core deployment are completed.

"(3) AMOUNT OF GRANTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, the Secretary shall distribute available funds equally among eligible States.

"(B) LIMIT.—For each fiscal year, no State shall receive an amount greater than $3,650,000.".

SA 2353. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 931, line 9, strike "**Multistate**" and insert "**High priority**".

On page 931, between lines 11 and 12, insert the following:

"(1) plan, develop, and construct high priority corridors identified in section 1105 (c) of the Intermodal Surface Transportation Act of 1991 (105 Stat. 2032);".

On page 931, line 12, strike "(1)" and insert "(2)".

On page 931, line 14, strike "(2)" and insert "(3)".

On page 931, strike lines 20 through 22 and insert the following:

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for coordinated planning, design, and construction of—

"(1) high priority corridors identified in section 1105 (c) of the Intermodal Surface Transportation Act of 1991 (105 Stat. 2032); and

"(2) multistate corridors.".

On page 932, line 4, insert "for multistate corridors," after "program".

SA 2354. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 678, between lines 5 and 6, insert the following:

(16) CONGESTION REDUCTION REWARD FUND.—For the congestion reduction reward fund established under section 129 of title 23, United States Code, $1,000,000,000 for the period of fiscal years 2004 through 2009.

On page 6-39, line 5, strike the closing quotation marks and the following period.

On page 6-39, between lines 5 and 6, insert the following:

"(5) CONGESTION REDUCTION REWARD FUND.—

"(A) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a congestion reduction reward fund (referred to in this paragraph as the 'Fund') to carry out subparagraph (B), consisting of such amounts as are appropriated to the Fund under section 1101(17) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

"(B) GRANTS.—

"(i) IN GENERAL.—The Secretary may use amounts in the Fund to make competitive grants to States that implement a variable pricing program under this subsection.

"(ii) APPLICATION.—States shall submit to the Secretary applications for grants under clause (i).

"(iii) SELECTION.—From among applications submitted under clause (ii), the Secretary shall provide grants to applicants based on—

"(I) the size of the measurable reduction in congestion as a result of the variable pricing program;

"(II) the percentage reduction in congestion as a result of the variable pricing program;

"(III) the innovativeness of the variable pricing program;

"(IV) whether the variable pricing program addressed concerns relating to the social equity of the program; and

"(V) any other criteria that demonstrably improve the surface transportation system.

"(iv) USE OF FUNDS.—Any amounts provided in the form of grants under this subparagraph may be used for any transportation projects that the grant recipients determine to be appropriate.

"(v) NUMBER OF GRANTS.—The number of grants the Secretary provides under this subparagraph shall be determined by the Secretary, but the Secretary shall distribute all amounts available for grants to applicants selected under clause (iii).

"(vi) REDISTRIBUTION.—If no State implements a variable pricing program, any amounts in the congestion reduction reward fund shall be distributed in accordance with section 133.".

SA 2355. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 934, strike line 6 and all that follows through page 942, line 5, and insert the following:

SEC. 1812. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

"§ 172 Coordinated border infrastructure program

"(a) DEFINITIONS.—In this section:

"(1) BORDER REGION.—The term "border region" means the portion of a border State that is located within 100 kilometers of a land border crossing with Canada or Mexico.

"(2) BORDER STATE.—The term "border State" means any State that has a boundary in common with Canada or Mexico.

"(3) COMMERCIAL VEHICLE.—The term "commercial vehicle" means a vehicle that has the primary purpose of transporting cargo in international or interstate commercial trade.

"(4) PASSENGER VEHICLE.—The term "passenger vehicle" means a vehicle that has the primary purpose of transporting individuals.

"(b) PROGRAM.—The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary shall make allocations to border States for projects within a border region to improve the safe movement of people and goods at or across the border between the United States and Canada and the border between the United States and Mexico.

"(c) ELIGIBLE USES.—A State may use an allocations under this section in a border region only for—

"(1) improvements to transportation and supporting infrastructure that facilitate cross-border vehicle and cargo movements;

"(2) construction of highways and related safety and safety enforcement facilities that facilitate vehicle and cargo movements relating to international trade;

"(3) operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross-border vehicle and cargo movement;

"(4) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross-border vehicle and cargo movements;

"(5) projects in Canada or Mexico proposed by 1 or more border States that directly and predominantly facilitate cross-border vehicle and commercial cargo movements at the international gateways or ports of entry into a border region; and

"(6) planning and environmental studies relating to projects eligible under this section.

"(d) MANDATORY AND DISCRETIONARY PROGRAMS.—

"(1) MANDATORY PROGRAM.—

"(A) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in subparagraph (B), funds to be used in accordance with subsection (c).

"(B) FORMULA.—Subject to subparagraph (C), the Secretary shall allocate funds to a border State under this paragraph as follows:

"(i) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

"(I) the weight in short tons of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico; bears to

"(II) the weight in short tons of all cargo entering the all border States by commercial vehicle across the international borders with Canada and Mexico.

"(ii) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

"(I) the trade value of all cargo entering the border State by commercial vehicle and all cargo exiting the border State by commercial vehicle across the international border with Canada or Mexico; bears to

"(II) the trade value of all cargo entering all border States by commercial vehicle and all cargo exiting the border States by commercial vehicle across the international borders with Canada and Mexico.

"(iii) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

"(I) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico; bears to

"(II) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

"(iv) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

"(I) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico; bears to

"(II) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

"(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), for each fiscal year, each border State shall receive at least half of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

"(2) OTHER FACTORS.—

"(A) IN GENERAL.—In addition to funds allocated under paragraph (1), the Secretary shall make allocations to border States under this paragraph based on the factors described in subparagraph (B).

"(B) FACTORS.—The factors in subparagraph (A) are, with respect to a project carried out under this section in a border State—

"(i) any expected reduction in commercial and other motor vehicle travel time through an international border crossing as a result of the project;

"(ii) strategies to increase the use of underused border crossing facilities and approaches;

"(iii) leveraging of Federal funds provided under this section, including—

"(I) the use of innovative financing;

"(II) the combination of Federal funds provided under this section with funding provided for other provisions of this title; and

"(III) the combination of Federal funds provided under this section with funds from other Federal, State, local, or private sources;

"(iv)(I) the degree of multinational involvement in the project; and

"(II) demonstrated coordination with other Federal agencies responsible for the inspection of vehicles, cargo, and persons crossing international borders and counterpart agencies in Canada and Mexico;

"(v) the degree of demonstrated coordination with Federal inspection agencies;

"(vi) the extent to which the innovative and problem-solving techniques of the proposed project would be applicable to other border stations or ports of entry;

"(vii) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

"(viii) such other factors as the Secretary determines to be appropriate to promote border transportation efficiency and safety.

"(3) EQUITY BONUS.—Each of the mandatory programs under paragraph (1) and the discretionary program under paragraph (2) shall be included in the calculation of the minimum guarantee and equity bonus under section 105.

"(e) COST SHARING.—The Federal share of the cost of a project carried out using funds allocated under this section shall not exceed 80 percent.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

"172. Coordinated border infrastructure program.".

SEC. 1813. PUERTO RICO HIGHWAY PROGRAM.

SA 2356. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, between lines 21 and 22, insert the following:

SEC. 12___. MULTIMODAL TRANSPORTATION PROJECT DEMONSTRATION PROGRAM.

(a) DEFINITION OF MULTIMODAL TRANSPORTATION PROJECT.—In this section, the term "multimodal transportation project" means a project under chapter 1 of title 23, United States Code, that—

(1) is located in the State of Texas;

(2) is within a network of interconnected corridors;

(3) is privately financed, in whole or in part; and

(4) contains multiple surface transportation modes, including highway and rail and utility corridors.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and implement in the State of Texas a demonstration program under which the Secretary, notwithstanding any other provision of law, may permit the State transportation department or a local transportation agency in the State of Texas to authorize a consultant under a contract for a multimodal transportation project to prepare an environmental impact assessment or analysis (including an environmental impact statement) relating to a segment of the project of less than independent utility and without logical termini.

(2) CONTRACT TERMS.—A contract for a multimodal transportation project under this subsection may provide for the simultaneous—

(A) design and construction of a segment of the project for which the environmental assessment or analysis has been completed; and

(B) environmental assessment or analysis of an adjoining segment of the project.

(c) LIMITATION ON WORK TO BE PERFORMED BY CONSULTANT.—

(1) IN GENERAL.—The work of the consultant under subsection (b) shall be performed under the direction of, and subject to oversight by, the State transportation department or local transportation agency.

(2) REVIEW.—The State transportation department or local transportation agency shall conduct a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prepared under subsection (b) before its submission to the Secretary.

(d) FUNDING.—Notwithstanding any other provision of law—

(1) funds made available to the State of Texas under title 23, United States Code, to carry out the demonstration program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, without requirement for non-Federal funds; and

(2) an eligible project under this section shall be eligible for other forms of financial assistance available under that title, including loans, loan guarantees, and lines of credit.

(e) REGULATIONS.—The Secretary shall promulgate regulations that—

(1) provide guidelines regarding procedures to be followed by the State transportation department or a coal transportation agency in the State of Texas in their direction of and oversight over any environmental impact assessments or analyses for a multimodal transportation project which are to be prepared by the contractor or its affiliates; and

(2) establish criteria for approving deviations from procedures established in regulations issued by the Secretary of Transportation implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) IMPLEMENTATION BY OTHER FEDERAL AGENCIES.—Each Federal agency that—

(1) has jurisdiction by law over environment-related issues that may be affected by a project described in this section and the analysis of which would be part of any environmental document required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) may be required by Federal law to independently—

(A) conduct an environment-related review or analysis for a project described in this section;

(B) determine whether to issue a permit, license, or approval for the project; or

(C) render an opinion or recommendation on the environmental impact of the project; shall promulgate regulations providing for the expedited processing of, and approval of deviations from, the project by the agency.

(g) REPORTS AND SECRETARIAL REVIEW.—

(1) STATE OF TEXAS REPORT.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the use of the procedures authorized under this section.

(B) CONTENTS.—The report shall—

(i) describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program and Federal law; and

(ii) recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT TO CONGRESS.—Not later than 180 days after the date of receipt of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) evaluates the demonstration program conducted under this section and the ability of the program to streamline and accelerate the construction of surface transportation projects; and

(B) contains recommendations of the Secretary concerning whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2357. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. INNOVATIVE FINANCE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement in the State of Texas an innovative finance demonstration program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit entities in the State of Texas to obtain credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (23 U.S.C. 181 et seq.), and permit the State of Texas to administer the State infrastructure bank established by the State of Texas, under the conditions and using the procedures authorized under this section.

(b) APPLICABILITY OF FEDERAL REQUIREMENTS.—

(1) ELIGIBLE PROJECT COSTS.—Compliance with Federal-aid procurement requirements shall not be a condition to eligibility of project costs and eligibility to receive financial assistance under subchapter II of chapter 1 of title 23, United States Code (23 U.S.C. 181 et seq.), provided that if a procurement does not involve adequate price competition, as determined by the Secretary, eligibility of costs under the contract resulting from such procurement shall be determined based on a price reasonableness analysis or cost analysis, as appropriate.

(2) APPLICABILITY OF FEDERAL LAW TO REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall not apply to repayments from non-Federal sources to the State infrastructure bank established by the State of Texas from projects assisted by the infrastructure bank. Such a repayment shall not be considered to be Federal funds.

(c) INVESTMENT-GRADE RATING REQUIREMENT.—The requirement that a project's senior obligations receive an investment-grade rating in order to receive financial assistance under sections 183 and 184 of title 23, United States Code, shall not apply to obligations issued to a project contractor as payment for its work.

(d) NONSUBORDINATION OF LOANS.—The prohibition against subordinating loans made under sections 183 and 184 of title 23, United States Code, to the claims of any holder of project obligations shall only apply in the event of bankruptcy, insolvency, or liquidation of the obligor that results in the abandonment, liquidation, or dissolution of the project.

(e) REGULATIONS.—The regulations issued by the Secretary under section 187 of title 23, United States Code shall—

(1) prescribe criteria for determining if the procurement relating to a project receiving financial assistance under subchapter II of chapter 1 of title 23, United States Code (23 U.S.C. 181 et seq.), involves adequate price competition; and

(2) provide guidelines regarding procedures to be followed in performing a price reasonableness analysis or cost analysis of proposals submitted under such a procurement.

(f) REPORTS.—

(1) REPORT TO SECRETARY.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Governor of the State of Texas shall submit to the Secretary a report summarizing the use of the innovative finance procedures authorized under this section.

(B) REQUIREMENTS.—The report submitted under subparagraph (A) shall describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT TO CONGRESS.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2358. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between line 15 and line 16, insert the following:

SEC. 18___. INNOVATIVE CONTRACTING PRACTICES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement in the State of Texas an innovative contracting practices demonstration program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit the State transportation department or a local transportation agency in the State of Texas to use a design-build contract for the development of projects under chapter 1 of title 23, United States Code, that is awarded using any procurement process permitted by applicable State and local law.

(b) LIMITATION ON WORK TO BE PERFORMED UNDER DESIGN-BUILD CONTRACTS.—Construction of permanent improvements shall not commence under a design-build contract described in subsection (a) before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The scope of the contractor's work may include assistance in the environmental review process for the project, including preparation of environmental impact assessments and analyses, provided that such work is performed under the direction of, and subject to oversight by, the State transportation department or local transportation agency, and the State transportation department or local transportation agency conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary of Transportation.

(c) PROJECT APPROVAL.—If a design-build contract is to be awarded prior to compliance with section 102 of the National Environmental Policy Act of 1969, upon request by the State transportation department or local transportation agency, the Secretary shall concur in issuance of the procurement documents and any amendments thereto and in award of the contract and any amendments thereto. Such concurrence shall be considered a preliminary action that does not affect the environment. Project approval shall be provided only after compliance with section 102 of the National Environmental Policy Act of 1969.

(d) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term "design-build contract" means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

(e) FUNDING.—

(1) USE.—Notwithstanding any other provision of law, funds made available to the State of Texas under title 23, United States Code, to carry out the demonstration program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, without requirement for non-Federal funds.

(2) AVAILABILITY OF OTHER FUNDING.—Notwithstanding any other provision of law, an eligible project under this section shall be eligible for other forms of financial assistance available under title 23, United States Code, including loans, loan guarantees, and lines of credit.

(f) REGULATIONS.—The regulations authorized by section 1307(c) of Transportation Equity Act for the 21st Century (23 U.S.C. 112 note) shall apply in the following manner:

(1) Such regulations shall allow the State transportation department or a local transportation agency in the State of Texas to use

any procurement process permitted by applicable State and local law in awarding design-build contracts, including allowing unsolicited proposals, negotiated procurements and multiple requests for final proposals. The Secretary may require reasonable justification to be provided for any sole source procurement. The preceding sentences shall not preclude the Secretary from providing "best practices" guidelines in the regulations.

(2) Such regulations shall not preclude the State transportation department and local transportation agencies in the State of Texas from allowing proposers to include alternative technical concepts in their "base" proposals.

(3) Such regulations shall not preclude the State transportation department and local transportation agencies in the State of Texas from issuing a Request for Proposals document, proceeding with award of a design-build contract, or issuing a notice to proceed with preliminary design work under such a contract, prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), provided that the design-build contractor may not proceed with construction of permanent improvements prior to such compliance.

(4) Such regulations shall provide guidelines regarding procedures to be followed by the State transportation department or a local transportation agency in the State of Texas in their direction of and oversight over any environmental impact assessments or analyses for the project which are to be prepared by the contractor or its affiliates.

(g) REPORTS.—

(1) STATE OF TEXAS REPORT.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the use of the innovative contracting procedures authorized under this section. The report shall describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT BY SECRETARY.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2359. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . LA ENTRADA AL PACIFICO CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat 2032) is amended by adding at the end the following:

"(45) In the State of Texas, the La Entrada al Pacifico Corridor consisting of any portion of a highway in a corridor on 2 miles of either side of the center line of the highway and—

"(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude;

"(B) the segment or any roadway extending from the point described in subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude;

"(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20;

"(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385;

"(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10; and

"(F) United States Route 67 from Fort Stockton to Presidio, including the portions that parallel Interstate Route 10 and United States Route 90.".

SA 2360. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, between lines 17 and 18, insert the following:

(c) TOLL CREDIT FOR NON-FEDERAL SHARE.—

(1) ELIGIBILITY.—Section 120(j)(1) of title 23, United States Code, is amended by striking the last sentence and inserting the following: "The amount of the credit that is attributable to expenditures by such public, quasi-public, or private agencies to build, improve, or maintain facilities in which a portion of the costs are paid for with Federal funds shall be limited to the amount of non-Federal funds that are used to pay the costs of such facilities, except that such amount of the credit shall be increased to include the amount of Federal loans or other financial assistance that will be repaid by such public, quasi-public, or private agencies.".

(2) MAINTENANCE OF EFFORT CALCULATION.—Section 120(j) of title 23, United States Code, is amended—

(A) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

SA 2361. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between line 15 and line 16, insert the following:

SEC. 18 . TOLLING PILOT PROGRAM.

(a) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement in the State of Texas a tolling pilot program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit—

(1) the State of Texas to collect tolls on a highway, bridge, or tunnel on the Interstate system; and

(2) the State transportation department or a local transportation agency in the State of Texas to use toll revenues received from the operation of a toll facility authorized under this section or under section 129 of title 23, United States Code, for any transportation related purpose permitted by applicable State and local law.

(b) REPAYMENT OF FEDERAL SHARE.—

(1) IN GENERAL.—Notwithstanding any provision of title 23, United States Code, the total amount of funds paid from the Highway Account of the Highway Trust Fund to the State of Texas for construction of a highway, bridge, or tunnel within the boundaries of the State of Texas may be repaid to the Secretary.

(2) DEPOSIT OF CREDIT.—The Secretary of Transportation shall deposit amounts repaid by the State of Texas pursuant to paragraph (1) into the Highway Account and credit such amount to the unobligated balance of Federal-aid highway funds available to the State of Texas for the same class of funds last apportioned or allocated to the State of Texas for construction of the highway, bridge, or tunnel. The amount so credited shall be in addition to all other funds then apportioned or allocated to the State of Texas during the fiscal year for which the credit is received and shall be available for expenditure by the State of Texas in accordance with the provisions of title 23, United States Code.

(3) DEREGULATION.—Upon the repayment under this subsection of all Federal-aid highway funds received by the State of Texas for construction of a highway, bridge, or tunnel, the highway, bridge, or tunnel—

(A) shall be removed by the Secretary from all Federal-aid highway programs;

(B) shall not be subject to any other provision of title 23, United States Code, including any regulation issued to carry out that title; and

(C) may be operated and maintained by a public authority having jurisdiction over the highway, bridge, or tunnel under applicable State or local law.

(c) FUNDING.—

(1) USE.—Notwithstanding any other provision of law, funds made available to the State of Texas under title 23, United States Code to carry out the pilot program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, the same class of funds last apportioned or allocated to the State of Texas without requirement for non-Federal funds.

(2) AVAILABILITY OF OTHER FUNDING.—Notwithstanding any other provision of law, an eligible project under this section shall be eligible for other forms of financial assistance available under title 23, United States Code, including loans, loan guarantees, and lines of credit.

(d) REPORTS.—

(1) STATE OF TEXAS REPORT.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the construction, maintenance, and operation of projects and the use of toll revenue under this section. The report shall describe the time and cost savings resulting from the use of procedures authorized in this section as compared to the construction of surface transportation projects using the existing

procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT BY SECRETARY.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary of Transportation shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary of Transportation as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2362. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, line 13, strike the period and insert the following: "of which the current Southwest Regional Transportation Center (Texas A&M, the University of Texas at Austin, and Texas Southern University) shall be one."

SA 2363. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 22 and 23, insert the following:

(17) FINISH PROGRAM.—For the FINISH program under section 178 of that title, for each of fiscal years 2004 through 2009, an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. FINISH PROGRAM.

(a) IN GENERAL.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. FINISH program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

"(b) ELIGIBLE PROJECTS.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

"(c) APPORTIONMENT.—For each of fiscal years 2004 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

"(1) the estimated amount that may be obligated in the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

"(2) the total estimated amount that may be obligated in the fiscal year for the completion of eligible projects described in subsection (b) in all States.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2004 through 2009, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. FINISH program.".

SA 2364. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 5507 and insert the following:

SEC. 5507. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS; CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

(a) UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended—

(A) by striking "$100" in subparagraph (A) and inserting "$190", and

(B) by striking "$175" in subparagraph (B) and inserting "$190".

(2) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) of the Internal Revenue Code of 1986 (relating to inflation adjustment) is amended—

(A) by striking the last sentence,

(B) by striking "1999" and inserting "2003", and

(C) by striking "1998" and inserting "2002".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

(b) CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.—Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting "and" after the semicolon;

(B) in paragraph (3) by striking "; and" and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

"(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;".

SA 2365. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. ___. TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS ESTABLISHED IN TAX HAVENS.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle), as amended by this Act, is amended by adding at the end the following new section:

"SEC. ___. 7875. CONTROLLED FOREIGN CORPORATIONS IN TAX HAVENS TREATED AS DOMESTIC CORPORATIONS.

"(a) GENERAL RULE.—If a controlled foreign corporation is a tax-haven CFC, then, notwithstanding section 7701(a)(4), such corporation shall be treated for purposes of this title as a domestic corporation.

"(b) TAX-HAVEN CFC.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax-haven CFC' means, with respect to any taxable year, a foreign corporation which—

"(A) was created or organized under the laws of a tax-haven country, and

"(B) is a controlled foreign corporation (determined without regard to this section) for an uninterrupted period of 30 days or more during the taxable year.

"(2) EXCEPTION.—The term 'tax-haven CFC' does not include a foreign corporation for any taxable year if substantially all of its income for the taxable year is derived from the active conduct of trades or businesses within the country under the laws of which the corporation was created or organized.

"(c) TAX-HAVEN COUNTRY.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax-haven country' means any of the following:

Andorra
Anguilla
Antigua and Barbuda
Aruba
Commonwealth of the Bahamas
Bahrain
Barbados
Belize
Bermuda
British Virgin Islands
Cayman Islands
Cook Islands
Cyprus
Commonwealth of the Dominica
Gibraltar
Grenada
Guernsey
Isle of Man
Jersey
Liberia
Principality of Liechtenstein
Republic of the Maldives
Malta
Republic of the Marshall Islands
Mauritius
Principality of Monaco
Montserrat
Republic of Nauru
Netherlands Antilles
Niue
Panama
Samoa
San Marino
Federation of Saint Christopher and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Republic of the Seychelles
Tonga
Turks and Caicos
Republic of Vanuatu

"(2) SECRETARIAL AUTHORITY.—The Secretary may remove or add a foreign jurisdiction from the list of tax-haven countries under paragraph (1) if the Secretary determines such removal or addition is consistent with the purposes of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec 7875. Controlled foreign corporations in tax havens treated as domestic corporations.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2366. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 of the Internal Revenue Code of 1986 (relating to electricity produced from certain renewable resources) is amended to read as follows:

"(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified energy resources' means—

"(A) wind,

"(B) closed-loop biomass,

"(C) open-loop biomass,

"(D) geothermal energy,

"(E) solar energy,

"(F) small irrigation power, and

"(G) municipal solid waste.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) OPEN-LOOP BIOMASS.—

"(A) IN GENERAL.—The term 'open-loop biomass' means—

"(i) any agricultural livestock waste nutrients, or

"(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

"(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

"(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

Such term shall not include closed-loop biomass.

"(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

"(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

"(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

"(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

"(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the nameplate capacity rating of which is not less than 150 kilowatts but is less than 5 megawatts.

"(6) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).".

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED FACILITIES.—For purposes of this section—

"(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

"(2) CLOSED-LOOP BIOMASS FACILITY.—

"(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

"(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than January 1, 2004,

"(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

"(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(3) OPEN-LOOP BIOMASS FACILITIES.—

"(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which—

"(i) in the case of a facility using agricultural livestock waste nutrients—

"(I) is originally placed in service after December 31, 2003, and before January 1, 2007, and

"(II) the nameplate capacity rating of which is not less than 150 kilowatts, and

"(ii) in the case of any other facility, is originally placed in service before January 1, 2007.

"(B) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

"(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.

"(6) LANDFILL GAS FACILITIES.—In the case of a facility producing electricity from gas derived from the biodegradation of municipal solid waste, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.

"(7) TRASH COMBUSTION FACILITIES.—In the case of a facility which burns municipal solid waste to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.".

(2) CONFORMING AMENDMENT.—Section 45(e) of such Code, as so redesignated, is amended by striking "subsection (c)(3)(A)" in paragraph (7)(A)(i) and inserting "subsection (d)(1)".

(c) SPECIAL CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD AFTER ENACTMENT DATE.—Section 45(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(4) CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD FROM CERTAIN FACILITIES.—

"(A) CREDIT RATE.—In the case of electricity produced and sold after the date of the enactment of this paragraph at any qualified facility described in paragraph (3), (5), (6), or (7) of subsection (d), the amount in effect under subsection (a)(1) for any calendar year beginning with the calendar year in which such date occurs (determined before the application of the last sentence of paragraph (2) of this subsection) shall be reduced by one-third.

"(B) CREDIT PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of any facility described in paragraph (3), (4), (5), (6), or (7) of subsection (d), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(ii) CERTAIN OPEN-LOOP BIOMASS FACILITIES.—In the case of any facility described in subsection (d)(3)(A)(ii) placed in service before January 1, 2004, the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).".

(d) COORDINATION WITH SECTION 48.—Section 48(a)(3) of the Internal Revenue Code of 1986 (defining energy property) is amended by adding at the end the following new sentence: "Such term shall not include any property which is part of a facility the production from which is allowed as a credit under section 45 for the taxable year or any prior taxable year.".

(e) ELIMINATION OF CERTAIN CREDIT REDUCTIONS.—Section 45(b)(3) of the Internal Revenue Code of 1986 (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by inserting "the lesser of ½ or" before "a fraction" in the matter preceding subparagraph (A), and

(2) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).".

(f) Credit Allowed Against Regular and Minimum Tax.—

(1) In general.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Special rules for wind energy credit.—

"(A) In general.—In the case of any wind energy credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) in applying paragraph (1) to such credit—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the wind energy credit).

"(B) Wind energy credit.—For purposes of this subsection, the term 'wind energy credit' means the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

"(i) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

"(ii) during the 4-year period beginning on the date that such facility was originally placed in service.".

(2) Conforming amendments.—

(A) Paragraph (2)(A)(ii)(II) of section 38(c) of such Code is amended by striking "or" and inserting a comma and by inserting ", and the wind energy credit" after "employee credit".

(B) Paragraph (3)(A)(ii)(II) of section 38(c) of such Code is amended by inserting "and the wind energy credit" after "employee credit".

(g) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(2) Certain biomass facilities.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before January 1, 2004, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(3) Credit rate and period for new facilities.—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(4) Nonapplication of amendments to preeffective date poultry waste facilities.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on the day before the date of the enactment of this Act) placed in service before January 1, 2004.

(5) Wind credit allowed against regular and minimum tax.—The amendments made by subsection (f) shall apply to taxable years ending after the date of the enactment of this Act.

(h) GAO Study.—The Comptroller General of the United States shall conduct a study on the market viability of producing electricity from resources with respect to which credit is allowed under section 45 of the Internal Revenue Code of 1986 but without such credit. In the case of open-loop biomass and municipal solid waste resources, the study should take into account savings associated with not having to dispose of such resources. In conducting such study, the Comptroller shall estimate the dollar value of the environmental impact of producing electricity from such resources relative to producing electricity from fossil fuels using the latest generation of technology. Not later than June 30, 2006, the Comptroller shall report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(i) Extension of Customs User Fees.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 31, 2004" and inserting "December 31, 2013".

SA 2367. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 715, strike line 1 and insert the following:

SEC. 3044. MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.

(a) In General.—Chapter 53 is amended by adding at the end the following:

"§5341. Medical transportation demonstration grants

"(a) Grants Authorized.—

"(1) In general.—The Secretary may award demonstration grants to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for diabetes or renal disease.

"(2) Eligible entities.—An entity shall be eligible to receive a grant under this section if the entity—

"(A) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(B) is an agency of a State or unit of local government.

"(b) Use of Funds.—Grant funds received under this section may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for diabetes or renal disease.

"(c) Application.—

"(1) In general.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(2) Selection of grantees.—In awarding grants under this section, the Secretary shall give preference to eligible entities from communities with—

"(A) high incidence of diabetes;

"(B) high incidence of renal disease; and

"(C) limited access to dialysis facilities.

"(d) Rulemaking.—The Secretary shall issue regulations to implement and administer the grant program established under this section.

"(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for each of fiscal year 2005 through 2009 to carry out this section, which shall remain available until expended.".

(b) Conforming Amendment.—The table of sections for chapter 53 is amended by adding at the end the following:

"5341. Medical transportation demonstration grants.".

"SEC. 3045. INTERMODAL PASSENGER FACILITIES.

SA 2368. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 110, line 15, strike all through page 115, line 9.

SA 2369. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 110, line 15, strike all through page 115, line 9.

SA 2370. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part 2 of subtitle A of title IV, add the following:

SEC. 4163. COMMERCIAL TRUCK HIGHWAY SAFETY DEMONSTRATION PROGRAM.

(a) Short Title.—This section may be cited as the "Commercial Truck Highway Safety Demonstration Program Act of 2004".

(b) Findings.—Congress makes the following findings:

(1) Public safety on the highways of the United States is a paramount concern of all who use the highways and all who prescribe public policy for the use of those highways, including public policy on the operation of heavy commercial trucks on highways.

(2) Federal highway funding law effectively imposes a limit of 80,000 pounds on the weight of vehicles permitted to use Interstate System highways.

(3) The administration of this law in Maine has forced heavy tractor-trailer and tractor-semitrailer combination vehicles traveling into Maine from neighboring States and Canada to divert onto small State and local roads where higher vehicle weight limits apply under Maine law.

(4) The diversion of those vehicles onto such roads causes significant economic hardships and safety challenges for small communities located along those roads.

(5) Permitting heavy commercial vehicles, including tanker trucks carrying hazardous material and fuel oil, to travel on Interstate System highways in Maine—

(A) would enhance public safety by reducing—

(i) the number of heavy vehicles that use town and city streets in Maine; and

(ii) as a result, the number of dangerous interactions between those heavy vehicles and such other vehicles as school buses and private vehicles; and

(B) would reduce the net highway maintenance costs in Maine because the Interstate System highways, unlike the secondary roads of Maine, are built to accommodate heavy vehicles and are, therefore, more durable.

(c) DEFINITIONS.—In this section:

(1) COVERED INTERSTATE SYSTEM HIGHWAY.—

(A) IN GENERAL.—The term "covered Interstate System highway" means a highway within the State of Maine that is designated as a route on the Interstate System, except as provided in subparagraph (B).

(B) EXCEPTION.—The term does not include any portion of highway that, as of the date of the enactment of this section, is exempted from the requirements of subsection (a) of section 127 of title 23, United States Code, by the last sentence of such subsection.

(2) INTERSTATE SYSTEM.—The term "Interstate System" has the meaning given that term in section 101(a) of title 23, United States Code.

(d) MAINE TRUCK SAFETY DEMONSTRATION PROGRAM.—The Secretary of Transportation shall carry out a program, in the administration of this section, to demonstrate the effects on the safety of the overall highway network in the State of Maine that would result from permitting vehicles described in subsection (e)(2) to be operated on the Interstate System highways within the State.

(e) WAIVER OF HIGHWAY FUNDING REDUCTION RELATING TO WEIGHT OF VEHICLES USING INTERSTATE SYSTEM HIGHWAYS.—

(1) PROHIBITION RELATING TO CERTAIN VEHICLES.—Notwithstanding section 127(a) of title 23, United States Code, the total amount of funds apportioned to the State of Maine under section 104(b)(1) of such title for any period may not be reduced under such section 127(a) on the basis that the State of Maine permits a vehicle described in paragraph (2) to use a covered Interstate System highway.

(2) COMBINATION VEHICLES IN EXCESS OF 80,000 POUNDS.—A vehicle referred to in paragraph (1) is a vehicle having a weight in excess of 80,000 pounds that—

(A) consists of a 3-axle tractor unit hauling a single trailer or semitrailer; and

(B) does not exceed any vehicle weight limitation that is applicable under the laws of the State of Maine to the operation of such vehicle on highways in Maine not in the Interstate System, as such laws are in effect on the date of the enactment of this section.

(3) EFFECTIVE DATE AND TERMINATION.—

(A) EFFECTIVE DATE.—

(i) DATE OF SATISFACTION OF ADMINISTRATIVE CONDITIONS BY MAINE.—The prohibition in paragraph (1) shall take effect on the date on which the Secretary of Transportation notifies the Commissioner of Transportation of the State of Maine in writing that—

(I) the Secretary has received the plan described in subsection (f)(1); and

(II) the Commissioner has established a highway safety committee as described in subsection (f)(2) and has promulgated rules and procedures for the collection of highway safety data as described in subsection (f)(3).

(ii) PERMANENT EFFECT.—After taking effect, the prohibition in paragraph (1) shall remain in effect unless terminated under subparagraph (B).

(B) CONTINGENT TERMINATION.—The prohibition in paragraph (1) shall terminate 3 years after the effective date applicable under subparagraph (A) if, before the end of such 3-year period, the Secretary of Transportation—

(i) determines that—

(I) operation of vehicles described in paragraph (2) on covered Interstate System highways in Maine has adversely affected safety on the overall highway network in Maine; or

(II) the Commissioner of Transportation of the State of Maine has failed faithfully to use the highway safety committee as described in subsection (f)(2)(A) or to collect data as described in subsection (f)(3); and

(ii) publishes the determination, together with the date of the termination of the prohibition, in the Federal Register.

(4) CONSULTATION REGARDING TERMINATION FOR SAFETY.—In making a determination under paragraph (3)(B)(i)(I), the Secretary of Transportation shall consult with the highway safety committee established by the Commissioner in accordance with subsection (f).

(f) RESPONSIBILITIES OF THE STATE OF MAINE.—For the purposes of subsection (e), the State of Maine satisfies the conditions of this subsection if the Commissioner of Transportation of the State of Maine—

(1) submits to the Secretary of Transportation a plan for satisfying the conditions set forth in paragraphs (2) and (3);

(2) establishes and chairs a highway safety committee that—

(A) the Commissioner uses to review the data collected pursuant to paragraph (3); and

(B) consists of representatives of—

(i) agencies of the State of Maine that have responsibilities related to highway safety;

(ii) municipalities of the State of Maine;

(iii) organizations that have evaluation or promotion of highway safety among their principal purposes; and

(iv) the commercial trucking industry; and

(3) collects data on the net effects that the operation of vehicles described in subsection (e)(2) on covered Interstate System highways have on the safety of the overall highway network in Maine, including the net effects on single-vehicle and multiple-vehicle collision rates for such vehicles.

SA 2371. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1020, between lines 9 and 10, insert the following:

SEC. 4663. USE OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT FUNDS FOR BOSTON TO PORTLAND PASSENGER RAIL SERVICE.

Notwithstanding any other provision of law, funds authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine, including any extension of such service.

SA 2372. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

PART 3—MISCELLANEOUS SAFETY PROVISIONS

SEC. 4171. PROHIBITION ON PURCHASE, RENTAL, LEASE, OR USE OF NONCOMPLYING 15-PASSENGER VANS FOR USE AS SCHOOL BUSES.

(a) PROHIBITION.—Section 30112(a) of title 49, United States Code, is amended—

(1) by inserting "(1)" before "Except as provided in this section"; and

(2) by adding at the end the following:

"(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not, after September 30, 2008, purchase, rent, lease, or use any motor vehicle designed or used to transport 9 to 15 passengers that the person knows or reasonably should know will be used to a significant extent to transport preschool, primary, and secondary school students to or from school or an event related to school, unless the motor vehicle complies with the motor vehicle standards prescribed for school buses under section 30125 of this title.".

(b) ENFORCEMENT.—Section 113(f) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) the enforcement of the prohibition under section 30112(a)(2) of this title; and".

(c) LIMITATION ON APPLICATION.—The prohibition under section 30112(a)(2) of title 49, United States Code, as added by subsection (a), shall not apply to any purchase, rental, lease, or use of a motor vehicle required under a contract that was entered into before the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the prohibition under section 30112(a)(2) of title 49, United States Code, as added by subsection (a).

SEC. 4172. FEDERAL OUTREACH EFFORTS.

Between the date of enactment of this Act and October 1, 2008, the Secretary of Transportation, in consultation with the Administrator of the National Highway Traffic Safety Administration and the Administrator of the Federal Motor Carrier Safety Administration, shall conduct an aggressive outreach campaign regarding the use of motor vehicles designed or used to transport 9 to 15 passengers as school buses. The outreach campaign shall be designed to ensure the broadest practicable dissemination of outreach campaign information to—

(1) State departments of transportation;

(2) State departments of education;

(3) local school districts;

(4) public and private school principals and administrators; and

(5) public and private child care providers.

SEC. 4173. PENALTY.

Section 30165(a)(1) of title 49, United States Code, is amended—

(1) by striking "A" before "person" and inserting "(A) Except as provided in subparagraph (B) of this paragraph, a"; and

(2) by adding at the end the following:

"(B) The maximum amount of a civil penalty under this paragraph shall be $25,000, in the case of—

"(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a schoolbus or schoolbus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

"(ii) a violation of section 30112(a)(2) of this title.

"(C) Subparagraph (B) shall not affect the maximum penalty that may be imposed under subparagraph (A) for a related series of violations.

"(D) Notwithstanding section 3302(b) of title 31, penalties collected under subparagraph (B)—

"(i) shall be credited as offsetting collections to the account that funds the enforcement of subparagraph (B);

"(ii) shall be available for expenditure only to pay the costs of such enforcement; and

"(iii) shall remain available until expended.".

SA 2373. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III add the following new section:

SEC. 3045. FUNDS FOR CAPITAL INVESTMENT FOR PUBLIC TRANSPORTATION.

(a) REPEAL OF AUTHORITY TO MAKE LOANS.—Section 5309(a) is amended—

(1) in paragraph (1), by striking "and loans"; and

(2) in paragraph (2), by striking "and loans".

(b) GRANTS FOR FERRYBOAT PROJECTS.—Paragraph (1)(F) of such section is amended to read as follows:

"(F) capital projects to replace, rehabilitate, and purchase buses, ferryboats, and related equipment and to construct bus-related and ferryboat-related facilities;".

(c) REPEAL OF AUTHORITY TO MAKE LOANS FOR REAL PROPERTY INTERESTS.—Section 5309(b) is repealed.

SA 2374. Ms. SNOWE (for herself, Mr. NELSON of Florida, Ms. COLLINS, Mr. GRAHAM of Florida, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part 1 of subtitle B of title IV, add the following:

SEC. 4251. INCREASED MCSAP PARTICIPATION IMPACT STUDY.

(a) IN GENERAL.—If a State that did not receive its full allocation of funding under the Motor Carrier Safety Assistance Program during fiscal year 2003 agrees to enter into a cooperative agreement with the Secretary of Transportation to evaluate the safety impact, costs, and benefits of allowing such State to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary of Transportation shall allocate to that State the full amount of funds to which it would otherwise be entitled for fiscal years 2004, 2005, 2006, 2007, 2008, and 2009. The Secretary of Transportation may not add conditions to the cooperative agreement other than those directly relating to the accurate and timely collection of inspection and crash data sufficient to ascertain the safety and effectiveness of such State's program.

(b) REQUIREMENTS.—

(1) REPORT.—The State shall annually submit to the Secretary of Transportation, the results of the safety evaluations described in subsection (a).

(2) TERMINATION BY SECRETARY.—If the Secretary of Transportation finds that a cooperative agreement entered into under this section is not in the public interest based on the results of the annual evaluations after 2 years of full participation by the State, the Secretary of Transportation may terminate the cooperative agreement.

(c) PROHIBITION OF ADOPTION OF LESSER STANDARDS.—No State may enact or implement motor carrier safety regulations that are determined by the Secretary of Transportation to be less strict than those in effect as of September 30, 2003.

SA 2375. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1062, beginning with line 11, strike through line 2 on page 1064.

SA 2376. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 9 and 10, insert the following:

SEC. 1309. USE OF PROCEEDS FROM CERTAIN REAL PROPERTY SALES.

Subsection (c) of section 156 of title 23, United States, is amended to read as follows:

"(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net proceeds obtained by a State under subsection (a) shall be treated as Federal funds and applied by the State to meet the Federal share for projects eligible to receive funding under this title.".

SA 2377. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike "SET-ASIDE.—" in subsection (b)(2) and insert "FUNDING.—";

(2) strike "of the amounts made available" in subsection (b)(2) and insert "the amounts made available";

(3) strike "$439,000,000" in subsection (b)(2);

(4) strike "allocated" in subsection (c)(1)(A) and insert "apportioned";

(5) strike "subsection (d)." in subsection (c)(1)(B) and insert "subsection (e).";

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

"(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

"(1) the total funds apportioned to each State under the Federal-aid Highway Program, bears to

"(2) the total funds apportioned to all States under the Federal-aid Highway Program."; and

(7) strike subsection (e), as redesignated, and insert the following:

"(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(1) withdraw—

"(A) any funds allocated to a State under this section that remain unobligated; and

"(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(2) reallocate the funds and redistribute the obligation authority to those States that—

"(A) have fully obligated all amounts allocated under this section for the fiscal year; and

"(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.".

"(f) DISTRIBUTION OF FUNDS.—

"(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

"(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

"(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

SA 2378. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike "SET-ASIDE.—" in subsection (b)(2) and insert "FUNDING.—";

(2) strike "of the amounts made available" in subsection (b)(2) and insert "the amounts made available";

(3) strike "$439,000,000" in subsection (b)(2);

(4) strike "allocated" in subsection (c)(1)(A) and insert "apportioned";

(5) strike "subsection (d)." in subsection (c)(1)(B) and insert "subsection (e).";

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

"(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

"(2) the 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account)."; and

(7) strike subsection (e), as redesignated, and insert the following:

"(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(1) withdraw—

"(A) any funds allocated to a State under this section that remain unobligated; and

"(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(2) reallocate the funds and redistribute the obligation authority to those States that—

"(A) have fully obligated all amounts allocated under this section for the fiscal year; and

"(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.".

"(g) DISTRIBUTION OF FUNDS.—

"(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

"(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

"(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

SA 2379. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 299, strike lines 2 through 8.

SA 2380. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 508, beginning with line 1, strike through line 25 on page 515.

SA 2381. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 287, beginning with line 12, strike through line 2 on page 288.

SA 2382. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, beginning with line 11, strike through line 3 on page 80.

SA 2383. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4601.

SA 2384. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, beginning with line 13, strike through line 9 on page 1020 and insert the following:

SUBTITLE F—AMTRAK REAUTHORIZATION

SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.

The text of section 24104 of title 49, United States Code, is amended to read as follows:

"There are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 for the benefit of intercity rail passenger service for operating and capital expenses.".

SA 2385. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike "SET-ASIDE.—" in subsection (b)(2) and insert "Funding.—";

(2) strike "of the amounts made available" in subsection (b)(2) and insert "the amounts made available";

(3) strike "$439,000,000" in subsection (b)(2);

(4) strike "allocated" in subsection (c)(1)(A) and insert "apportioned";

(5) strike "subsection (d)." in subsection (c)(1)(B) and insert "subsection (e).";

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

"(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

"(1) the total funds apportioned to each State under the Federal-aid Highway Program, bears to

"(2) the total funds apportioned to all States under the Federal-aid Highway Program."; and

(7) strike subsection (e), as redesignated, and insert the following:

"(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(1) withdraw—

"(A) any funds allocated to a State under this section that remain unobligated; and

"(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(2) reallocate the funds and redistribute the obligation authority to those States that—

"(A) have fully obligated all amounts allocated under this section for the fiscal year; and

"(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.".

SA 2386. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike "SET-ASIDE.—" in subsection (b)(2) and insert "FUNDING.—";

(2) strike "of the amounts made available" in subsection (b)(2) and insert "the amounts made available";

(3) strike "$439,000,000" in subsection (b)(2);

(4) strike "allocated" in subsection (c)(1)(A) and insert "apportioned";

(5) strike "subsection (d)." in subsection (c)(1)(B) and insert "subsection (e).";

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

"(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

"(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

"(2) the 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account)."; and

(7) strike subsection (e), as redesignated, and insert the following:

"(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(1) withdraw—

"(A) any funds allocated to a State under this section that remain unobligated; and

"(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(2) reallocate the funds and redistribute the obligation authority to those States that—

"(A) have fully obligated all amounts allocated under this section for the fiscal year; and

"(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(f) Application With Section 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.".

SA 2387. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1104. EQUITY PROVISION.

(a) In General.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Equity provision

"(a) General Rule.—For each of fiscal years 2004 through 2009, the Secretary shall ensure that the percentage of apportionments of each State is sufficient to ensure that, based on the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available, no State's percentage return from the Highway Trust Fund is less than 100 percent.

"(b) Apportionments.—In making an apportionment described in subsection (a) for a fiscal year, the Secretary shall ensure that the rate of return of each State from the Highway Trust Fund includes the total apportionments made for the fiscal year for—

"(1) the Interstate maintenance program under section 119;

"(2) the National Highway System under section 103;

"(3) the bridge program under section 144;

"(4) the surface transportation program under section 133;

"(5) the congestion mitigation and air quality improvement program under section 149;

"(6) the highway safety improvement program under section 148;

"(7) the Appalachian development highway system program under section 170;

"(8) the recreational trails program under section 206;

"(9) the metropolitan planning program under section 104(f);

"(10) the safe routes to school program under section 150; and

"(11) the railway-highway crossings under section 130.

"(c) Adjustments.—

"(1) In General.—If in any of fiscal years 2004 through 2009, the total of the amounts authorized under (a) and (b) is more than the amounts listed in paragraph (2), then the Secretary shall proportionally reduce the amounts apportioned under paragraphs (1) through (6) so that the total equals the amount listed under paragraph (2). In making such reductions, the Secretary shall ensure that no State's percentage return from the Highway Trust Fund (other than the Mass Transit Account) is less than 100 percent.

"(2) Amounts.—The amount listed in this paragraph is as follows:

"(A) the amount for 2004 is $35,419,162,743.

"(B) the amount for 2005 is $38,142,851,998.

"(C) the amount for 2006 is $39,323,247,546.

"(D) the amount for 2007 is $39,084,010,054.

"(E) the amount for 2008 is $39,386,404,896.

"(F) the amount for 2009 is $44,789,782,206.

"(3) Negative Amounts.—If the reduction required by paragraph (1) for any fiscal year would result in zero or a negative number, then the Secretary shall apportion the amount for that fiscal year set forth in paragraph (2) among the several States using the formula in subsection (a).

"(d) Authorization of Appropriations.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for each of fiscal years 2004 through 2009.

"(e) Programmatic Distribution of Funds.—

"(1) Initial Distribution.—The Secretary shall apportion $2,500,000,000 of the amounts made available under this section to each State in accordance with section 119.

"(2) Remainder Distribution.—The Secretary shall apportion the remainder of the amounts made available under this section so that the amount apportioned to each State for each program referred to in paragraphs (1) through (6) of subsection (b) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

(A) the amount of funds apportioned to each State for each program referred to in those paragraphs for a fiscal year, bears to

(B) the total amount of funds apportioned to each State for such program for that fiscal year.".

(b) Conforming Amendments.—

(1) Section 104(b) of title 23, United States Code, is amended—

(A) by inserting "50 percent of" after "Highway, and" in paragraph (1)(A);

(B) by redesignating subparagraph (B) of paragraph (1) as subparagraph (C) and inserting the following after subparagraph (A):

"(B) The remaining 50 percent of the funds apportioned under subparagraph (A) shall be apportioned in the ratio described in paragraph (3)(A).";

(C) by striking paragraph (3)(A) and inserting the following:

"(A) In General.—For the surface transportation program, in the ratio that—

"(i) the estimated tax payments attributable to highway users in each State paid into the Highway Trust fund (other than the Mass Transit Account) in the latest fiscal year for which data are available, bears to

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.";

(D) by striking "For" in paragraph (4) and inserting "Fifty percent of the funds for"; and

(E) by adding at the end of paragraph (4) the following:

"(The remaining 50 percent of such funds shall be apportioned in the ratio described in paragraph (3)(A).".

(2) The chapter analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Equity provision".

Strike paragraph (13) of section 1101 of the amendment and redesignate paragraphs (14) and (15) as paragraphs (13) and (14), respectively.

SA 2388. Mrs. HUTCHISON (for herself, Mr. Kyl, Mr. Levin, Mr. Graham of Florida, Mr. McCain, Ms. Stabenow, and Mrs. Feinstein) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike "Set-aside.—" in subsection (b)(2) and insert "Funding.—"

(2) strike "of the amounts made available" in subsection (b)(2) and insert "the amounts made available";

(3) strike "$439,000,000" in subsection (b)(2);

(4) strike "allocated" in subsection (c)(1)(A) and insert "apportioned";

(5) strike "subsection (d)." in subsection (c)(1)(B) and insert "subsection (e).";

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

"(d) Distribution of Funds.—

"(1) Infrastructure Performance and Maintenance Program Distribution.—Nothwithstanding subsection 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

"(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

"(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

"(2) Equity Distribution.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return of all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

"(A) for fiscal year 2005, 91 percent;

"(B) for fiscal year 2006, 92 percent;

"(C) for fiscal year 2007, 93 percent;

"(D) for fiscal year 2008, 94 percent;

"(E) for fiscal year 2009, 95 percent.

"(3) Remainder Distribution.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

"(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

"(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

SA 2389. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4663. AMTRAK CAPITAL EXPENDITURES NORTHEAST CORRIDOR LIMIT.

Notwithstanding any other provision of law, Amtrak may not expend more than 50 percent of its total expenditures for capital projects in any fiscal year for such projects on any one Corridor.

SA 2390. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SECTION 4(f) POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) IN GENERAL.—Section 138 of title 23, United States Code, and section 303 of title 49, United States Code, are each amended by adding at the end the following matter with appropriate subsection designation:

''( ) TREATMENT OF HISTORIC SITES.—The requirements of this section are deemed to be satisfied where the treatment of an historic site (other than a National Historic Landmark) has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f). The Secretary, in consultation with the Advisory Council on Historic Preservation, shall develop administrative procedures to review the implementation of this subsection to ensure that the objectives of the National Historic Preservation Act are being met.''.

(b) ADMINISTRATION.—

(1) APPROVAL OF STATE REQUESTS FOR FUNDS.—The Secretary of Transportation may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, to a State historic preservation office, Tribal historic preservation office, or to the Advisory Council on Historic Preservation to provide the resources necessary to expedite the historic preservation review and consultation process under section 138 of title 23, section 303 of title 49, and under section 470f of title 16, United States Code.

(2) STATE FUNDING.—The Secretary shall encourage States to provide such funding to State historic preservation officers, Tribal historic preservation officers or the Advisory Council on Historic Preservation where the investment of such funds will accelerate completion of a project or classes of projects or programs by reducing delays in historic preservation review and consultation.

(3) ADDITIONAL AMOUNTS.—The Secretary may approve requests under paragraph (1) only—

(A) for the additional amounts that the Secretary determines are necessary for a State historic preservation office, Tribal historic preservation office, or the Advisory Council on Historic Preservation to expedite the review and consultation process; and

(B) only where the Secretary determines that such additional amounts will permit completion of the historic preservation process in less than the time customarily required for such process.

SA 2391. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4663. AMTRAK EXPENDITURES NORTHEAST CORRIDOR LIMIT.

Notwithstanding any other provision of law, Amtrak may not expend more than 50 percent of its total expenditures for capital projects and operations in any fiscal year for such projects and operations on any one Corridor.

SA 2392. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 487, after line 23, insert the following:

SEC. 2105. WIDEBAND MULTI-BAND MOBILE PILOT PROJECTS.

(a) IN GENERAL.—The Secretary shall make grants for wideband multi-media mobile pilot projects to demonstrate emergency communications systems that provide wideband, two-way information transfer capabilities utilizing the public safety spectrum made available by the Federal Communications Commission in the 700 MHz radio frequency band and that are compliant with the public safety wideband data standard TIA-902 as recommended as the wideband data interoperability standard by the Public Safety National Coordinating Committee to the Federal Communications Commission.

(b) LOCATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish locations for pilot projects under this section. In determining pilot project locations, the Secretary shall certify that pilot project locations awarded grants have spectrum available for public safety purposes and are in the 700 MHz band pursuant to the Federal Communications Commission's rules.

(c) LIMIT ON TIME.—Grants under this section shall be awarded not later than 12 months after the date of enactment of this Act.

(d) FUNDING.—Of amounts made available under section 2001(a)(4), $40,000,000 shall be available to carry out this section.

SA 2393. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 764, between lines 4 and 5, insert the following new subsection:

''(i) MINIMUM APPORTIONMENT AND CRITERIA.—

''(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

''(2) CRITERIA.—To qualify for a grant under this subsection, a State—

''(A) shall meet the requirements of subsection (a)(2) of this section; and

''(B) shall—

''(i) meet 4 of the 7 criteria for qualifying for grants under subsection (b)(1) of this section (as that subsection was as in effect for fiscal year 2003 funding);

''(ii) for the most recent year for which data is available, have an alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the national average for that year or lower than the rate in that State in the second most recent year for which data is available; or

''(iii) for the most recent 3 years for which data is available, have an average alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the average of the national rate for those 3 years or lower than the average of such rate in that State for the fourth, fifth, and sixth most recent years for which data is available.

''(3) USES OF FUNDS.—Grants under this subsection may be used for—

''(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

''(B) any activity otherwise eligible under this section; and

''(C) any other activity undertaken by the State for the purpose of reducing impaired driving unless disapproved by the Secretary on the basis that it bears no relation to that objective.''

SA 2394. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. 1106. ADDITIONAL FUNDING.

(a) IN GENERAL.—In addition to the funds made available for each surface transportation program by this Act and amendments made by this Act, there shall be available for each such program for the period beginning on the date of enactment of this Act and ending September 30, 2009, from the general fund of the Treasury, an amount equal to the difference between—

(1) the amount of funds made available for the program under this Act (other than this section) and amendments made by this Act; and

(2) the amount of funds made available for the program under the Transportation Equity Act for the 21st Century (Public Law 105–178) and amendments made by that Act.

(b) ADMINISTRATIVE ACTION.—

(1) IN GENERAL.—Not later than 2 business days after the date of enactment of this Act, the Secretary of the Treasury shall transfer to the Secretary the total amount made available for Federal-aid highway programs by subsection (a).

(2) RECEIPT, ACCEPTANCE, AND TREATMENT OF FUNDS.—The Secretary shall—

(A) be entitled to receive, and shall accept, the funds transferred under paragraph (1), without further appropriation; and

(B) apportion, allocate, deduct, or set aside, as the case may be, in accordance with title 23, United States Code (as in effect on the day before the date of enactment of this Act), the funds transferred under paragraph (1).

(c) OBLIGATION AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SA 2395. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1020, between lines 9 and 10, insert the following:

SUBTITLE C—INTERMODAL EQUIPMENT SAFETY

SEC. 181. FINDINGS.

The Congress finds the following:

(1) Promoting the safety of our Nation's highways is a national priority. The Department of Transportation has promulgated the Federal Motor Carrier Safety Regulations to further this purpose. The systematic maintenance, repair, and inspection of equipment traveling in interstate and foreign commerce are an integral part of the safety regime.

(2) Motor carriers and their drivers that receive intermodal chassis and trailers from others, generally do not have an opportunity to perform the systematic maintenance of such equipment.

(3) Available evidence indicates that intermodal chassis and trailers operated on the highways in interstate and foreign commerce are sometimes out of compliance with the Federal Motor Carrier Safety Regulations, but no party is clearly held responsible for the systematic maintenance of the intermodal chassis and trailers prior to operation on the highways.

(4) Responsibility for compliance with the Federal Motor Carrier Safety Regulations must be shared between the owners or others that make intermodal chassis and trailers available for transport and the motor carriers that transport such equipment.

SEC. 182. DEFINITIONS.

Section 31132 of title 49, United States Code, is amended by adding at the end the following:

"(11) 'Intermodal equipment' means equipment that is commonly used in the intermodal transportation of freight over public highways as an instrumentality of interstate or foreign commerce, including trailers, chassis, and any similar devices.

"(12) 'Intermodal equipment interchange agreement' means a written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, whose primary purpose it is to which establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

"(13) 'Intermodal equipment provider' means any party with any legal right, title, interest, or contractual obligation in intermodal equipment that interchanges such equipment to a motor carrier and registers such equipment with the United States Department of Transportation pursuant to this subtitle.

"(14) 'Interchange' means the act of providing intermodal equipment to a motor carrier for the purpose of transporting the equipment for loading or unloading by any party or repositioning the equipment for the benefit of the equipment provider. Such term does not mean the leasing of equipment to a motor carrier for use in the motor carrier's over-the-road freight hauling operations.".

SEC. 183. JURISDICTION OVER EQUIPMENT PROVIDERS; PROHIBITION ON RETALIATION.

Section 31136 of title 49, United States Code, is amended by adding at the end the following:

"(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—

"(1) AUTHORITY TO REGULATE.—The term 'commercial motor vehicle' as defined in section 31132(1) of this title includes intermodal equipment commonly used in the road transportation of intermodal freight, including trailers, chassis and associated devices. The Secretary, or an employee designated by the Secretary, may on demand and display of proper credentials to inspect intermodal equipment and inspect and copy related maintenance and repair records.

"(2) RESPONSIBILITY FOR MAINTENANCE, REPAIR, AND INSPECTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding any provision in an intermodal equipment interchange agreement to the contrary, an intermodal equipment provider shall be responsible for the systematic inspection, maintenance, and repair of intermodal equipment interchanged, or intended for interchange, to ensure that such equipment complies with all applicable Federal Motor Carrier Safety Regulations.

"(B) MOTOR CARRIER LEASES.—Notwithstanding subparagraph (A), a motor carrier that leases intermodal equipment from an intermodal equipment provider shall be responsible for the systematic maintenance, repair, and inspection of such equipment for the duration of the lease.

"(3) NEGLIGENCE; WILLFUL MISCONDUCT.—Notwithstanding paragraph (2), an intermodal equipment provider shall not be responsible for noncompliance with the Federal Motor Carrier Safety Regulations caused by the negligence or willful misconduct of a motor carrier or its agent to which intermodal equipment has been interchanged.

"(h) PROHIBITION ON RETALIATION.—An intermodal equipment provider may not take any action to threaten, coerce, discipline, discriminate, or otherwise retaliate against a driver or motor carrier in response to a report or complaint made by a driver or motor carrier that the maintenance or repair of intermodal equipment intended for interchange, or actually interchanged, failed to comply with the applicable Federal Motor Carrier Safety Regulations. It shall not be a violation of this subsection for an intermodal equipment provider to refuse to interchange intermodal equipment to a driver or motor carrier for legitimate business reasons, as determine by the Secretary, including a driver's or motor carrier's failure to pay debts owed to an intermodal equipment provider.".

SEC. 184. PREEMPTION OF STATE LAWS.

(a) COMPATIBILITY.—

(1) The first sentence of section 31111(c)(1) of title 49, United States Code, is amended to read as follows: "Except as provided by subsection (h) of this section, the Secretary shall review State laws and regulations on commercial motor vehicle safety.".

(2) Section 31141 of title 49, United States Code, is amended by adding at the end the following:

"(h) PREEMPTION GENERALLY.—Except as otherwise authorized by Federal law, a law, regulation, order or other requirement of a State, a political subdivision of a State, or a tribal organization, is preempted if compliance with such law, regulation, order, or other requirement would exceed or otherwise be inconsistent with a requirement imposed under or pursuant to this chapter.".

SEC. 185. IMPLEMENTING REGULATIONS.

(a) REGULATIONS.—the Secretary of Transportation, after notice and opportunity for comment, shall issue regulations implementing the provisions of section 31136(g) of title 49, United States Code. The regulations shall be issued as part of the Federal Motor Carrier Safety Regulations of the Department of Transportation and shall include—

(1) a requirement to identify providers of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(2) a requirement to match such intermodal equipment readily to the intermodal equipment provider through a unique identifying number;

(3) a requirement to ensure that each intermodal equipment provider maintains a system of maintenance and repair records for such equipment;

(4) a requirement to evaluate the compliance of intermodal equipment providers with the applicable Federal Motor Carrier Safety Regulations;

(5) a provision that—

(A) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal Motor Carrier Safety Regulations; and

(B) prohibits intermodal equipment providers from placing intermodal equipment on the public highways if such providers are found to be unfit under section 31144 of this title;

(6) a process by which motor carriers and agents of motor carriers may confidentially petition the Federal Motor Carrier Safety Administration to undertake an investigation of noncompliant intermodal equipment provider;

(7) a process by which an equipment provider or its agent may confidentially petition the Federal Motor Carrier Safety Administration to undertake an investigation of noncompliant motor carriers;

(8) a process by which drivers or motor carriers would be required to report any damage or defect in intermodal equipment at the time the equipment is returned to the equipment provider; and

(9) an inspection and audit program of intermodal equipment providers.

(b) Time for Issuing Regulations.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated not later than 120 days after the date of enactment of this Act and shall be issued not later than 1 year after such date of enactment.

SEC. 186. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Motor Carrier Safety Administration $1,500,000 for the establishment and implementation of the inspection program described in section 185(a)(7) of this subtitle.

SA 2396. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, between lines 15 and 16, insert the following:

Part 3—Miscellaneous Provisions

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) National Office of Driver Licensing and Education.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

"(2) The head of the National Office of Driver Licensing and Education is the Director.

"(3) The functions of the National Office of Driver Licensing and Education are as follows:

"(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

"(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

"(i) vehicle handling and crash avoidance;

"(ii) driver behavior and risk reduction;

"(iii) roadway features and associated safety implications;

"(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

"(v) parent education; and

"(vi) other issues identified by the Director.

"(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

"(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

"(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

"(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

"(G) To provide States with financial assistance under section 412 of title 23 for—

"(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

"(ii) the establishment or improved administration of multistage graduated licensing systems; and

"(iii) the support of other improvements in motor vehicle driver education and licensing programs.

"(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

"(I) To examine different options for delivering driver education in the States.

"(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

"(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).".

(b) Grant Program for Improvement of Driver Education and Licensing.—

(1) Authority.—

(A) In general.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 412. DRIVER EDUCATION AND LICENSING.

"(a) Authority.—

"(1) In general.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

"(2) Administrative office.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) Eligibility Requirements.—

"(1) Regulations.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

"(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

"(i) driver licensing and education programs;

"(ii) instructor certification testing; and

"(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

"(B) Improvement of motor vehicle driver education curricula.

"(C) Training of instructors for motor vehicle driver education programs.

"(D) Testing and evaluation of motor vehicle driver performance.

"(E) Public education and outreach regarding motor vehicle driver education and licensing.

"(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

"(2) Consultation requirement.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Other relevant experts.

"(c) Maximum Amount of Grant.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.".

(B) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"412. Driver education and licensing.".

(2) Time for promulgation of regulations.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(c) Grant Program for Public Awareness of Organ Donation Through Driver Licensing Programs.—

(1) Authority.—

(A) In general.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

"SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

"(a) Authority.—

"(1) In general.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

"(2) Administrative office.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) Eligibility Requirements.—

"(1) Regulations.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

"(2) Consultation requirement.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Representatives of private sector organizations recognized for relevant expertise.".

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"413. Organ donation through driver licensing.".

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(d) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out sections 412 and 413 of title 23, United States Code (as added by subsections (b) and (c), respectively).

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

"(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

"(A) frontal impact crash test ratings are based on risk of head and chest injury;

"(B) side impact crash test ratings are based on risk of chest injury; and

"(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

"(3) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

"(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking "and" after the semicolon; and

(2) in subsection (f)—

(A) by adding "and" at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2005, if the regulations under subsection (b) are prescribed not later than August 31, 2004; or

(2) September 1, 2006, if the regulations under subsection (b) are prescribed after August 31, 2004.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 1 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39. Traffic signal preemption transmitters

"(a) OFFENSES.—

"(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

“(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term ‘traffic signal preemption transmitter’ means any device or mechanism that can change a traffic signal's phase.

“(2) UNAUTHORIZED USER.—The term ‘unauthorized user’ means a user of a traffic signal preemption transmitter who is not a government approved user.”.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“39. Traffic signal preemption transmitters.”.

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

SA 2397. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 20, strike line 7 and all that follows through page 31, line 15, and insert the following:

“(13) INDIAN LAND.—The term ‘Indian land’ means—

“(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

“(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

“(i) in trust by the United States for the benefit of an Indian tribe;

“(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

“(iii) by a dependent Indian community; and

“(C) land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(14) INDIAN RESERVATION.—The term ‘Indian reservation’ includes—

“(A) an Indian reservation in existence as of the date of enactment of the Indian Tribal Surface Transportation Improvement Act of 2003;

“(B) a public domain Indian allotment;

“(C) a former reservation in the State of Oklahoma;

“(D) a parcel of land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

“(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

“(i) on original or acquired territory of the community; or

“(ii) within or outside the boundaries of any particular State.

“(15) INDIAN RESERVATION ROAD.—

“(A) IN GENERAL.—The term ‘Indian reservation road’ means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

“(B) AREAS.—The areas referred to in subparagraph (A) are—

“(i) an Indian reservation;

“(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

“(16) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(17) INTERSTATE SYSTEM.—The term ‘Interstate System’ means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

“(18) MAINTENANCE.—

“(A) IN GENERAL.—The term ‘maintenance’ means the preservation of a highway.

“(B) INCLUSIONS.—The term ‘maintenance’ includes the preservation of—

“(i) the surface, shoulders, roadsides, and structures of a highway; and

“(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

“(19) MAINTENANCE AREA.—The term ‘maintenance area’ means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(20) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term ‘National Forest System road or trail’ means a forest road or trail that is under the jurisdiction of the Forest Service.

“(21) NATIONAL HIGHWAY SYSTEM.—The term ‘National Highway System’ means the Federal-aid highway system described in section 103(b).

“(22) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term ‘operating costs for traffic monitoring, management, and control’ includes—

“(A) labor costs;

“(B) administrative costs;

“(C) costs of utilities and rent;

“(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

“(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

“(i) an integrated traffic control system;

“(ii) an incident management program; and

“(iii) a traffic control center.

“(23) OPERATIONAL IMPROVEMENT.—

“(A) IN GENERAL.—The term ‘operational improvement’ means—

“(i) a capital improvement for installation or implementation of—

“(I) a transportation system management and operations program;

“(II) traffic and transportation security surveillance and control equipment;

“(III) a computerized signal system;

“(IV) a motorist information system;

“(V) an integrated traffic control system;

“(VI) an incident management program;

“(VII) equipment and programs for transportation response to manmade and natural disasters; or

“(VIII) a transportation demand management facility, strategy, or program; and

“(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

“(B) EXCLUSIONS.—The term ‘operational improvement’ does not include—

“(i) a resurfacing, restorative, or rehabilitative improvement;

“(ii) construction of an additional lane, interchange, or grade separation; or

“(iii) construction of a new facility on a new location.

“(24) PARK ROAD.—The term ‘park road’ means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

“(25) PARKWAY.—The term ‘parkway’ means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

“(26) PROJECT.—The term ‘project’ means—

“(A)(i) an undertaking to construct a particular portion of a highway; or

“(ii) if the context so implies, a particular portion of a highway so constructed; and

“(B) any other undertaking eligible for assistance under this title.

“(27) PROJECT AGREEMENT.—The term ‘project agreement’ means the formal instrument to be executed by the Secretary and recipient of funds under this title.

“(28) PUBLIC AUTHORITY.—The term ‘public authority’ means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

“(29) PUBLIC FOREST SERVICE ROAD.—The term ‘public Forest Service road’ means a classified forest road—

“(A) that is open to public travel;

“(B) for which title and maintenance responsibility is vested in the Federal Government; and

“(C) that has been designated a public road by the Forest Service.

“(30) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term ‘public lands development roads and trails’ means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

“(31) PUBLIC LANDS HIGHWAY.—The term ‘public lands highway’ means—

“(A) a forest road that is—

“(i) under the jurisdiction of, and maintained by, a public authority; and "(ii) open to public travel; and

"(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel.

"(32) PUBLIC ROAD.—The term 'public road' means any road or street that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) open to public travel.

"(33) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

"(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

"(B) for which title is vested in the Federal Government.

"(34) REFUGE ROAD.—The term 'refuge road' means a public road—

"(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

"(B) for which title and maintenance responsibility is vested in the United States Government.

"(35) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

"(36) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(37) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(38) STATE FUNDS.—The term 'State funds' includes funds that are—

"(A) raised under the authority of the State (or any political or other subdivision of a State); and

"(B) made available for expenditure under the direct control of the State transportation department.

"(39) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

"(40) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

"(41) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

"(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

"(E) Landscaping and other scenic beautification.

"(F) Historic preservation.

"(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

"(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

"(I) Control and removal of outdoor advertising.

"(J) Archaeological planning and research.

"(K) Environmental mitigation—

"(i) to address water pollution due to highway runoff; or

"(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

"(L) Establishment of transportation museums.

"(42) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

"(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

"(43) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means any transportation-related project, facility, or physical infrastructure for an Indian tribe that is funded under this title.

SA 2398. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 321, strike line 14 and all that follows through page 334, line 14, and insert the following:

"(B) FUNDING.—

"(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(B) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph—

"(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

"(II) shall not be available to the Bureau of Indian Affairs to pay administrative costs."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

"(1) CONTRACT AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the administrative expenses of the Bureau for the Indian reservation roads program (including the administrative expenses relating to individual projects that are associated with the program).

"(B) AVAILABILITY.—Amounts made available to pay administrative expenses under subparagraph (A) shall be made available to an Indian tribal government, on the request of the government, to be used for the associated administrative functions assumed by the Indian tribe under contracts and agreements entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

"(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105–178) or its successor Act of Congress that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

"(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

"(1) 12 percent to the Bureau of Reclamation.

"(2) 18 percent to the Bureau of Indian Affairs.

"(3) 17 percent to the Bureau of Land Management.

"(4) 17 percent to the Forest Service.

"(5) 7 percent to the United States Fish and Wildlife Service.

"(6) 17 percent to the National Park Service.

"(7) 12 percent to the Corps of Engineers.".

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting "safety projects or activities," after "refuge roads," each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

"(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

"(A) transportation safety improvement activities;

"(B) activities to eliminate high-accident locations;

"(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

"(D) collection of safety information;

"(E) transportation planning projects or activities;

"(F) bridge inspection;

"(G) development and operation of safety management systems;

"(H) highway safety education programs; and

"(I) other eligible safety projects and activities authorized under chapter 4.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*-12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(f) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting "recreation roads," after "public lands highways,".

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (e)(1)), is amended by adding at the end the following:

"(h) RECREATION ROADS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

"(A) 8 percent to the Bureau of Reclamation.

"(B) 9 percent to the Corps of Engineers.

"(C) 13 percent to the Bureau of Land Management.

"(D) 70 percent to the Forest Service.

"(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.".

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting "recreation roads," after "Indian reservation roads,"; and

(B) in the fourth sentence, by inserting ", recreation roads," after "Indian roads".

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

"(m) RECREATION ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

"(A) maintenance or improvements of existing recreation roads;

"(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

"(i) the Department of Agriculture; or

"(ii) the Department of the Interior;

"(C) transportation planning and administrative activities associated with those maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

"(B) as of the date on which the funds are to be expended, there are—

"(i) no significant changes to the proposal bearing on environmental concerns; and

"(ii) no significant new information.

"(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*-12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(g) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking "public lands highways," each place it appears and inserting "public lands highways, recreation roads,".

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(3) Section 202(e) of title 23, United States Code, is amended by striking "Refuge System," and inserting "Refuge System and the various national fish hatcheries,".

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking "public lands highways," and inserting "public lands highways, recreation roads, forest highways,"; and

(B) in subsection (i), by striking "public lands highways" each place it appears and inserting "public lands highways, recreation roads, and forest highways".

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§205. National Forest System roads and trails";

and

(B) in subsections (a) and (d), by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

"205. National Forest System roads and trails.".

(7) Section 217(c) of title 23, United States Code, is amended by inserting "refuge roads," after "Indian reservation roads,".

SEC. 18 . INDIAN TRIBAL SURFACE TRANSPORTATION.

(a) FUNDING FOR INDIAN RESERVATION ROADS PROGRAM.—Section 1101(a)(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking subparagraph (A) and inserting the following:

"(A) INDIAN RESERVATION ROADS.—

"(i) IN GENERAL.—Subject to clause (ii), for Indian reservation roads under section 204 of that title—

"(I) $330,000,000 for each of fiscal years 2004 through 2005;

"(II) $425,000,000 for each of fiscal years 2006 through 2007; and

"(III) $550,000,000 for each of fiscal years 2008 through 2009.

"(ii) MAINTENANCE.—Of the amounts made available for each fiscal year under clause (i), not less than $50,000,000 shall be used—

"(I) to maintain roads on Indian land; and

"(II) to maintain tribal transportation facilities serving Indian communities.".

(b) OBLIGATION CEILING.—Section 1102(c)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended—

(1) by striking "distribute obligation" and inserting the following: "distribute—

"(A) obligation";

(2) by inserting "and" after the semicolon at the end; and

(3) by adding at the end of the following:

"(B) for each of fiscal years 2004 through 2009, any amount of obligation authority made available for Indian reservation road bridges under section 202(d)(4), and for Indian reservation roads under section 204, of title 23, United States Code.".

(c) TRIBAL CONTRACTING DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 202(d)(3) of title 23, United States Code, is amended by adding at the end the following:

"(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

"(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

"(iii) SELECTION OF PARTICIPATING TRIBES.—

"(I) PARTICIPANTS.—

"(aa) IN GENERAL.—In addition to those Indian tribes or tribal organizations already contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

"(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

"(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

"(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

"(aa) has successfully completed the planning phase described in subclause (IV);

"(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

"(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

"(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(IV) PLANNING PHASE.—

"(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

"(bb) ELIGIBILITY.—A tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

"(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall prepare and submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4 of the Indian Self-Determination andEducation Assistance Act (25 U.S.C. 450b(i)) is amended by striking subsection (i) and inserting the following:

"(i) SECRETARY.—Except as otherwise provided, the term 'Secretary' means any 1 or more of the following, as appropriate:

"(1) The Secretary of Health and Human Services.

"(2) The Secretary of the Interior.

"(3) The Secretary of Transportation."

(B) Section 401 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa) is amended—

(i) by striking "The Secretary" and inserting "(a) IN GENERAL.—The Secretary"; and

(ii) by adding at the end the following:

"(b) SECRETARY OF TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary of Transportation may enter into self-governance compacts and annual funding agreements with Indian tribes and tribal organizations to carry out tribal transportation programs (including transit programs) authorized under title 23 or 49, United States Code, in accordance with the terms, conditions, and procedures of this Act (including regulations promulgated under this Act (part 1000 of title 25 Code of Federal Regulations)).".

(d) INDIAN RESERVATION ROAD PLANNING.—Section 204(j) of title 23, United States Code, is amended in the first sentence by striking "2 percent" and inserting "5 percent".

(e) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—Section 204 of title 23, United States Code (as amended by section 1816), is amended by adding at the end the following:

"(p) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COMMISSION.—The term 'Commission' means the Alaska Native Transportation Commission established under paragraph (4)(A).

"(B) NATIVE.—The term 'Native' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(C) NATIVE AUTHORITY.—The term 'Native authority' means a governing board of a Regional Corporation, a regional Native nonprofit entity, a tribal government, or an alternative regional entity that is designated by the Secretary as a Native regional transportation authority under paragraph (3)(A).

"(D) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(E) PROGRAM.—The term 'program' means the Alaska Native village transportation program established under paragraph (2).

"(F) REGION.—The term 'region' means a region in the State specified in section 11(b)(1) of the Alaska Native Claims Settlement Act (43 U.S.C 1610(b)(1)).

"(G) REGIONAL CORPORATION.—The term 'Regional Corporation' has the meaning given the term in section 2 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(H) STATE.—The term 'State' means the State of Alaska.

"(2) ESTABLISHMENT.—The Secretary shall establish an Alaska Native village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified in accordance with this section.

"(3) ALASKA NATIVE REGIONAL TRANSPORTATION AUTHORITIES.—

"(A) DESIGNATION.—The Secretary shall designate a Native authority for each region.

"(B) RESPONSIBILITIES.—A Native authority shall, with respect to each Native village or region, as appropriate, covered by the Native authority—

"(i) prepare—

"(I) a regional transportation plan for the Native village; and

"(II) a comprehensive transportation plan for the region;

"(ii) prioritize and select projects to be funded with amounts made available under this section for the region;

"(iii) coordinate transportation planning with other regions, the State, and other governmental entities; and

"(iv) ensure that transportation projects under this section are constructed and implemented.

"(4) ALASKA NATIVE TRANSPORTATION COMMISSION.—

"(A) ESTABLISHMENT.—As soon as practicable after the date of enactment of this subsection, the Secretary shall establish a commission, to be known as the 'Statewide Alaska Native Transportation Commission', consisting of 1 representative selected from each Native authority designated by the Secretary under paragraph (3)(A).

"(B) DUTIES.—The Commission shall—

"(i) allocate funds made available under this section among regions in accordance with paragraph (5);

"(ii) coordinate transportation planning among the regions, the State, and other governmental entities; and

"(iii) facilitate transportation projects involving 2 or more regions.

"(5) ALLOCATION OF FUNDING.—

"(A) FISCAL YEAR 2004.—Funds made available for the program for fiscal year 2004 shall be allocated to each region by the Secretary as follows:

"(i) 50 percent of the funds shall be allocated based on the proportion that—

"(I) the Native population of Native villages in the region; bears to

"(II) the Native population of all Native villages in the State.

"(ii) 50 percent of the funds shall be allocated as equally as practicable among all Native villages in the region.

"(B) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—Funds made available for the program for fiscal year 2005 and each fiscal year thereafter shall be allocated among regions by the Commission, in accordance with a formula to be developed by the Commission after taking into consideration—

"(i) the health, safety, and economic needs of each region for transportation infrastructure, as identified through the regional planning process;

"(ii) the relative costs of construction in each region; and

"(iii) the extent to which transportation projects for each region are ready to proceed to design and construction.

"(6) TRIBAL CONTRACTING.—Funds allocated among regions under this subsection may be contracted or compacted in accordance with the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

"(7) MATCHING FUNDS.—Notwithstanding any other provision of law, funds made available under this subsection may be used to pay a matching share required for receipt of any other Federal funds that would further a purpose for which allocations under this section are made.

"(8) MAINTENANCE.—

"(A) IN GENERAL.—At the request of a Native authority or Native village, the Secretary may increase an amount of funds provided under this subsection for a construction project by an additional amount equal to 100 percent of the total cost of construction of the project, as determined by the Secretary.

"(B) USE OF RETAINED FUNDS.—An increase in funds provided under subparagraph (A) for a construction project shall be retained, and used only, for future maintenance of the construction project.".

(f) INDIAN RESERVATION ROAD SAFETY PROGRAM.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"SEC. 412. INDIAN RESERVATION ROAD SAFETY PROGRAM.

"(a) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a program to provide to eligible Indian tribes (as determined by the Secretary) competitive grants for use in establishing tribal transportation safety programs on—

"(A) Indian reservations; and

"(B) other land under the jurisdiction of an Indian tribe.

"(2) USE OF FUNDS.—Funds from a grant provided under paragraph (1) may be used to carry out a project or activity—

"(A) to prevent the operation of motor vehicles by intoxicated individuals;

"(B) to promote increased seat belt use rates;

"(C) to eliminate hazardous locations and conditions on, or hazardous sections or elements of—

"(i) a public road;

"(ii) a public surface transportation facility;

"(iii) a publicly-owned bicycle or pedestrian pathway or trail; or

"(iv) a traffic calming measure;

"(D) to eliminate hazards relating to railway-highway crossings; or

"(E) to increase transportation safety by any other means, as determined by the Secretary.

"(b) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under this section shall be 100 percent.

"(c) FUNDING.—Notwithstanding any other provision of law, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(1) $6,000,000 for each of fiscal years 2004 and 2005; and

"(2) $9,000,000 for each of fiscal years 2006 through 2009.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

"412. Indian reservation road safety program.".

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United States Code, is amended by adding at the end the following:

"(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

"(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

"(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.".

(h) COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) COMMERCIAL VEHICLE DRIVING.—The term "commercial vehicle driving" means the driving of—

(i) a vehicle that is a tractor-trailer truck; or

(ii) any other vehicle (such as a bus or a vehicle used for the purpose of construction) the driving of which requires a commercial license.

(B) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) GRANTS.—The Secretary shall provide grants, on a competitive basis, to entities described in paragraph (3)(A) to support programs providing training and certificates leading to the licensing of Native Americans with respect to commercial vehicle driving.

(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

(A) be a tribal college or university (as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059(b)(3)); and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) PRIORITY.—In providing grants under paragraph (1), the Secretary shall give priority to grant applications that—

(A) propose training that exceeds proposed minimum standards for training tractor-trailer drivers of the Department of Transportation;

(B) propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute; and

(C) propose an education partnership with a private trucking firm, trucking association, or similar entity in order to ensure the effectiveness of the grant program under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for the period of fiscal years 2004 through 2009.

SA 2399. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Section 5212 is amended to read as follows:

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SA 2400. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Part IV of subtitle C of title V is amended by inserting at the end the following new section:

SEC. 5246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 5273 of this Act, is amended by adding at the end the following new sentence: "Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

SA 2401. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 717, line 10, strike "transportation," and insert "transportation (and, in Alaska and Hawaii, includes regularly scheduled intrastate bus service for the general public),".

SA 2402. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 321, line 7, strike "and" and all that follows through line 13, and insert the following:

(C) in paragraph (3)(A), by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

SA 2403. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 539, line 12 strike "airport operations".

SA 2404. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 818, beginning in line 11, strike "Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration" and insert the following, "Federal Railroad Administration or the Motor Carrier Safety Administration".

SA 2405. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 819, beginning in line 1, strike "Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration" and insert the following: "Federal Railroad Administration and the Motor Carrier Safety Administration.".

SA 2406. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 321, strike line 7 and all that follows through page 326, line 12 and insert the following:

Secretary.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(ii) by adding at the end the following:

"(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

"(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

"(iii) SELECTION OF PARTICIPATING TRIBES.—

"(I) PARTICIPANTS.—

"(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

"(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

"(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

"(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

"(aa) has successfully completed the planning phase described in subclause (IV);

"(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

"(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

"(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(IV) PLANNING PHASE.—

"(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

"(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

"(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project."; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) FUNDING.—

"(i) RESERVATION OF FUNDS.—Of the amounts authorized to be appropriated for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) APPROVAL REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

"(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

"(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: "Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of $250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.".

(f) AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.—Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2004 through 2009".

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United States Code, is amended by adding at the end the following:

"(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

"(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

"(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.".

SA 2407. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE SURFACE TRANSPORTATION AND TRANSIT EMPOWERMENT

SEC. ___1. SHORT TITLE.

This title may be cited as the "Surface Transportation and Transit Empowerment Act".

SEC. ___2. DEFINITIONS.

In this title, the following definitions apply:

(1) CORE HIGHWAY PROGRAMS.—The term "core highway programs" means the following programs:

(A) The Interstate maintenance program under section 119 of title 23, United States Code.

(B) Highway bridge replacement and rehabilitation (excluding off-System bridges) under section 144 of that title.

(C)(i) Indian reservation roads under section 204 of that title.

(ii) Public lands highways under section 204 of that title.

(iii) Parkways and park roads under section 204 of that title.

(D) Highway safety programs under section 402 of that title.

(E) Highway safety research and development under section 403 of that title.

(F) Motor carrier safety grants under section 31104 of title 49, United States Code.

(G) Metropolitan planning under section 104(f) of title 23, United States Code.

(H) National defense highways under section 311 of that title.

(I) Emergency relief under section 125 of that title.

(2) CORE PROGRAM STATE.—The term "core program State" means a State which makes an election under section 3.

(3) ELECTION PERIOD.—The term "election period" means the period beginning with the fiscal year determined under section 3(b) and ending not later than with fiscal year 2009.

(4) FUTURE INVESTMENT ACCOUNT.—The term "Future Investment Account" means the Future Investment Account established under section 9503(f) of the Internal Revenue Code of 1986.

(5) HIGHWAY ACCOUNT.—The term "Highway Account" means the portion of the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986 which is not the Mass Transit Account or the Future Investment Account.

(6) MASS TRANSIT ACCOUNT.—The term "Mass Transit Account" means the Mass Transit Account established under section 9503(e) of the Internal Revenue Code of 1986.

(7) SURFACE TRANSPORTATION.—The term "surface transportation" includes mass transit and rail.

(8) TIER I CORE PROGRAM STATE.—The term "tier I core program State" means a core program State that is eligible for a core highway programs payment and a non-core highway programs block grant under section ___3.

(9) TIER II CORE PROGRAM STATE.—The term "tier II core program State" means a core program State that is eligible for a core highway programs payment under section ___3 and that elects under section ___3(e) to reduce its Federal fuel tax rate with a corresponding reduction in its non-core highway programs block grant.

(10) TIER I MASS TRANSIT STATE.—The term "tier I mass transit State" means a State that is eligible for a mass transit block grant under section ___4.

(11) TIER II MASS TRANSIT STATE.—The term "tier II mass transit State" means a State that elects under section 4(c) to eliminate its mass transit fuel tax rate with a corresponding elimination of its mass transit block grant.

SEC. 3. FUNDING OF HIGHWAY PROGRAMS IN CORE PROGRAM STATES.

(a) ELECTION TO BECOME A CORE PROGRAM STATE.—Each State which makes an election described in subsection (b) shall be eligible with respect to each fiscal year during the State's election period for—

(1) a core highway programs payment; and

(2) a non-core highway programs block grant,

in lieu of any other payment from the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account.

(b) REQUIREMENTS FOR ELECTION.—An election is described in this subsection if—

(1) such election is made by a State at least 180 days before the first fiscal year with respect to which the election applies;

(2) such election is made by a State that certifies that such State has a metropolitan planning organization established under section 134 of title 23, United States Code, and that such organization will maintain a system for processing funds received by the State under this Act throughout the election period; and

(3) such election is submitted to the Secretary in such form and manner as the Secretary prescribes.

(c) DETERMINATION AND USE OF CORE HIGHWAY PROGRAMS PAYMENT.—

(1) DETERMINATION OF AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine for each fiscal year the payment necessary to meet the commitments of core highway programs for each core program State.

(B) LIMITATIONS.—

(i) GENERAL RULE.—Any payment under subparagraph (A) for any fiscal year for any particular core highway program for a core program State shall be subject to—

(I) except with respect to core highway programs described in subparagraphs (G), (H), and (I) of section 2(1), the funding level for such program for such year under clause (ii) in lieu of the funding level for such program for such year under any other provision of law, and

(II) the annual obligation limitation for such program for such year imposed under any provision of law.

(ii) SPECIAL FUNDING LEVELS.—For purposes of clause (i), the funding levels for core highway programs are as follows:

(I) For the Interstate maintenance program, $5,500,000,000 for fiscal year 2004, $6,300,000,000 for fiscal year 2005, $6,550,000,000 for fiscal year 2006, $6,650,000,000 for fiscal year 2007, $7,650,000,000 for fiscal year 2008, and $7,950,000,000 for fiscal year 2009.

(II) For highway bridge replacement and rehabilitation, $4,650,754,076 for fiscal year 2004, $5,507,287,150 for fiscal year 2005, $5,713,860,644 for fiscal year 2006, $5,730,266,418 for fiscal year 2007, $6,016,042,650 for fiscal year 2008, and $6,103,714,622 for fiscal year 2009.

(III)(aa) For Indian reservation roads, $300,000,000 for fiscal year 2004, $325,000,000 for fiscal year 2005, $350,000,000 for fiscal year 2006, $375,000,000 for fiscal year 2007, $400,000,000 for fiscal year 2008, and $425,000,000 for fiscal year 2009.

(bb) For public lands highways, $300,000,000 each of fiscal years 2004 through 2009.

(cc) For parkways and park roads, $300,000,000 for fiscal year 2004, $310,000,000 for fiscal year 2005, and $320,000,000 for each of fiscal years 2006 through 2009.

(IV) For highway safety programs, $171,000,000 for each of fiscal years 1998 through 2003.

(V) For highway safety research and development, $44,000,000 for each of fiscal years 1998 through 2003.

(VI) For motor carrier safety grants, not more than $90,000,000 for each of fiscal years 1998 through 2003.

(2) USE OF PAYMENT.—

(A) IN GENERAL.—The core highway programs payment for any core program State shall be available, as provided by appropriation Acts, to the State for any core highway program purpose in such State.

(B) TRANSFERABILITY OF FUNDS.—To the extent that a core program State determines that funds made available under this subsection to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer the excess funds to, and use the excess funds for, any surface transportation purpose in the State.

(d) DETERMINATION AND USE OF NON-CORE HIGHWAY PROGRAMS BLOCK GRANT.—

(1) DETERMINATION OF AMOUNT OF BLOCK GRANT.—Subject to subsection (e), the amount of the non-core highway programs block grant for any tier I core program State for any fiscal year is equal to the excess of—

(A) the amount of taxes transferred to the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account for such fiscal year which is attributable to highway users in that State as determined by the Secretary of the Treasury (taking into account proper reductions for uses of such taxes for purposes other than the Federal-aid highway program); over

(B) the core highway programs payment to such State for such fiscal year, as determined under subsection (c).

(2) USE OF BLOCK GRANT.—The non-core highway programs block grant for any tier I core program State shall be available, as provided by appropriation Acts, to the State for any surface transportation purpose in such State. Any project carrying out such a purpose shall be exempt from any Federal regulation other than with respect to health and safety standards and practices.

(e) ELECTION TO REDUCE FEDERAL FUEL TAX RATE WITH CORRESPONDING REDUCTION IN BLOCK GRANT.—

(1) IN GENERAL.—With respect to fiscal years beginning after the satisfaction year and ending with the termination of the election period, a core program State may notify the Secretary (in the same manner as the election described in subsection (b)) of an election to become a tier II core program State and to have imposed on highway users in the State the State's core highway programs financing rate with respect to the taxes transferred to the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account which are attributable to such highway users in lieu of the tax rates otherwise established in the Internal Revenue Code of 1986 for such fiscal years.

(2) DETERMINATION OF CORE HIGHWAY PROGRAMS FINANCING RATE.—

(A) IN GENERAL.—Upon notification by the Secretary of an election by a State under paragraph (1), the Secretary of the Treasury shall determine for each subsequent fiscal year such State's core highway programs financing rate, taking into account—

(i) the amount of taxes necessary to fund that State's core highway programs payment for such fiscal year;

(ii) the uses of the taxes described in paragraph (1) for purposes other than the Federal-aid highway program for such fiscal year;

(iii) any adjustments necessary as a result of a determination under this paragraph for a preceding fiscal year; and

(iv) the rates with respect to such taxes otherwise imposed under the Internal Revenue Code of 1986 for such fiscal year.

(B) REPORT.—Not later than August 1, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that describes the determination required under subparagraph (A).

(C) CONGRESSIONAL APPROVAL REQUIRED.—The Secretary of the Treasury shall not implement the determination required to be included in the report submitted under subparagraph (B) unless a joint resolution is enacted, in accordance with subparagraph (D), approving such determination before the following October 1.

(D) CONGRESSIONAL CONSIDERATION.—

(i) TERMS OF THE RESOLUTION.—For purposes of subparagraph (C), the term "joint resolution" means only a joint resolution that is introduced before October 1 and—

(I) that does not have a preamble;

(II) the matter after the resolving clause of which is as follows: "That Congress approves the determination of the Secretary of the Treasury regarding the imposition of the core highway programs rate for the State of ___ submitted on ___", the blank spaces being filled in with the appropriate State and date, respectively; and

(III) the title of which is as follows: "Joint resolution approving the determination of the Secretary of the Treasury regarding the imposition of a core highway programs rate.".

(ii) REFERRAL.—A resolution described in clause (i) that is introduced—

(I) in the House of Representatives, shall be referred to the Committee on Ways and Means; and

(II) in the Senate, shall be referred to the Committee on Finance.

(iii) DISCHARGE.—If a committee to which a resolution described in clause (i) is referred has not reported such resolution by the end of the 30-day period beginning on the date on which the Secretary of the Treasury submits the report required under subparagraph (B), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(iv) CONSIDERATION.—Within 30 days after the date on which the committee to which a resolution described in clause (i) has reported, or has been discharged from further consideration of such resolution, such resolution shall be considered in the same manner as a resolution is considered under subsections (d), (e), and (f) of section 2908 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(3) SATISFACTION YEAR.—For purposes of paragraph (1), the term "satisfaction year" means the fiscal year during which all Federal non-core highway program obligations of a core program State payable from the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account existing on the date of the election by such State described in subsection (a) are paid.

SEC. ___4. FUNDING OF TRANSIT PROGRAMS IN MASS TRANSIT BLOCK GRANT STATES.

(a) ELECTION TO BECOME A MASS TRANSIT BLOCK GRANT STATE.—A core program State or any other State may notify the Secretary (in the same manner as the election described in section ___3(b)) of an election to receive with respect to each fiscal year during the State's election period a mass transit block grant, in lieu of any other payment from the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account. An election under this subsection shall not affect a State's continued eligibility for revenues provided through the general fund of the Treasury for transit programs.

(b) DETERMINATION AND USE OF MASS TRANSIT BLOCK GRANT.—

(1) DETERMINATION OF AMOUNT OF BLOCK GRANT.—Subject to subsection (c), the amount of the mass transit block grant for any tier I mass transit State for any fiscal year is equal to the amount of taxes transferred to the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account for such fiscal year which is attributable to highway users in that State as determined by the Secretary of the Treasury.

(2) USE OF BLOCK GRANT.—The mass transit block grant for any tier I mass transit State shall be available, as provided by appropriation Acts, to the State for any surface transportation purpose in such State. Any project carrying out such a purpose shall be exempt from any Federal regulation other than with respect to health and safety standards and practices.

(c) ELECTION TO ELIMINATE MASS TRANSIT FUEL TAX RATE WITH CORRESPONDING ELIMINATION OF BLOCK GRANT.—

(1) IN GENERAL.—With respect to fiscal years beginning after the satisfaction year and ending with the termination of the election period, a State which has made an election under subsection (a) may notify the Secretary (in the same manner as such an election) of an election to become a tier II mass transit State and to eliminate the financing rate with respect to the taxes transferred to the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account which are attributable to the highway users of the State in lieu of the mass transit block grant for such fiscal years.

(2) ELIMINATION OF MASS TRANSIT FUEL TAX RATE.—

(A) IN GENERAL.—Upon notification by the Secretary of an election by a State under paragraph (1), the Secretary of the Treasury shall, not later than August 1, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that notifies the committees of such an election.

(B) CONGRESSIONAL APPROVAL REQUIRED.—The Secretary of the Treasury shall not implement the election included in the report submitted under paragraph (1) unless a joint resolution is enacted, in accordance with paragraph (3), approving such election before the following October 1.

(3) CONGRESSIONAL CONSIDERATION.—

(A) TERMS OF THE RESOLUTION.—For purposes of paragraph (2), the term "joint resolution" means only a joint resolution that is introduced before October 1 and—

(i) that does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: "That Congress approves the elimination of the mass transit fuel tax rate for the State of   submitted on   ", the blank spaces being filled in with the appropriate State and date, respectively; and

(iii) the title of which is as follows: "Joint resolution approving the elimination of the mass transit fuel tax rate.".

(B) CONSIDERATION.—A resolution described in subparagraph (A) shall be considered in the same manner as a resolution is considered under clauses (ii), (iii), and (iv) of section ___3(e)(2)(D).

(4) SATISFACTION YEAR.—For purposes of this section, the term "satisfaction year" means the fiscal year during which all Federal transit program obligations of a State payable from the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account existing on the date of the election by such State described in subsection (a) are paid.

SEC.   5. ENFORCEMENT.

If the Secretary determines that a core program State (or any other State under section   4(b)(2)) has used funds under this Act for a purpose that is not a surface transportation purpose, the amount of the improperly used funds shall be deducted from any amount the State would otherwise receive from the Highway Account for the fiscal year that begins after the date of the determination.

SEC. ___6. REPORTS.

(a) ANNUAL STATE ASSESSMENT.—A core program State shall—

(1) assess the operation of the State surface transportation program funded under this Act in each fiscal year, including the status of the core highway programs in the State; and

(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State surface transportation programs funded under this Act based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.

SEC.   7. INTERSTATE SURFACE TRANSPORTATION COMPACTS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) INFRASTRUCTURE BANK.—The term "infrastructure bank" means a surface transportation infrastructure bank established under an interstate compact under subsection (b)(5) and described in subsection (d).

(2) PARTICIPATING STATES.—The term "participating States" means the States that are parties to an interstate compact entered into under subsection (b).

(3) SURFACE TRANSPORTATION PROJECT.—The term "surface transportation project" means a surface transportation project, program, or activity described in subsection (b).

(b) CONSENT OF CONGRESS.—In order to increase public investment, attract needed private investment, and promote an intermodal transportation network, Congress grants consent to States to enter into interstate compacts to—

(1) promote the continuity, quality, and safety of the Interstate System (as defined in section 101 of title 23, United States Code);

(2) develop programs to promote and fund surface transportation safety initiatives and establish surface transportation safety standards for the participating States;

(3) conduct long-term planning for surface transportation infrastructure in the participating States;

(4) develop design and construction standards for infrastructure described in paragraph (3) to be used by the participating States; and

(5) establish surface transportation infrastructure banks to promote regional or other multistate investment in infrastructure described in paragraph (3).

(c) FINANCING.—An interstate compact established by participating States under subsection (b) to carry out a surface transportation project may provide that, in order to carry out the compact, the participating States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for that type of surface transportation project;

(3) on such terms and conditions as the participating States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law, including surface transportation infrastructure banks under subsection (d).

(d) INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—An infrastructure bank may—

(A) make loans;

(B) under the joint or separate authority of the participating States with respect to the infrastructure bank, issue such debt as the infrastructure bank and the participating States determine appropriate; and

(C) provide other assistance to public or private entities constructing, or proposing to construct or initiate, surface transportation projects.

(2) FORMS OF ASSISTANCE.—

(A) IN GENERAL.—An infrastructure bank may make a loan or provide other assistance described in subparagraph (C) to a public or private entity in an amount equal to all or part of the construction cost, capital cost, or initiation cost of a surface transportation project.

(B) SUBORDINATION OF ASSISTANCE.—The amount of any loan or other assistance described in subparagraph (C) that is received for a surface transportation project under this section may be subordinated to any other debt financing for the surface transportation project.

(C) OTHER ASSISTANCE.—Other assistance referred to in subparagraphs (A) and (B) includes any use of funds for the purpose of—

(i) credit enhancement;

(ii) a capital reserve for bond or debt instrument financing;

(iii) bond or debt instrument financing issuance costs;

(iv) bond or debt issuance financing insurance;

(v) subsidization of interest rates;

(vi) letters of credit;

(vii) any credit instrument;

(viii) bond or debt financing instrument security; and

(ix) any other form of debt financing that relates to the qualifying surface transportation project.

(3) NO OBLIGATION OF UNITED STATES.—

(A) IN GENERAL.—The establishment under this section of an infrastructure bank does not constitute a commitment, guarantee, or obligation on the part of the United States to any third party with respect to any security or debt financing instrument issued by the bank. No third party shall have any right against the United States for payment solely by reason of the establishment.

(B) STATEMENT ON INSTRUMENT.—Any security or debt financing instrument issued by an infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

SEC. 8. FEDERAL-AID FACILITY PRIVATIZATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning provided in section 105 of title 5, United States Code.

(2) PRIVATIZATION.—The term "privatization" means the disposition or transfer of a transportation infrastructure asset, whether by sale, lease, or similar arrangement, from a State or local government to a private party.

(3) STATE OR LOCAL GOVERNMENT.—The term "State or local government" means the government of—

(A) any State;

(B) the District of Columbia;

(C) any commonwealth, territory, or possession of the United States;

(D) any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate government entity, council of governments, or agency or instrumentality of a local government; or

(E) any federally recognized Indian tribe.

(4) TRANSPORTATION INFRASTRUCTURE ASSET.—

(A) IN GENERAL.—The term "transportation infrastructure asset" means any surface-transportation-related asset financed in whole or in part by the Federal Government, including a road, tunnel, bridge, or mass-transit-related or rail-related asset.

(B) EXCLUSION.—The term does not include any transportation-related asset on the Interstate System (as defined in section 101 of title 23, United States Code).

(b) PRIVATIZATION INITIATIVES BY STATE AND LOCAL GOVERNMENTS.—The head of each Executive agency shall—

(1) assist State and local governments in efforts to privatize the transportation infrastructure assets of the State and local governments; and

(2) subject to subsection (c), approve requests from State and local governments to privatize transportation infrastructure assets and waive or modify any condition relating to the original Federal program that funded the asset.

(c) CRITERIA.—The head of an Executive agency shall approve a request described in subsection (b)(2) if—

(1) the State or local government demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that the transportation infrastructure asset will continue to be used for the general objectives of the original Federal program that funded the asset (which shall not be considered to include every condition required for the recipient of Federal funds to have obtained the original Federal funds), so long as needed for those objectives; and

(2) the private party purchasing or leasing the transportation infrastructure asset agrees to comply with all applicable conditions of the original Federal program.

(d) LACK OF OBLIGATION TO REPAY FEDERAL FUNDS.—A State or local government shall have no obligation to repay to any agency of the Federal Government any Federal funds received by the State or local government in connection with a transportation infrastructure asset that is privatized under this section.

(e) USE OF PROCEEDS.—

(1) IN GENERAL.—Subject to paragraph (2), a State or local government may use proceeds from the privatization of a transportation infrastructure asset to the extent permitted under applicable conditions of the original Federal program.

(2) RECOVERY OF CERTAIN COSTS.—Notwithstanding any other provision of law, the State or local government shall be permitted to recover from the privatization of a transportation infrastructure asset—

(A) the capital investment in the transportation infrastructure asset made by the State or local government;

(B) an amount equal to the unreimbursed operating expenses in the transportation infrastructure asset paid by the State or local government; and

(C) a reasonable rate of return on the investment made under subparagraph (A) and expenses paid under subparagraph (B).

SEC. ___9. ESTABLISHMENT OF FUTURE INVESTMENT ACCOUNT.

Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund), as amended by this Act, is amended by adding at the end the following:

"(f) ESTABLISHMENT OF FUTURE INVESTMENT ACCOUNT.—

"(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Future Investment Account', consisting of such amounts as may be transferred or credited to the Future Highway Investment Sub Account and the Future Transit Investment Sub Account of the Future Investment Account as provided in this subsection or section 9602(b).

"(2) TRANSFERS TO FUTURE INVESTMENT ACCOUNT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall transfer to the Future Highway Investment Sub Account the future highway investment portion and to the Future Transit Investment Sub Account the future transit investment portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after September 30, [1997].

"(B) FUTURE INVESTMENT PORTIONS.—For purposes of subparagraph (A)—

"(i) the term 'future highway investment portion' means an amount determined at the rate of 3.44 cents for each gallon with respect to which tax was imposed under section 4041 or 4081, and

"(ii) the term 'future transit investment portion' means an amount determined at the rate of .86 cent for each gallon with respect to which tax was so imposed.

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Future Investment Account shall be available, as provided by appropriation Acts, in a Federal budget neutral manner, for making expenditures after October 1, 2003—

"(A) in the case of the Future Highway Investment Sub Account, in accordance with elections made under section ___3(a) of the Surface Transportation and Transit Empowerment Act, and

"(B) in the case of the Future Transit Investment Sub Account, in accordance with elections made under section ___4(a) of the Surface Transportation and Transit Empowerment Act.".

SEC. ___10. EFFECTIVE DATE CONTINGENT UPON CERTIFICATION OF DEFICIT NEUTRALITY.

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) this Act will become effective only if the Director of the Office of Management and Budget (referred to in this section as the "Director") certifies that this Act is deficit neutral;

(2) discretionary spending limits are reduced to capture the savings realized in devolving transportation functions to the State level pursuant to this Act; and

(3) the tax reduction made by this Act is not scored under pay-as-you-go and does not inadvertently trigger a sequestration.

(b) EFFECTIVE DATE CONTINGENCY.—Notwithstanding any other provision of this Act, this Act shall take effect only if—

(1) the Director submits the report as required in subsection (c); and

(2) the report contains a certification by the Director that, based on the required estimates, the reduction in discretionary outlays resulting from the reduction in contract authority is at least as great as the reduction in revenues for each fiscal year through fiscal year 2009.

(c) OMB ESTIMATES AND REPORT.—

(1) REQUIREMENTS.—Not later than 5 calendar days after the date of notification by the Secretary of any election described in section 3(b), the Director shall—

(A) estimate the net change in revenues resulting from this Act for each fiscal year through fiscal year 2009;

(B) estimate the net change in discretionary outlays resulting from the reduction in contract authority under this Act for each fiscal year through fiscal year 2009;

(C) determine, based on those estimates, whether the reduction in discretionary outlays is at least as great as the reduction in revenues for each fiscal year through fiscal year 2009; and

(D) submit to the Congress a report setting forth the estimates and determination.

(2) Applicable assumptions and guidelines.—

(A) Revenue estimates.—The revenue estimates required under paragraph (1)(B) shall be predicated on the same economic and technical assumptions and scorekeeping guidelines that would be used for estimates made pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

(B) Outlay estimates.—The outlay estimates required under paragraph (1)(B) shall be determined by comparing the level of discretionary outlays resulting from this Act with the corresponding level of discretionary outlays projected in the baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(d) Conforming Adjustment to Discretionary Spending Limits.—Upon compliance with the requirements specified in subsection (b), the Director shall adjust the adjusted discretionary spending limits for each fiscal year through fiscal year 2009 under section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) by the estimated reductions in discretionary outlays under subsection (a)(2).

(e) Paygo interaction.—Upon compliance with the requirements specified in subsection (b), no changes in revenues estimated to result from the enactment of this Act shall be counted for the purposes of section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

SA 2408. Mr. FITZGERALD (for himself and Mr. Durbin) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 738, strike lines 5 through 12 and insert the following:

motor vehicles that became effective by December 31, 2002.

"(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect

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SA 2409. Mrs. BOXER (for herself, Mr. Dodd, and Mrs. Feinstein) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 267, line 2, strike all through page 268, line 6.

SA 2410. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1109, after line 22, add the following:

SEC. ___. MODIFICATIONS TO GAS GUZZLERS TAX TO ENCOURAGE GREATER AUTO FUEL EFFICIENCY.

(a) Increase in Tax Rate.—Subsection (a) of section 4064 (relating to gas guzzlers tax) is amended to read as follows:

"(a) Imposition of Tax.—

"(1) In general.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy for the model year of the model type in which the automobile falls is:	**The tax is:**
Less than 5 mpg below the applicable fuel economy standard	$0
At least 5 but less than 6 mpg below such standard	1,000
At least 6 but less than 7 mpg below such standard	1,500
At least 7 but less than 8 mpg below such standard	2,000
At least 8 but less than 9 mpg below such standard	2,500
At least 9 but less than 10 mpg below such standard	3,100
At least 10 but less than 11 mpg below such standard	3,800
At least 11 but less than 12 mpg below such standard	4,600
At least 12 but less than 13 mpg below such standard	5,500
At least 13 but less than 14 mpg below such standard	6,500
At least 14 mpg below such standard	7,700.

"(2) Inflation Adjustment.—

"(A) In general.—In the case of any taxable year beginning after 2005, each dollar amount referred to in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2004' for '1992'.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $50.".

(b) Expansion of Definition of Automobile.—

(1) Increase in weight.—Section 4064(b)(1)(A)(ii) (defining automobile) is amended by striking "6,000 pounds" and inserting "12,000 pounds".

(2) Inclusion of certain vehicles.—Subparagraph (B) of section 4064(b)(1) is amended to read as follows:

"(B) Inclusion of certain vehicles.—The term 'automobile' includes any sport utility vehicle. For purposes of the preceding sentence, the term 'sport utility vehicle' does not include—

"(i) a vehicle which does not have a primary load carrying device or container attached or which is an incomplete truck (as defined in 40 C.F.R. 86.1803–01),

"(ii) a vehicle which has a seating capacity of more than 12 persons,

"(iii) a vehicle which has a seating capacity of more than 9 persons behind the driver's seat, or

"(iv) a vehicle which is equipped with a cargo area of at least 6 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment.".

(c) Additional Definitions.—Section 4064(b) (relating to definitions) is amended by adding at the end the following new paragraphs:

"(8) Applicable fuel economy standard.—The term 'applicable fuel economy standard' means, with respect to any model year—

"(A) in the case of automobiles not exceeding 6,000 pounds in unloaded gross vehicle weight, the average fuel economy standard as defined in section 32902 of title 49, United States Code, for passenger automobiles for such model year, and

"(B) in the case of automobiles exceeding 6,000 pounds in unloaded gross vehicle weight, such automobiles shall be considered to be 8,400 pounds in unloaded gross vehicle weight for the purposes of determining the average fuel economy standard as defined in such section 32902, for such model year.

"(9) Mpg.—The term 'mpg' means miles per gallon.".

(d) Effective Date.—The amendments made by this section shall apply to sales after October 31, 2005.

SEC. ___. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the new highly fuel-efficient automobile credit determined under subsection (b).

"(b) New Highly Fuel-Efficient Automobile Credit.—For purposes of subsection (a), the new highly fuel-efficient automobile credit with respect to any new automobile placed in service by the taxpayer during the taxable year is determined in accordance with the following tables:

If the fuel economy for the model year of the model type in which the passenger automobile falls is:	**The credit is:**
Less than 5 mpg above the applicable fuel economy standard	$0
At least 5 but less than 6 mpg above such standard	200
At least 6 but less than 7 mpg above such standard	250
At least 7 but less than 8 mpg above such standard	300
At least 8 but less than 9 mpg above such standard	350
At least 9 but less than 10 mpg above such standard	500
At least 10 but less than 11 mpg above such standard	1,000
At least 11 but less than 12 mpg above such standard	1,500
At least 12 but less than 13 mpg above such standard	2,000
At least 13 but less than 14 mpg above such standard	2,500
At least 14 mpg above such standard	3,000.

If the fuel economy for the model year of the model type in which the non-passenger automobile falls is:	The credit is:
Less than 5 mpg above the applicable fuel economy standard	$0
At least 5 but less than 6 mpg above such standard	200
At least 6 but less than 7 mpg above such standard	250
At least 7 but less than 8 mpg above such standard	300
At least 8 but less than 9 mpg above such standard	350
At least 9 but less than 10 mpg above such standard	500
At least 10 but less than 11 mpg above such standard	1,000
At least 11 but less than 12 mpg above such standard	1,500
At least 12 but less than 13 mpg above such standard	2,000
At least 13 but less than 14 mpg above such standard	2,500
At least 14 mpg above such standard	3,000.

"(c) NEW AUTOMOBILE.—For purposes of this section, the term 'new automobile' means a passenger automobile or non-passenger automobile—

"(1) the original use of which commences with the taxpayer,

"(2) which is acquired for use or lease by the taxpayer and not for resale, and

"(3) which is made by a manufacturer.

"(d) PASSENGER AUTOMOBILE; NON-PASSENGER AUTOMOBILE.—For purposes of this section—

"(1) PASSENGER AUTOMOBILE.—The term 'passenger automobile' has the meaning given the term 'automobile' by section 4064(b)(1).

"(2) NON-PASSENGER AUTOMOBILE.—

"(A) IN GENERAL.—The term 'non-passenger automobile' means any automobile (as defined in section 4064(b)(1)(A)), but only if such automobile is described in subparagraph (B).

"(B) NON-PASSENGER AUTOMOBILES DESCRIBED.—An automobile is described in this subparagraph if such automobile is—

"(i) a vehicle which does not have a primary load carrying device or container attached,

"(ii) a vehicle which has a seating capacity of more than 12 persons,

"(iii) a vehicle which has a seating capacity of more than 9 persons behind the driver's seat, or

"(iv) a vehicle which is equipped with a cargo area of at least 6 feet in interior length which does not extend beyond the frame of the vehicle and which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment.

"(e) OTHER DEFINITIONS.—Except as provided in subsection (d), for purposes of this section, any term used in this section and also in section 4064 shall have the meaning given such term by section 4064.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

"(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter with respect to an automobile described under subsection (b), shall be reduced by the amount of credit allowed under subsection (a) for such automobile for the taxable year.

"(3) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to an automobile which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such automobile to the entity shall be treated as the taxpayer with respect to the automobile for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of an automobile).

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any automobile if the taxpayer elects to not have this section apply to such automobile.

"(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, an automobile shall not be considered eligible for a credit under this section unless such automobile is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the automobile (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether an automobile meets the requirements to be eligible for a credit under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 36(f)(1).".

(2) Section 6501(m) is amended by inserting "36(f)(6)," after "30(d)(4),".

(3) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(4) The table of sections for subpart C of part IV of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 36. Highly fuel-efficient automobile credit.

"Sec. 37. Overpayments of tax.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after October 31, 2005, in taxable years ending after such date.

SA 2411. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike "SET-ASIDE.—" in subsection (b)(2) and insert "FUNDING.—";

(2) strike "of the amounts made available" in subsection (b)(2) and insert "the amounts made available";

(3) strike "$439,000,000" in subsection (b)(2);

(4) strike "allocated" in subsection (c)(1)(A) and insert "apportioned";

(5) strike "subsection (d)," in subsection (c)(1)(B) and insert "subsection (e),";

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

"(d) DISTRIBUTION OF FUNDS.—

"(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

"(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

"(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

"(2) EQUITY DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return of all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

"(A) for fiscal year 2005, 91 percent;

"(B) for fiscal year 2006, 92 percent;

"(C) for fiscal year 2007, 93 percent;

"(D) for fiscal year 2008, 94 percent; and

"(E) for fiscal year 2009, 95 percent.

"(3) REMAINDER DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

"(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

"(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account)."; and

(7) strike subsection (e), as redesignated, and insert the following:

"(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(1) withdraw—

"(A) any funds allocated to a State under this section that remain unobligated; and

"(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(2) reallocate the funds and redistribute the obligation authority to those States that—

"(A) have fully obligated all amounts allocated under this section for the fiscal year; and

"(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(f) Application With Section 105.—Nothwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.".

(e) Funding Cap From Highway Trust Fund.—Prior to making any apportionments or allocations under Chapter 1 of USC 23 for fiscal year 2009, the Secretary shall compare the sum of all apportionments and allocations for fiscal years 2004 through 2008 plus the projected apportionments and allocations for fiscal year 2009 to the funding cap of $255,000,000,000. If the total sum of such apportionments and allocations exceeds the funding cap of $255,000,000,000, the Secretary shall proportionally reduce all apportionments and allocations for fiscal year 2009 so the total sum equals $255,000,000,000.

SA 2412. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 4522, insert the following:

(b) Conforming Amendments.—

(1) In general.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended—

(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund"; and

(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".

(2) Effective date.—The amendments made by paragraph (1) take effect on October 1, 2004.

SA 2413. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 9 and 10, insert the following:

SEC. 13___. HIGHWAY USE TAX EVASION PROJECTS.

(a) Projects.—Section 143(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by inserting before the period at the end the following: ", except that, for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training";

(2) in paragraph (3), by inserting before the period at the end the following: ", except as otherwise provided in this section";

(3) in paragraph (4)—

(A) in subparagraph (F), by striking "and" at the end;

(B) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

"(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel."; and

(4) by adding at the end the following:

"(9) Reports.—

"(A) In general.—The Commissioner of the Internal Revenue Service and participating States shall submit to the Secretary annual reports that describe the projects, examinations, and criminal investigations funded by and carried out under this section.

"(B) Yield.—The reports shall specify the annual yield estimated for each project funded under this section.".

(b) Excise Summary Terminal Activity Reporting System.—Section 143(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "Not later than August 1, 1998," and inserting "Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,";

(B) by striking "development" and inserting "completion, operation,";

(C) by striking "an excise fuel reporting system" and inserting "the excise summary terminal activity reporting system"; and

(D) by striking "(in this subsection referred to as the 'system')";

(2) in paragraph (2)—

(A) by striking "the system" each place it appears and inserting "the excise summary terminal activity reporting system";

(B) in subparagraph (A), by striking "develop" and inserting "complete, operate,";

(C) in subparagraph (B), by striking "and" at the end;

(D) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(D) the Commissioner of the Internal Revenue Service shall submit to the Secretary, and the Secretary shall approve, a budget and project plan for the completion, operation, and maintenance of the excise summary terminal activity reporting system."; and

(3) by striking paragraph (3) and inserting the following:

"(3) Funding.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain the excise summary terminal activity reporting system in accordance with this subsection.".

(c) Registration System and Electronic Database.—Section 143 of title 23, United States Code, is amended by adding at the end the following:

"(d) Pipeline, Vessel, and Barge Registration System.—

"(1) In general.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of a registration system for pipelines, vessels, and barges, and operators of the pipelines, vessels, and barges, that make bulk transfers of taxable fuel.

"(2) Elements of memorandum of understanding.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop, operate, and maintain the registration system through contracts;

"(B) the Commissioner of the Internal Revenue Service shall submit to the Secretary, and the Secretary shall approve, a budget and project plan for development, operation, and maintenance of the registration system;

"(C) the registration system shall be under the control of the Internal Revenue Service; and

"(D) the registration system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) Funding.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain in accordance with this subsection the registration system described in paragraph (1).

"(e) Heavy Vehicle Use Tax Payment Database.—

"(1) In general.—Not later than 90 days after the date of enactment of Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of an electronic database for heavy vehicle highway use tax payments.

"(2) Elements of memorandum of understanding.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop, operate, and maintain the electronic database through contracts;

"(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for establishment, operation, and maintenance of the electronic database;

"(C) the electronic database shall be under the control of the Internal Revenue Service; and

"(D) the electronic database shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) Funding.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to establish, operate, and maintain in accordance with this subsection the electronic database described in paragraph (1).

"(f) Reports.—Not later than March 30 and September 30 of each year, the Internal Revenue Service shall submit to the Secretary reports on the status of the Internal Revenue Service projects funded under this section relating to—

"(1) the excise summary terminal activity reporting system under subsection (c);

"(2) the pipeline, vessel, and barge registration system under subsection (d); and

"(3) the heavy vehicle use tax electronic database under subsection (e).".

(d) ALLOCATIONS.—Of the amounts made available under section 104(a)(1) of title 23, United States Code, there shall made available for highway use tax evasion projects the following amounts:

(1) For each of fiscal years 2004 through 2009, $4,500,000 shall be allocated to the States.

(2) For fiscal year 2004, $20,050,000 shall be allocated to the Internal Revenue Service, of which $10,500,000 shall be used for the excise summary terminal activity reporting system.

(3) For each of fiscal years 2005 and 2006, $48,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,000 shall be used for the excise summary terminal activity reporting system.

(4) For fiscal year 2007, $38,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,000 shall be used for the excise summary terminal activity reporting system.

(5) For each of fiscal years 2008 and 2009, $1,500,000 shall be allocated to the Internal Revenue Service, which shall be used for the excise summary terminal activity reporting system.

SA 2414. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, strike lines 16 through 24, and insert:

PART IV—SENSE OF SENATE

It is the sense of the Senate that highway spending should not be funded using a shift in corporate estimated tax receipts.

SA 2415. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 737, between lines 17 and 18, insert the following new paragraph:

(4) by inserting after subsection (e), as redesignated, the following:

"(f) MINIMUM APPORTIONMENT AND CRITERIA.—

"(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

"(2) CRITERIA.—To qualify for a grant under this subsection, a State—

"(A) shall meet the requirements of subsection (a)(2) of this section; and

"(B) shall—

"(i) meet 3 of the 6 criteria for qualifying for grants under this section (as this section was in effect for fiscal year 2003 funding); or

"(ii) for the most recent year for which data is available, have a seat belt utilization rate that is either higher than the national average for that year or higher than the utilization rate in that State in the second most recent year for which data is available.

"(3) USES OF FUNDS.—Grants under this subsection may be used for—

"(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

"(B) any activity otherwise eligible under this section, other than activities that are made eligible only for those States that meet the criteria set forth in subparagraph (b)(2)(A) of this section; and

"(C) any other activity undertaken by the State for the purpose of increasing seat belt utilization unless disapproved by the Secretary on the basis that it bears no relation to that objective.".

SA 2416. Mr. BAYH (for himself, Mr. LUGAR, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 393, after line 19, add the following:

Subtitle J—Clean School Buses

SEC. 1911. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term "alternative fuel" means liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume.

(3) ALTERNATIVE FUEL SCHOOL BUS.—The term "alternative fuel school bus" means a school bus that meets all of the requirements of this subtitle and is operated solely on an alternative fuel.

(4) EMISSIONS CONTROL RETROFIT TECHNOLOGY.—The term "emissions control retrofit technology" means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(5) IDLING.—The term "idling" means operating an engine while remaining stationary for more than approximately 15 minutes, except that the term does not apply to routine stoppages associated with traffic movement or congestion.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term "ultra-low sulfur diesel fuel" means diesel fuel that contains sulfur at not more than 15 parts per million.

(8) ULTRA-LOW SULFUR DIESEL FUEL SCHOOL BUS.—The term "ultra-low sulfur diesel fuel school bus" means a school bus that meets all of the requirements of this subtitle and is operated solely on ultra-low sulfur diesel fuel.

SEC. 1912. PROGRAM FOR REPLACEMENT OF CERTAIN SCHOOL BUSES WITH CLEAN SCHOOL BUSES.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible entities for the replacement of existing school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including instructions for the submission of grant applications and certification requirements to ensure compliance with this subtitle.

(2) APPLICATION DEADLINES.—The requirements established under paragraph (1) shall require submission of grant applications not later than—

(A) in the case of the first year of program implementation, the date that is 180 days after the publication of the requirements in the Federal Register; and

(B) in the case of each subsequent year, June 1 of the year.

(c) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to 1 or more local or State governmental entities responsible for providing school bus service to 1 or more public school systems or responsible for the purchase of school buses;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems to be served by the buses, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(d) AWARD DEADLINES.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall award a grant made to a qualified applicant for a fiscal year—

(A) in the case of the first fiscal year of program implementation, not later than the date that is 90 days after the application deadline established under subsection (b)(2); and

(B) in the case of each subsequent fiscal year, not later than August 1 of the fiscal year.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—If the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subsection (i)(1) for a fiscal year, the Administrator shall award a grant made to a qualified applicant under subsection (i)(2) not later than September 30 of the fiscal year.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—A grant under this section shall be used for the replacement of school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant

under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) SCHOOL BUS FLEET.—All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) USE OF FUNDS.—Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses, including State taxes and contract fees associated with the acquisition of such buses; and

(B) to provide—

(i) up to 20 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 25 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) GRANT RECIPIENT FUNDS.—The grant recipient shall be required to provide at least—

(A) in the case of a grant recipient described in paragraph (1) or (3) of subsection (c), the lesser of—

(i) an amount equal to 15 percent of the total cost of each bus received; or

(ii) $15,000 per bus; and

(B) in the case of a grant recipient described in subsection (c)(2), the lesser of—

(i) an amount equal to 20 percent of the total cost of each bus received; or

(ii) $20,000 per bus.

(4) ULTRA-LOW SULFUR DIESEL FUEL.—In the case of a grant recipient receiving a grant for ultra-low sulfur diesel fuel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Administrator that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(5) TIMING.—All alternative fuel school buses, ultra-low sulfur diesel fuel school buses, or alternative fuel infrastructure acquired under a grant awarded under this section shall be purchased and placed in service as soon as practicable.

(g) BUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funding under a grant made under this section for the acquisition of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses shall only be used to acquire school buses—

(A) with a gross vehicle weight of greater than 14,000 pounds;

(B) that are powered by a heavy duty engine;

(C) in the case of alternative fuel school buses manufactured in model years 2004 through 2006, that emit not more than 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(D) in the case of ultra-low sulfur diesel fuel school buses manufactured in model years 2004 through 2006, that emit not more than 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(2) LIMITATIONS.—A bus shall not be acquired under this section that emits nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel fuel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

(1) seek, to the maximum extent practicable, to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel fuel school buses through the program under this section; and

(2) ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), of the amount of grant funding made available to carry out this section for any fiscal year, the Administrator shall use—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—After the first fiscal year in which this program is in effect, if the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subparagraph (A) or (B) of paragraph (1) for a fiscal year, effective beginning on August 1 of the fiscal year, the Administrator shall make the remaining funds available to other qualified grant applicants under this section.

(j) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report evaluating implementation of the programs under this section and section 1913.

(2) COMPONENTS.—The reports shall include a description of—

(A) the total number of grant applications received;

(B) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(C) grants awarded and the criteria used to select the grant recipients;

(D) certified engine emission levels of all buses purchased or retrofitted under the programs under this section and section 1913;

(E) an evaluation of the in-use emission level of buses purchased or retrofitted under the programs under this section and section 1913; and

(F) any other information the Administrator considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $45,000,000 for fiscal year 2005;

(2) $65,000,000 for fiscal year 2006;

(3) $90,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 1913. DIESEL RETROFIT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to 1 or more public school systems;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems that the buses will serve, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, or particulate matter per proposal or per bus; or

(B) involve the use of emissions control retrofit technology on diesel school buses that operate solely on ultra-low sulfur diesel fuel.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) buses on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1991 or later; and

(C) will be used for the transportation of school children to and from school for a minimum of 5 years;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated;

(2) that buses powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur; and

(3) that grants are administered in accordance with this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SA 2417. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 730, strike line 18 and insert the following:

"(4) Use of Simulation Technology.—The Secretary shall use simulation studies to better understand the human factors involved in the research areas described in paragraph (1) and to find possible accident reducing methods where practical.

"(5) Reports.—

On page 734, line 8, insert ", including simulation studies," after "activities".

SA 2418. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 527, line 1, strike "intercity passenger rail,".

SA 2419. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 524, line 16, insert "and intercity rail" after "intercity bus".

SA 2420. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 522, line 21, insert ", which are coordinated with other modes of transportation," after "systems".

SA 2421. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, strike line 9, and insert the following:

subrecipient of assistance under section 5310.

"(D) Statewide Transit Provider Grantees.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project.";

SA 2422. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 594, strike lines 15 through 17, and insert the following:

"(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

SA 2423. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 542, strike line 24 and all that follows through page 543, line 6, and insert the following:

"(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

SA 2424. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4152 and insert the following:

SEC. 4152. VEHICLE CRASH EJECTION PREVENTION.

(a) In General.—Subchapter II of chapter 301 is amended by adding at the end the following:

"§ 30128. Vehicle accident ejection protection

"(a) In General.—The Secretary shall issue a safety standard to reduce complete and partial ejection from passenger motor vehicles with a gross vehicle weight rating of up to 10,000 pounds that are involved in accidents that present a risk of occupant ejection. The reduction in such ejections shall be based on the combined ejection-mitigation capabilities of safety technologies, such as advanced side glazing, side curtains, and side impact air bags.

"(b) Door Lock and Retention Standard.—The Secretary shall issue a rule to require manufacturers of new passenger motor vehicles distributed in commerce for sale in the United States to make such modifications to door locks, door latches, and retention components of doors in such vehicles as the Secretary determines to be necessary to prevent occupant ejection in vehicle accidents.".

(b) Rulemaking Deadlines.—

(1) Rulemaking.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30128 of title 49, United States Code, not later than June 30, 2005; and

(B) a final rule under that section not later than June 30, 2006.

(2) Effective Date of Requirements.—Any requirement imposed under the final rule issued under paragraph (1) shall become fully effective no later than December 31, 2008.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation $500,000 for each of fiscal years 2004 and 2005 to promulgate rules under section 30128 of title 49, United States Code.

(d) Conforming Amendment.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

"30128. Vehicle accident ejection protection.".

SA 2425. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) Establishment.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry through and to the interior of the United States.

(b) Eligible Recipients.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) Eligible Activities.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) Other Provisions Regarding Eligibility.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) Selection Criteria.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus;

(3) traverse at least 3 States; and

(4) are identified by section 115(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SA 2426. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENIOR TRANSPORTATION DEMONSTRATION PROJECT GRANTS.

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) ELIGIBLE ENTITY.—The term "eligible entity" includes—

(A) States;

(B) units of local government;

(C) local transportation organizations;

(D) nonprofit organizations;

(E) Indian tribes; and

(F) institutions of higher learning.

(2) SENIOR CITIZEN.—The term "senior citizen" means any individual who has reached 65 years of age.

(b) GRANTS AUTHORIZED.—The Secretary of Transportation shall award demonstration project grants to 10 eligible entities to establish mass transportation assistance pilot programs to plan and provide adequate and appropriate transportation for senior citizens.

(c) USE OF FUNDS.—Grant funds received under this section may be used to—

(1) evaluate the state of transportation services for senior citizens;

(2) recognize barriers to mobility that senior citizens encounter in their communities;

(3) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

(4) identify future transportation needs of senior citizens within local communities;

(5) establish strategies to meet the unique needs of healthy and frail senior citizens; and

(6) facilitate funding for operating expenses under section 5310 of title 49, United States Code.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

(2) SELECTION OF GRANTEES.—

(A) IN GENERAL.—The Secretary shall establish a committee, comprised of transportation providers, transportation planners, academicians, and consumers, who are interested in and knowledgeable of senior transportation issues, to select the eligible entities that will receive planning and direct service transportation demonstration project grants under this section.

(B) GEOGRAPHICAL REPRESENTATION.—Except as provided under subparagraph (C), the committee described in subparagraph (A) shall base its selection of grantees based on a fair representation of various geographical locations throughout the United States.

(C) PILOT PROGRAM STATES.—Not less than 1 grant shall be awarded to eligible entities within each of the following States:

(i) Connecticut.

(ii) South Dakota.

(iii) Alabama.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 2005 to carry out this section, which shall remain available until expended.

SA 2427. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, strikes lines 11 through 20 and insert the following:

(i) $325,000,000 for fiscal year 2004;

(ii) $350,000,000 for fiscal year 2005;

(iii) $375,000,000 for fiscal year 2006;

(iv) $400,000,000 for fiscal year 2007;

(v) $425,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

SA 2428. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 16 and 17, insert the following:

(k) AMOUNT OF OBLIGATION LIMITATION FOR INDIAN RESERVATION ROADS.—The amount of any obligation limitation for the Indian reservation roads program shall be equal to the total amount of contract authority made available for the Indian reservation roads program for fiscal years 2004 through 2009.

SA 2429. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 398 at the appropriate place insert the following:

(H) $2,000,000 for fiscal year 2005 shall remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines.

SA 2430. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 147, after the item following line 24, add the following:

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

"For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	2 percent.

"(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.".

SA 2431. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 56, strike line 16 and all that follows through page 57, line 2, and insert the following:

"(3) MINIMUM SHARE OF TAX PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than the applicable percentage under subparagraph (B) of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(B) MINIMUM PERCENTAGES.—The percentage referred to in subparagraph (A) shall be—

"(i) for fiscal year 2004, 90.5 percent;

"(ii) for fiscal year 2005, 91 percent;

"(iii) for fiscal year 2006, 92 percent;

"(iv) for fiscal year 2007, 93 percent;

"(v) for fiscal year 2008, 94 percent; and

"(vi) for fiscal year 2009, 95 percent.

"(C) ADJUSTMENT.—Funding for the programs under subsection (a)(2) shall be adjusted proportionately so that the total funding proportioned complies with the obligation limitations under section 1102 of the Safe, Accountable, Flexible, and Efficient Equity Act of 2003.

SA 2432. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 1 and all that follows through page 58, line 21, and insert the following:

"(1) IN GENERAL.—Subject to subsections (c) and (e), for each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the highway safety improvement program under section 148;

"(F) the congestion mitigation and air quality improvement program under section 149;

"(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

"(H) the infrastructure performance and maintenance program under section 139;

"(I) the equity bonus program under this section;

"(J) the Appalachian development highway system program under subtitle IV of title 40;

"(K) the recreational trails program under section 206;

"(L) the safe routes to schools program under section 150; and

"(M) the rail-highway grade crossing program under section 130.

"(b) STATE PERCENTAGE.—

"(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

"(A) 95 percent of the quotient obtained by dividing—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

"(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, or a median household income of less than $35,000, as reported in that decennial census, the greater of—

"(i) the percentage under paragraph (1); or

"(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

"(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004)—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the recreational trails program under section 206;

"(F) the high priority projects program under section 117;

"(G) the minimum guarantee provided under this section;

"(H) revenue aligned budget authority amounts provided under section 110;

"(I) the congestion mitigation and air quality improvement program under section 149;

"(J) the Appalachian development highway system program under subtitle IV of title 40; and

"(K) metropolitan planning programs under section 104(f).

"(c) SPECIAL RULES.—

"(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

"(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (e), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(3) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (e), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(d) FINAL EQUITY BONUS.—A final equity adjustment shall be made for all States to raise the percentage return of all highway apportionments and allocations, as compared with the tax payments attributable to that State paid into the Highway Trust Fund (other than the Mass Transit Account), to the following percentages:

"(1) Fiscal year 2005, 91 percent.

"(2) Fiscal year 2006, 92 percent.

"(3) Fiscal year 2007, 93 percent.

"(4) Fiscal year 2008, 94 percent.

"(5) Fiscal year 2009, 95 percent.

"(e) LIMITATION ON ADJUSTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

"(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

"(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent;

"(E) for fiscal year 2008, 145 percent; and

"(F) for fiscal year 2009, 250 percent.

"(f) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

"(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

"(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

"(g) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2004 through 2009.".

SA 2433. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 63, strike line 23 and all that follows through page 64, line 2, and insert the following:

"(2) EQUITY BONUS.—A sufficient amount of funding available to carry out this section shall be reserved to provide a final equity adjustment for each State to increase the percentage return of all highway apportionments and allocations, as compared to the tax payments attributable to the State paid into the Highway Trust Fund (other than the Mass Transit Account), to—

"(A) for fiscal year 2005, 91 percent;

"(B) for fiscal year 2006, 92 percent;

"(C) for fiscal year 2007, 93 percent;

"(D) for fiscal year 2008, 94 percent; and

"(E) for fiscal year 2009, 95 percent.

SA 2434. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, strike line 6 and all that follows through line 23 and insert the following: receive, for any of fiscal years 2004 through 2008, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

"(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

"(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent; and

"(E) for fiscal year 2008, 145 percent.

SA 2435. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1030, after line 21, add the following:

SEC. 5004. INCREASE IN HIGHWAY FUELS TAX RATE.

(a) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended—

(1) by striking "18.3 cents" in clause (i) and inserting "23.1 cents", and

(2) by striking "24.3 cents" in clause (ii) and inserting "30.7 cents".

(b) SECRETARIAL ADJUSTMENT.—Notwithstanding any provision of the Internal Revenue Code of 1986 to the contrary, not later than 30 days before the tax increase date (as defined in subsection (d)(3)(F)), the Secretary of the Treasury shall determine and provide for the proper rate, exemption, and credit adjustments necessary to maintain a comparable rate reduction to the rate imposed such date on gasoline, diesel fuel, or kerosene under section 4081 of the Internal Revenue Code of 1986 for any fuel, fuel mixture, or fuel use with respect to which such a reduction is in effect on such date.

(c) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on highway fuel held on a tax increase date, by any person a tax equal to—

(A) the tax which would have been imposed on the day before such date on such fuel had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4081 of the Internal Revenue Code of 1986, as in effect on the day before such tax increase date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or kerosene on a tax increase date, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Highway fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) HIGHWAY FUEL.—The term "highway fuel" means gasoline, diesel fuel, and kerosene.

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4083(a)(2) of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4083(a)(3) of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(F) TAX INCREASE DATE.—The term "tax increase date" means July 1, 2004.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to highway fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on highway fuel held in the tank of a motor vehicle, motorboat, train, or aircraft.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004.

SA 2436. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1030, after line 21, add the following:

SEC. 5004. INCREASE IN HIGHWAY FUELS TAX RATE.

(a) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended—

(1) by striking "18.3 cents" in clause (i) and inserting "22 cents", and

(2) by striking "24.3 cents" in clause (ii) and inserting "29.2 cents".

(b) INFLATION ADJUSTMENT.—Section 4081(a) is amended by adding at the end the following new paragraph:

"(3) INFLATION ADJUSTMENT OF HIGHWAY MOTOR FUELS EXCISE TAX RATES.—In the case of any calendar year beginning after 2004, each of the rates of tax specified in clauses (i) and (ii) of paragraph (2)(A) shall be increased by an amount equal to—

"(1) such rate of tax, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.".

(c) SECRETARIAL ADJUSTMENT.—Notwithstanding any provision of the Internal Revenue Code of 1986 to the contrary, not later than 30 days before any tax increase date (as defined in subsection (d)(3)(F)), the Secretary of the Treasury shall determine and provide for the proper rate, exemption, and credit adjustments necessary to maintain a comparable rate reduction to the rate imposed such date on gasoline, diesel fuel, or kerosene under section 4081 of the Internal Revenue Code of 1986 for any fuel, fuel mixture, or fuel use with respect to which such a reduction is in effect on such date.

(d) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on highway fuel held on a tax increase date, by any person a tax equal to—

(A) the tax which would have been imposed on the day before such date on such fuel had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4081 of the Internal Revenue Code of 1986, as in effect on the day before such tax increase date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or kerosene on a tax increase date, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Highway fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) HIGHWAY FUEL.—The term "highway fuel" means gasoline, diesel fuel, and kerosene.

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4083(a)(2) of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4083(a)(3) of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(F) TAX INCREASE DATE.—The term "tax increase date" means July 1, 2004, and January 1 of each calendar year beginning after 2004.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to highway fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on highway fuel held in the tank of a motor vehicle, motorboat, train, or aircraft.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004.

SA 2437. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, line 13, strike "and Washington" and insert "Washington, and any State with a seaport affected by increased trade volume due to the North American Free Trade Agreement".

SA 2438. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, strike line 16 and all that follows through page 289, line 18.

On page 293, after the matter following line 22, add the following:

(d) TRAFFIC INCIDENT MANAGEMENT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

"§ 168a. Traffic incident management program

"(a) IN GENERAL.—The Secretary shall establish and implement a traffic incident management program in accordance with this section to assist States and localities in—

"(1) regional traffic incident management program planning; and

"(2) carrying out projects to mitigate the effects of traffic delays due to accidents, breakdowns, and other non-recurring incidents on highways.

"(b) USE OF FUNDS.—Funds apportioned to a State under this section may be used for—

"(1) regional collaboration and coordination activities that lead to regional traffic incident management policies, programs, plans, procedures, and agreements;

"(2) purchase or lease of telecommunications equipment for first responders as part of the development of a regional traffic incident management program;

"(3) purchase or lease of equipment to support the clearance of traffic incidents;

"(4) payments to contractors for towing and recovery services as part of a regional traffic incident management program;

"(5) rental of vehicle storage or staging areas immediately adjacent to roadways as part of a regional traffic incident management program;

"(6) traffic service patrols as part of a regional traffic incident management program;

"(7) enhanced hazardous materials incident response;

"(8) traffic management systems in support of traffic incident management;

"(9) traffic incident management training;

"(10) crash investigation equipment;

"(11) other activities under a regional traffic incident management plan; and

"(12) Statewide incident reporting systems as described in section 169.

"(c) REGIONAL TRAFFIC INCIDENT MANAGEMENT PLAN.—

"(1) IN GENERAL.—Funds apportioned under this section may not be obligated for an urbanized area with a population greater than 200,000 until a regional traffic incident management plan is developed for such urbanized area.

"(2) PLAN DEVELOPMENT.—

"(A) COLLABORATION.—Any urbanized area described in paragraph (1) that receives funds apportioned under this section shall engage in regional collaboration and coordination activities to develop the regional traffic incident management plan required for such area under that paragraph.

"(B) PLAN ELEMENTS.—The regional traffic incident management plan for an urbanized area under paragraph (1) shall include—

"(i) a strategy, adopted by transportation, public safety, and appropriate private sector participants, for funding, implementing, managing, operating, and evaluating the traffic incident management program initiatives and activities for the urbanized area in manner that ensures regional coordination of such initiatives and activities;

"(ii) an estimate of the impact of the plan on traffic delays; and

"(iii) a description of the means by which traffic incident management information will be shared among operators, service providers, public safety officials, and the general public.

"(C) AVAILABILITY OF FUNDS.—The development of a regional traffic incident management plan shall constitute regional collaboration and coordination activities for purposes of subsection (b)(1) for which funds apportioned under this section may be obligated.

"(d) FUNDING.—

"(1) IN GENERAL.—There is hereby made available from the Highway Trust Fund (other than the Mass Transit Account) for obligation without further appropriation, $500,000,000 for each of fiscal years 2004 through 2009 to carry out this section.

"(2) APPORTIONMENT AMONG STATES.—Funds made available under paragraph (1) shall be apportioned among the States according to the ratio by which the aggregate population of each State, or part thereof, in urbanized areas with a population greater than 200,000 bears to the total population of all States, or parts thereof, in such urbanized areas.

"(3) DISTRIBUTION WITHIN STATES.—Funds apportioned to a State under paragraph (2) shall be made available to carry out projects and activities under regional traffic incident managements plans in each urbanized area in the State with a population greater than 200,000 according to the ratio by which the population of such urbanized area, or part thereof, in the State bears to the total population of all such urbanized areas in the State.

"(e) DETERMINATION OF POPULATIONS.—For purposes of determining populations of areas under this section, the Secretary shall use information from the most current decennial census, as supplied by the Secretary of Commerce.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 168 the following new item:

"168a. Traffic incident management program.".

(3) EQUITY BONUS.—Section 105(a)(2) of title 23, United States Code, as amended by section 1104 of this Act, is further amended—

(A) in subparagraph (L), by striking "and" at the end;

(B) in subparagraph (M), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(N) the traffic incident management program under section 168a.".

(4) OFFSET.—The amount available for the infrastructure performance and maintenance plan required by section 139 of title 23, United States Code, as added by section 1201, is hereby reduced by $3,000,000,000 in order to provide an offset for the costs of the traffic incident management program required by section 168a of title 23, United States Code, as added by paragraph (1).

On page 295, beginning on line 4, strike "section 1701(c)(1))" and insert "section 1701(d)(1))".

SA 2439. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 460, strike lines 18 through 23.

SA 2440. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 186, between lines 7 and 8, insert the following:

(c) SAVINGS PROVISION.—

(1) NO EFFECT ON EXISTING ENVIRONMENTAL REVIEW PROCESSES.—Nothing in this section—

(A) affects any environmental review process developed and approved under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232), as in effect on the day before the date of enactment of this Act; or

(B) prevents the Secretary, with the concurrence of any cooperating agencies, from developing environmental review processes that are consistent with the provisions of that section.

(2) ELIGIBILITY FOR ASSISTANCE.—Agencies that participated in an environmental review process under section 1309 of the Transportation Equity Act for the 21st Century that is continued under section 326 of title 23, United States Code, shall be eligible for assistance under subsection (j) of the latter section.

SA 2441. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 611, strike line 21 and all that follows through page 613, line 9, and insert the following:

"(B)(i) $101,800,000 of the amounts made available under section 5338(b)(4) shall be allocated for the Bus Transit Equity Subaccount, established under paragraph (7); and

"(i) the remaining amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) BUS AND BUS FACILITY GRANTS.—

"(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

"(7) BUS TRANSIT EQUITY SUBACCOUNT.—

"(A) ESTABLISHMENT.—There is established a Bus Transit Equity Subaccount within the Mass Transit Account of the Highway Trust Fund.

"(B) ELIGIBILITY.—Any of the 50 States shall be eligible for funding under the Bus Transit Equity Subaccount if the State—

"(i) is otherwise scheduled to receive under sections 5307, 5309, 5310, and 5311, for fiscal years 2004 through 2009, an amount that is less than 175 percent of the amount the State received under sections 5307, 5309, 5310, and 5311, for fiscal years 1998 through 2003; and

"(ii) received less than 1.25 percent of the total amount allocated to the 50 States in fiscal year 2002 for fixed guideways modernization and new starts.

"(C) ALLOCATION.—Each eligible State under subparagraph (B) shall be allocated from the Bus Transit Equity Subaccount, for each of the fiscal years 2005 through 2009, an amount that is equal to 20 percent of the difference between the amount the State is otherwise scheduled to receive under sections 5307, 5309, 5310, and 5311, for fiscal years 2004 through 2009, and the amount which is equal to 175 percent of the amount the State received under sections 5307, 5309, 5310, and 5311 for fiscal years 1998 through 2003.".

SA 2442. Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1168, insert between lines 16 and 17 the following:

SEC. 5507a. FEDERAL EMPLOYEE COMMUTER BENEFITS.

(a) SHORT TITLE.—This section may be cited as the "Federal Employee Commuter Benefits Act of 2004".

(b) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in paragraph (2).

(2) BENEFITS DESCRIBED.—The benefits described in this paragraph are, as of any given date, the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are then currently required to be offered by Federal agencies in the National Capital Region.

(3) DEFINITIONS.—In this subsection—

(A) the term "covered agency" means any agency, to the extent of its facilities in the National Capital Region;

(B) the term "agency" means any agency (as defined by 7905(a)(2) of title 5, United States Code) not otherwise covered by section 2 of Executive Order 13150, the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(C) the term "National Capital Region" includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;

(D) the term "Executive Order 13150" refers to Executive Order 13150 (5 U.S.C. 7905 note);

(E) the term "Federal agency" is used in the same way as under section 2 of Executive Order 13150; and

(F) any determination as to whether or not one is a "qualified Federal employee" shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to require that a covered agency—

(A) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in paragraph (1)) any program or benefits permitted or required under any other provision of law; or

(B) discontinue (on or after the effective date referred to in paragraph (1)) any program or benefits referred to in subparagraph (A), so long as such program or benefits satisfy the requirements of paragraphs (1) through (3).

(c) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

"(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

"(3) In carrying out this subsection, a Federal agency shall—

"(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

"(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

"(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

"(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

"(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

"(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

"(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.".

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

"(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.".

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SA 2443. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, strike line 17 and insert the following:

"(g) HIGH POPULATION DENSITY EQUITY ADJUSTMENT.—

"(1) IN GENERAL.—In addition to other amounts received under this section and section 1101 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall allocate to each State (other than the District of Columbia) with a population density of greater than 250 individuals per square mile, as determined by the 2000 decennial census, a high density State bonus in the proportion that—

"(A) the average population density of the State; bears to

"(B) the average population density all such States.

"(2) FUNDING.—

"(A) IN GENERAL.—There shall be made available to the Secretary to carry out this subsection, from amounts made available to carry out section 139, $500,000,000 for each of fiscal years 2004 through 2009.

"(B) APPORTIONMENT.—Funds made available to carry out this subsection shall be apportioned in accordance with section 104(b).

"(3) NO EFFECT ON EQUITY BONUS.—The calculation and distribution of funds under other provisions of this section shall not be adjusted as a result of the allocation of funds under this subsection.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There

SA 2444. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 105 of title 23, United States Code (as amended by section 1104), add the following:

"(__) SPECIAL RULES.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 125 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).".

SA 2445. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 2 and all that follows through the matter following line 8 on page 64, and insert the following:

SEC. 1201. HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"§ 139. High traffic density equity adjustment program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and implement a high traffic density equity adjustment program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $439,000,000 shall be available for obligation to carry out this section without further appropriation.

"(3) HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) in the ratio that—

"(i) the ratio of annual vehicle miles traveled to lane miles of each State greater than the ratio of total vehicle miles traveled to total lane miles of all States; bears to

"(ii) the ratio of total vehicle miles traveled to total lane miles of all States.

"(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVEL.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Transportation.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall -

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(B) reallocate the funds and redistribute the obligation authority to States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. High traffic density equity adjustment program.".

SA 2446. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 21 on page 71, strike through the matter between lines 6 and 7 on page 80 and insert the following:

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§ 325. Freight transportation gateways

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area, of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) STATE RESPONSIBILITIES.—

"(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) FREIGHT TRANSPORTATION COORDINATOR.—

"(A) IN GENERAL.—Each State shall designate a freight transportation coordinator and, where appropriate, a maritime transportation system coordinator.

"(B) DUTIES.—Each coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and the facilitation of transportation throughout the maritime transportation system, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economics interests;

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) MARAD RESPONSIBILITIES.—

"(1) PURPOSES.—The purposes of the maritime transportation system enhancements implemented under this section are—

"(A) to develop a clearly defined freight program to implement a comprehensive program of intermodal solutions to freight needs;

"(B) to promote efficiencies in the transportation of intermodal freight by increasing the awareness of the economic importance of freight;

"(C) to create a national intermodal planning and development initiative to provide for strategic investments that need to be made for transportation projects of national significance;

"(D) to create a gateways of national significance program by restructuring the TEA-21 corridors and borders program to distribute funds where cohesive regional planning groups are already in place with plans to address infrastructure transportation infrastructure choke points;

"(E) to improve productivity of freight terminals by connecting those terminals to the nation's transportation infrastructure and dedicating resources to the efficiencies of these connectors;

"(F) to enhance productivity and efficiency of the United States economy through infrastructure improvements that facilitate just-in-time delivery and eliminate surface transportation congestion;

"(G) to improve air quality and transportation safety; and

"(H) to enhance freight movement security.

"(2) Duties.—The Maritime Administration shall prepare and maintain a national maritime transportation system and shall—

"(1) recognize designated State marine transportation system coordinators to foster public and private collaboration and coordinate regional solutions to freight transportation and gateway issues, and require States with port facilities, marine terminals, and viable commercial inland waterway systems to ensure that the coordinators duties include the consideration of comprehensive intermodal transportation needs in the planning process and coordinate with adjacent states to ensure intermodal solutions that maximize water transportation options in the movement of freight;

"(2) review and comment on each State marine transportation system submitted to the Secretary under this section;

"(3) compile all State plans and incorporate them into the national marine transportation system plan;

"(4) evaluate, every 2 years, marine transportation system enhancements to address freight movement congestion, security, and safety through the increased use of water transportation alternatives;

"(5) prioritize short sea shipping projects and programs in accordance with a national evaluation study and analysis of infrastructure needs and forecasted increases in trade demand;

"(6) integrate short sea shipping services with existing surface transportation projects;

"(7) foster the utilization of container-on-barge as a means of alleviating congestion in and around congested metropolitan areas;

"(8) foster brownfield development for the expansion of marine transportation system capacity to augment the limited amount of sustainable land available for competing transportation related uses;

"(9) support improvements to landside infrastructure that connects highways and railways to the marine transportation system;

"(10) promote accident prevention and protection of the environment as top marine transportation system priorities;

"(11) develop methods of streamlining project-planning processes to eliminate delays in marine transportation system improvements;

"(12) develop a coherent environmental regulatory process to streamline permitting; and

"(13) promote the increased use of on-dock and near-dock rail usage.

"(d) Innovative Finance Strategies.—

"(1) In general.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) Technical assistance.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

"(e) Intermodal Freight Transportation Projects.—

"(1) Use of surface transportation program funds.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

"(2) Eligible projects.—A project eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

"(B) may involve the combining of private andd public funds.".

(b) Eligibility for Surface Transportation Program Funds.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

"(12) Intermodal freight transportation projects in accordance with section 325(e)(2).'.

(c) Freight Intermodal Connections to NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(7) Freight intermodal connections to the NHS.—

"(A) Funding set-aside.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

"(ii) strategic. highway network connectors to strategic military deployment ports;

"(iii) projects to eliminate railroad crossings or make railroad crossing improvements; and

"(iv) any intermodal project in the State of Alaska, or Hawaii that, the State determines to be vital to State transportation needs.

"(B) Determination of amount.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

"(i) the product obtained by multiplying—

"(I) the total amount of funds apportioned to the State under section 104(b)(1); by

"(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

"(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

"(C) Exemption from set-aside.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

"(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

"(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.

"(D) Flexibility.—Port projects eligible for funding under this section may be transferred and administered by the Administrator of the Maritime Administration under the terms and conditions provided in section 626 of the Consolidated Appropriations Resolution, 2003.".

(d) Federal Share Payable.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(m) Increased Federal Share for Connectors.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), the Federal share of the total cost of the project shall be 90 percent.".

(e) Length Limitations.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking "The" and inserting the following:

"(1) In general.—The"; and

(2) by adding at the end the following:

"(2) Length limitations.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of Federal-aid system highways to include—

"(A) strategic highway network connectors to strategic military deployment ports; and

"(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).".

(f) Conforming Amendment.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"325. Freight transportation gateways.".

SA 2447. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 420, line 23, strike "enhanced" and insert "integrated, interoperable emergency".

SA 2448. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 18, after "elements" insert ", including integrated, interoperable emergency communications,".

SA 2449. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, line 3, before "equipment" insert "intergrated, interoperable emergency communications,".

SA 2450. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 404, line 7, before "communication" insert "integrated, interoperable emergency".

SA 2451. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, after line 9, insert the following:

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.".

SA 2452. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 923, strike lines 8 through 10 and insert the following:

(a) FUNDING.—Section 125(c)(1) of title 23, United States Code, is amended by striking "$100,000,000" and inserting "$300,000,000".

(b) ROADS IN CLOSED BASINS.—Section 125 of title 23, United States Code, is amended by adding at the end the following:

"(g) ROADS IN CLOSED BASINS.—

"(1) DEFINITION OF CONSTRUCTION.—In this subsection, the term 'construction' includes—

"(A) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

"(B) monitoring and evaluations relating to proposed construction.

"(2) FUNDING.—Subject to paragraph (3), the Secretary shall use amounts made available to carry out this section, through advancement or reimbursement, without further emergency declaration, for construction—

"(A) necessary for the continuation of roadway services and the impoundment of water, as the Secretary determines to be appropriate, in accordance with—

"(i) options and needs identified in the report of the Devils Lake Surface Transportation Task Force, Federal Highway Administration, entitled 'Roadways Serving as Water Barriers' and dated May 4, 2000 (referred to in this subsection as the 'report'); and

"(ii) any needs identified after publication of the report; or

"(B) for a grade raise to permanently restore a roadway identified in the report the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway.

"(3) REQUIREMENT.—To be eligible for funding under paragraph (1), construction or a grade raise shall be carried out in an area that has been the subject of an emergency declaration issued during or after 1993.".

SA 2453. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

PART VI—TAX SHELTER AND TAX HAVEN REFORMS

SEC. 5671. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking "a penalty" and all that follows through the period in the first sentence of subsection (a) and inserting "a penalty determined under subsection (b)", and

(3) by inserting after subsection (a) the following new subsections:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

"(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

"(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

"(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5625 of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5672. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting "the tax liability or" after "respect to," in paragraph (1),

(2) by inserting "aid, assistance, procurement, or advice with respect to such" before "portion" both places it appears in paragraphs (2) and (3), and

(3) by inserting "instance of aid, assistance, procurement, or advice or each such" before "document" in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

"(i) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

"(ii) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.".

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

"(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5673. PENALTY FOR FAILURE TO REGISTER TAX SHELTER.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION ON POTENTIALLY ABUSIVE TAX SHELTER OR LISTED TRANSACTION.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111 with respect to any potentially abusive tax shelter—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such shelter,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be not less than $50,000 and not more than $100,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 100 percent of the gross income derived by such person for providing aid, assistance, procurement, advice, or other services with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '150 percent' for '100 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) allowing the Commissioner of Internal Revenue to rescind a penalty under certain circumstances shall apply to any penalty imposed under this section.

"(d) POTENTIALLY ABUSIVE TAX SHELTERS AND LISTED TRANSACTIONS.—The terms 'potentially abusive tax shelter' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "regarding tax shelters" and inserting "on potentially abusive tax shelter or listed transaction".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5618(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5674. PENALTY FOR FAILING TO MAINTAIN CLIENT LIST.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day. If such person makes available an incomplete list upon such request, such person shall pay a penalty of $100 per each omitted name for each day of such omission after such 20th day.

"(2) GOOD CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if, in the judgment of the Secretary, such failure is due to good cause.".

(b) PENALTY NOT DEDUCTIBLE.—Section 6708 is amended by adding at the end the following new subsection:

"(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Secretary of the Treasury after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5619(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5675. PENALTY FOR FAILING TO DISCLOSE POTENTIALLY ABUSIVE TAX SHELTER.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SFC. 6707A. PENALTY FOR FAILURE TO INCLUDE POTENTIALLY ABUSIVE TAX SHELTER INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a potentially abusive tax shelter which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—Except as provided in paragraph 3, the amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR INTENTIONAL NONDISCLOSURE.—In the case of an intentional failure by any person under subsection (a), the penalty under paragraph (1) shall be $100,000 and the penalty under paragraph (2) shall be $200,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' means any transaction with respect to which information is required to be included with a return or statement, because the Secretary has determined by regulation or otherwise that such transaction has a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a potentially abusive tax shelter which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of a penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a potentially abusive tax shelter other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact,

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

A copy of such opinion shall be provided upon written request to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, or the General Accounting Office.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any potentially abusive tax shelter at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

"(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include potentially abusive tax shelter information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5612(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5676. IMPROVED DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

"(a) IN GENERAL.—Each material advisor with respect to any potentially abusive tax shelter shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing such shelter,

"(2) information describing any potential tax benefits expected to result from the shelter, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date which is 30 days before the date on which the first sale of such shelter occurs or on any other date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to designing, organizing, managing, promoting, selling, implementing, or carrying out any potentially abusive tax shelter, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a potentially abusive tax shelter substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $100,000 in any other case.

"(2) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of potentially abusive tax shelters.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP CLIENT LISTS.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any potentially abusive tax shelter (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such shelter, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of potentially abusive tax shelters must keep client lists.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN CLIENT LISTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTERS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain client lists with respect to potentially abusive tax shelters.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

(e) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5617(d) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5677. EXTENSION OF STATUTE OF LIMITATIONS FOR UNDISCLOSED TAX SHELTER.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) POTENTIALLY ABUSIVE TAX SHELTERS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a potentially abusive tax shelter (as defined in section 6707A(c)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 2 years after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5678. PENALTY FOR FAILING TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314, the amount of the civil penalty imposed under subparagraph (A) shall be—

"(i) not less than $5,000,

"(ii) not more than 50 percent of the amount determined under subparagraph (D), and

"(iii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5622(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5679. CENSURE, CIVIL FINES, AND TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

(a) CENSURE; IMPOSITION OF MONETARY PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX OPINION STANDARDS.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any potentially abusive tax shelter or any entity, plan, arrangement, or transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

"(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

"(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

"(3) Avoidance of conflicts of interest which would impair auditor independence.

"(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

"(5) Reliance on reasonable factual representations by the taxpayer and other parties.

"(6) Appropriateness of the fees charged by the practitioner for the written advice.".

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5624(a)(2) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5680. PREVENTING CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) SPECIAL RULES.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

"(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Section 5651(a)(2) of this Act, and the amendments made by such section, shall not take effect.

SA 2454. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

Subtitle H—Incentives for Alternative Motor Vehicles

PART I—INCENTIVES

SEC. 5671. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified advanced lean burn technology motor vehicle credit determined under subsection (f).

"(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds, and

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

"(2) INCREASE FOR FUEL EFFICIENCY.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

"(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following table:

"In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	The credit amount is:
At least 4 percent but less than 10 percent.	$350
At least 10 percent but less than 20 percent.	$600
At least 20 percent but less than 30 percent.	$850
At least 30 percent	$1,100.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $600, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(II) $1,100, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(III) $1,600, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(IV) $2,100, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(V) $2,600, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

"(VI) $3,100, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

"(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(iii) OPTION TO USE LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the increase for fuel efficiency may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

"(C) CONSERVATION CREDIT.—

"(i) AMOUNT.—The amount determined under subparagraph (A) with respect to a passenger automobile, medium duty passenger vehicle, or light truck shall be increased by—

"(I) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

"(II) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

"(III) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

"(IV) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

"(ii) LIFETIME FUEL SAVINGS FOR LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the lifetime fuel savings fuel may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

"(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

"(i) MAXIMUM AVAILABLE POWER.—For purposes of subparagraph (A), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(ii) LIKE VEHICLE.—For purposes of subparagraph (B)(iii), the term 'like vehicle' for a new qualified hybrid motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

"(I) Body style (2-door or 4-door).

"(II) Transmission (automatic or manual).

"(III) Acceleration performance (± 0.05 seconds).

"(IV) Drivetrain (2-wheel drive or 4-wheel drive).

"(V) Certification by the Administrator of the Environmental Protection Agency.

"(iii) LIFETIME FUEL SAVINGS.—For purposes of subparagraph (C), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection

"(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(i) which draws propulsion energy from onboard sources of stored energy which are both—

"(I) an internal combustion or heat engine using consumable fuel, and

"(II) a rechargeable energy storage system,

"(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

"(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired for use or lease by the taxpayer and not for resale, and

"(v) which is made by a manufacturer.

"(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(d) NEW QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

"(i) $350, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(ii) $600, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(iii) $850, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy, and

"(iv) $1,100, if such vehicle achieves at least 200 percent of the 2002 model year city fuel economy.

For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(B) Conservation credit.—The amount determined under subparagraph (A) with respect to a new qualified advanced lean burn technology motor vehicle shall be increased by—

"(i) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

"(ii) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

"(iii) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

"(iv) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

"(C) Option to use like vehicle.—At the option of the vehicle manufacturer, the increase for fuel efficiency and conservation credit may be calculated by comparing the new qualified advanced lean burn technology motor vehicle to a like vehicle.

"(3) Definitions.—For purposes of this subsection—

"(A) New qualified advanced lean burn technology motor vehicle.—The term 'new qualified advanced lean burn technology motor vehicle' means a motor vehicle with an internal combustion engine—

"(i) which is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

"(ii) which incorporates direct injection,

"(iii) which achieves at least 125 percent of the 2002 model year city fuel economy,

"(iv) which, for 2005 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission levels for passenger vehicles established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, except any manufacturer may provide not to exceed 5,000 passenger vehicles per year which are Tier II compliant,

"(v) the original use of which commences with the taxpayer,

"(vi) which is acquired for use or lease by the taxpayer and not for resale, and

"(vii) which is made by a manufacturer.

"(B) Like vehicle.—The term 'like vehicle' for a new qualified advanced lean burn technology motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

"(i) Body style (2-door or 4-door),

"(ii) Transmission (automatic or manual),

"(iii) Acceleration performance (± 0.05 seconds).

"(iv) Drivetrain (2-wheel drive or 4-wheel drive).

"(v) Certification by the Administrator of the Environmental Protection Agency.

"(C) Lifetime fuel savings.—The term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

"(e) Application With Other Credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) Limitation on Number of New Qualified Hybrid and Advanced Lean-Burn Technology Vehicles Eligible for Credit.—

"(1) In general.—In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (c) or (d) shall be allowed.

"(2) Phaseout period.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section is at least 80,000.

"(3) Applicable percentage.—For purposes of paragraph (1), the applicable percentage is—

"(A) 50 percent for the first 2 calendar quarters of the phaseout period,

"(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

"(C) 0 percent for each calendar quarter thereafter.

"(4) Controlled groups.—

"(A) In general.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

"(B) Inclusion of foreign corporations.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

"(5) Qualified vehicle.—For purposes of this subsection, the term 'qualified vehicle' means any new qualified hybrid motor vehicle and any new advanced lean burn technology motor vehicle.

"(g) Other Definitions and Special Rules.—For purposes of this section—

"(1) Motor vehicle.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) City fuel economy.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(3) Other terms.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) Reduction in basis.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(5) No double benefit.—The amount of any deduction or other credit allowable under this chapter with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Recapture.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(8) Property used outside United States, etc., not qualified.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(9) Election to not take credit.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) Carryback and carryforward allowed.—

"(A) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) Interaction with air quality and motor vehicle safety standards.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(h) Regulations.—

"(1) In general.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) Coordination in prescription of certain regulations.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(i) Application of Section.—This section shall apply to—

"(1) any new qualified fuel cell motor vehicle (as described in subsection (b)) placed in service after December 31, 2004, and purchased before January 1, 2015, and

"(2) any new qualified hybrid motor vehicle (as described in subsection (c)) or new qualified advanced lean burn technology motor vehicle (as described in subsection (d)) placed in service after December 31, 2004, and purchased before January 1, 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(g)(4).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(g)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5672. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) YEAR CREDIT ALLOWED.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) NO DOUBLE BENEFIT.—

"(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) INCREASE IN DEDUCTION FOR HYDROGEN INFRASTRUCTURE.—Section 179A(b)(2)(A)(i) is amended by inserting "($200,000 in the case of property relating to hydrogen)" after "$100,000".

(2) EXTENSION OF DEDUCTION.—Subsection (f) of section 179A is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(3) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen)",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5673. BIODIESEL CREDIT EXPANSION.

Section 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended—

(1) by striking "CREDITS.—" and all that follows through "At the request" and inserting "CREDITS.—At the request"; and

(2) by striking paragraph (2).

PART II—REVENUE PROVISIONS

SEC. 5675. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking "a penalty" and all that follows through the period in the first sentence of subsection (a) and inserting "a penalty determined under subsection (b)", and

(3) by inserting after subsection (a) the following new subsections:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

"(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

"(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

"(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5625 of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5676. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting "the tax liability or" after "respect to," in paragraph (1),

(2) by inserting "aid, assistance, procurement, or advice with respect to such" before "portion" both places it appears in paragraphs (2) and (3), and

(3) by inserting "instance of aid, assistance, procurement, or advice or each such" before "document" in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

"(i) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

"(ii) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.".

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

"(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5677. PENALTY FOR FAILURE TO REGISTER TAX SHELTER.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION ON POTENTIALLY ABUSIVE TAX SHELTER OR LISTED TRANSACTION.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111 with respect to any potentially abusive tax shelter—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such shelter,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be not less than $50,000 and not more than $100,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 100 percent of the gross income derived by such person for providing aid, assistance, procurement, advice, or other services with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '150 percent' for '100 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) allowing the Commissioner of Internal Revenue to rescind a penalty under certain circumstances shall apply to any penalty imposed under this section.

"(d) POTENTIALLY ABUSIVE TAX SHELTERS AND LISTED TRANSACTIONS.—The terms 'potentially abusive tax shelter' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "regarding tax shelters" and inserting "on potentially abusive tax shelter or listed transaction".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5618(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5678. PENALTY FOR FAILING TO MAINTAIN CLIENT LIST.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day. If such person makes available an incomplete list upon such request, such person shall pay a penalty of $100 per each omitted name for each day of such omission after such 20th day.

"(2) GOOD CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if, in the judgment of the Secretary, such failure is due to good cause.".

(b) PENALTY NOT DEDUCTIBLE.—Section 6708 is amended by adding at the end the following new subsection:

"(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Secretary of the Treasury after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5619(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5679. PENALTY FOR FAILING TO DISCLOSE POTENTIALLY ABUSIVE TAX SHELTER.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE POTENTIALLY ABUSIVE TAX SHELTER INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a potentially abusive tax shelter which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—Except as provided in paragraph 3, the amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR INTENTIONAL NONDISCLOSURE.—In the case of an intentional failure by any person under subsection (a), the penalty under paragraph (1) shall be $100,000 and the penalty under paragraph (2) shall be $200,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' means any transaction with respect to which information is required to be included with a return or statement, because the Secretary has determined by regulation or otherwise that such transaction has a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a potentially abusive tax shelter which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority To Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of a penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a potentially abusive tax shelter other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact,

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

A copy of such opinion shall be provided upon written request to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, or the General Accounting Office.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any potentially abusive tax shelter at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Penalty in Addition to Other Penalties.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

"(g) Penalty Not Deductible.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include potentially abusive tax shelter information with return or statement.".

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

(d) Prior Section To Have No Effect.—Notwithstanding section 5612(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5680. IMPROVED DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

"(a) In General.—Each material advisor with respect to any potentially abusive tax shelter shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing such shelter,

"(2) information describing any potential tax benefits expected to result from the shelter, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date which is 30 days before the date on which the first sale of such shelter occurs or on any other date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to designing, organizing, managing, promoting, selling, implementing, or carrying out any potentially abusive tax shelter, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a potentially abusive tax shelter substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $100,000 in any other case.

"(2) Potentially abusive tax shelter.—The term 'potentially abusive tax shelter' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of potentially abusive tax shelters.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP CLIENT LISTS.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any potentially abusive tax shelter (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such shelter, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of potentially abusive tax shelters must keep client lists.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN CLIENT LISTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTERS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain client lists with respect to potentially abusive tax shelters.".

(c) Required Disclosure Not Subject to Claim of Confidentiality.—Section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) No claim of confidentiality against disclosure.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

(e) Prior Section To Have No Effect.—Notwithstanding section 5617(d) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5681. EXTENSION OF STATUTE OF LIMITATIONS FOR UNDISCLOSED TAX SHELTER.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) POTENTIALLY ABUSIVE TAX SHELTERS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a potentially abusive tax shelter (as defined in section 6707A(c)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 2 years after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5682. PENALTY FOR FAILING TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314, the amount of the civil penalty imposed under subparagraph (A) shall be—

"(i) not less than $5,000,

"(ii) not more than 50 percent of the amount determined under subparagraph (D), and

"(iii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5622(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5683. CENSURE, CIVIL FINES, AND TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

(a) CENSURE; IMPOSITION OF MONETARY PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX OPINION STANDARDS.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any potentially abusive tax shelter or any entity, plan, arrangement, or transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

"(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

"(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

"(3) Avoidance of conflicts of interest which would impair auditor independence.

"(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

"(5) Reliance on reasonable factual representations by the taxpayer and other parties.

"(6) Appropriateness of the fees charged by the practitioner for the written advice.".

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5624(a)(2) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5684. PREVENTING CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) SPECIAL RULES.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

"(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Section 5651(a)(2) of this Act, and the amendments made by such section, shall not take effect.

SA 2455. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $85,000,000 for each of fiscal years 2004 through 2009.

SA 2456. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal year 2004.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, shall be reduced by $270,000,000 for fiscal year 2004.

SA 2457. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding an other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$255,000,000".

SA 2458. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 10.1 percent.

SA 2459. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$277,000,000".

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 5 percent.

SA 2460. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$170,000,000".

SA 2461. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal year 2004.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter 1 of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $780,000,000 for fiscal year 2004.

SA 2462. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter 1 of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $330,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "225,000,000".

SA 2463. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $110,000,000 for each of fiscal years 2004 through 2009.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$210,000,000".

(e) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2464. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provisions of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$190,000,000".

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2465. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $150,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$150,000,000".

SA 2466. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal year 2004.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $900,000,000 for fiscal year 2004.

SA 2467. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $300,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by 300,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "180,000,000" for fiscal years 2005 through 2009.

SA 2468. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $150,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $100,000,000 for each of fiscal years 2004 through 2009.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$200,000,000".

(e) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2469. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $150,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$170,000,000".

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2470. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 677 of the Committee substitute, between the lines 12 and 13, insert the following:

"(ii) $4,821,335 shall be available to the personal rapid transit system in Morgantown, West Virginia for improvements to its passengers operations under section 5307;"

SA 2471. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE —SOLID WASTE DISPOSAL

SEC. ___01. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

"INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

"SEC. 6005. (a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. ___02. USE OF GRANULAR MINE TAILINGS.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section ___01(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) MINE TAILINGS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section ___01(b)) is amended by adding at the end of the items relating to subtitle F the following:

"Sec. 6006. Use of granular mine tailings.".

SA 2472. Mr. CHAFEE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 715, strike line 1, and insert the following:

SEC. 3044. HUMAN RESOURCE PROGRAMS.

Section 5322 is amended—

(1) by striking "The Secretary of Transportation" and inserting the following:

"(a) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(b) NATIONWIDE TRANSIT EMPLOYEE JOB TRAINING PARTNERSHIP PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall contract with a national non-profit organization to establish a nationwide transit employee job training partnership program to respond to technological changes in the industry, with emphasis given to maintenance.

"(2) REQUIREMENT.—The non-profit organization referred to in paragraph (1) shall have demonstrated the capacity to develop and provide career ladder training programs.

"(3) ALLOCATION.—From the amounts made available under section 5314(a), the Secretary shall make available not less than $2,000,000 to carry out the provisions in this subsection.".

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

SA 2473. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION
Sec. 5000. Short title; amendment of 1986 code; table of contents.
Subtitle A—Trust Fund Reauthorization
Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.
Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
Sec. 5003. Modification of adjustments of apportionments.
Subtitle B—Biodiesel Income Tax Credit
Sec. 5101. Biodiesel income tax credit.
Subtitle C—Fuel Fraud Prevention
Sec. 5200. Short title.
PART I—AVIATION JET FUEL
Sec. 5211. Taxation of aviation-grade kerosene.
Sec. 5212. Transfer of certain amounts from the Airport and Airway Trust Fund to the Highway Trust Fund to reflect highway use of jet fuel.
PART II—DYED FUEL
Sec. 5221. Dye injection equipment.
Sec. 5222. Elimination of administrative review for taxable use of dyed fuel.
Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
Sec. 5224. Termination of dyed diesel use by intercity buses.
PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS
Sec. 5231. Authority to inspect on-site records.
Sec. 5232. Assessable penalty for refusal of entry.
PART IV—REGISTRATION AND REPORTING REQUIREMENTS
Sec. 5241. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones.
Sec. 5244. Penalties for failure to register and failure to report.
Sec. 5245. Information reporting for persons claiming certain tax benefits.
PART V—IMPORTS
Sec. 5251. Tax at point of entry where importer not registered.
Sec. 5252. Reconciliation of on-loaded cargo to entered cargo.
PART VI—MISCELLANEOUS PROVISIONS
Sec. 5261. Tax on sale of diesel fuel whether suitable for use or not in a diesel-powered vehicle or train.
Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
Sec. 5263. Taxable fuel refunds for certain ultimate vendors.
Sec. 5264. Two-party exchanges.
Sec. 5265. Modifications of tax on use of certain vehicles.
Sec. 5266. Dedication of revenues from certain penalties to the Highway Trust Fund.
Sec. 5267. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.
PART VII—TOTAL ACCOUNTABILITY
Sec. 5271. Total accountability.
Sec. 5272. Excise tax reporting.
Sec. 5273. Information reporting.
Subtitle D—Definition of Highway Vehicle
Sec. 5301. Exemption from certain excise taxes for mobile machinery.
Sec. 5302. Modification of definition of off-highway vehicle.
Subtitle E—Excise Tax Reform and Simplification
PART I—HIGHWAY EXCISE TAXES
Sec. 5401. Dedication of gas guzzler tax to Highway Trust Fund.
Sec. 5402. Repeal certain excise taxes on rail diesel fuel and inland waterway barge fuels.
PART II—AQUATIC EXCISE TAXES
Sec. 5411. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.
PART III—AERIAL EXCISE TAXES
Sec. 5421. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
Sec. 5424. Certain sightseeing flights exempt from taxes on air transportation.
PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES
Sec. 5431. Repeal of special occupational taxes on producers and marketers of alcoholic beverages.
Sec. 5432. Suspension of limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands.
PART V—SPORT EXCISE TAXES
Sec. 5441. Custom gunsmiths.
Sec. 5442. Modified taxation of imported archery products.
Sec. 5443. Treatment of tribal governments for purposes of Federal wagering excise and occupational taxes.
PART VI—OTHER PROVISIONS
Sec. 5451. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
Sec. 5452. Credit for taxpayers owning commercial power takeoff vehicles.
Sec. 5453. Credit for auxiliary power units installed on diesel-powered trucks.
Subtitle F—Miscellaneous Provisions
Sec. 5501. Motor Fuel Tax Enforcement Advisory Commission.
Sec. 5502. National Surface Transportation Infrastructure Financing Commission.
Sec. 5503. Treasury study of fuel tax compliance and interagency cooperation.
Sec. 5504. Expansion of Highway Trust Fund expenditure purposes to include funding for studies of supplemental or alternative financing for the Highway Trust Fund.
Sec. 5505. Treasury study of highway fuels used by trucks for non-transportation purposes.
Sec. 5506. Delta regional transportation plan.
Sec. 5507. Treatment of employer-provided transit and van pooling benefits.
Sec. 5508. Study of incentives for production of biodiesel.
Sec. 5509. Reduction of expenditures from the Highway Trust Fund.
Subtitle G—Revenue Offsets
PART I—LIMITATION ON EXPENSING CERTAIN PASSENGERS AUTOMOBILES
Sec. 5601. Expansion of limitation on depreciation of certain passenger automobiles.
PART II—PROVISION TO REPLENISH THE GENERAL FUND
Sec. 5611. Modification to corporate estimated tax requirements.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ", or",

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "March 1, 2004" and inserting "October 1, 2009", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2009":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2009":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(A) by striking "2003" and inserting "2007", and

(B) by striking "2004" each place it appears and inserting "2008".

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking "2007" in subparagraph (C)(ii) and inserting "2010", and

(2) by striking "October 1, 2007" in subparagraph (D) and inserting "January 1, 2011".

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.".

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking "paragraph (4)(D) or (5)(B)" and inserting "paragraph (3)(D) or (4)(B)".

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: "The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.".

(3) Section 9504(a)(2) is amended by striking "section 9503(c)(4), section 9503(c)(5)" and inserting "section 9503(c)(3), section 9503(c)(4)".

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking "section 9503(c)(5)" and inserting "section 9503(c)(4)".

(5) Section 9504(e) is amended by striking "section 9503(c)(4)" and inserting "section 9503(c)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 YEARS'" in the heading for paragraph (3) and inserting "4 YEARS'".

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Biodiesel Income Tax Credit

SEC. 5101. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) In General.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) Refunds for aviation-grade kerosene.—

"(A) No refund of certain taxes on fuel used in commercial aviation.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) Payment to ultimate, registered vendor.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Time for filing claims.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) Conforming amendment.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) Repeal of Prior Taxation of Aviation Fuel.—

(1) In general.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) Conforming amendments.—

(A) Section 4041(c) is amended to read as follows:

"(c) Aviation-Grade Kerosene.—

"(1) In general.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) Exemption for previously taxed fuel.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) Rate of tax.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) In general.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(K)(i) Section 6427(l)(1) is amended to read as follows:

"(1) In general.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(O) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.
"Subpart B. Special provisions applicable to fuels tax.".

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(g) Other Amendments.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

"In the case of any taxable fuel which is aviation-grade keorsene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.".

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) Effective Date.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) Floor Stocks Tax.—

(1) In general.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) Liability for tax and method of payment.—

(A) Liability for tax.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) Method and time for payment.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) Transfer of floor stock tax revenues to trust funds.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) Held by a person.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) Other laws applicable.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) In General.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

"(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

"(i) $395,000,000 in fiscal year 2005,

"(ii) $425,000,000 in fiscal year 2006,

"(iii) $429,000,000 in fiscal year 2007,

"(iv) $432,000,000 in fiscal year 2008, and

"(v) $435,000,000 in fiscal year 2009.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

"(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking "ENTRY.—The penalty" and inserting: "ENTRY.—

"(A) FORFEITURE.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) IN GENERAL.—Every", and

(2) by adding at the end the following new paragraph:

"(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) In General.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) Contents of Return.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) Enforcement.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) Tax at Point of Entry Where Importer Not Registered.—

(1) In general.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) In General.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) Enforcement of Assessment.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) Levy of Fuel.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) Conforming amendment.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) Denial of Entry Where Tax Not Paid.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) In General.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) In General.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) In General.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) In general.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) Liquid sold as diesel fuel.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—

(1) Refunds.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) Registered vendors permitted to administer certain claims for refund of diesel fuel and kerosene sold to farmers.—

"(A) In general.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (l)(5)(A)(iii)).

"(B) Payment to ultimate vendor.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Filing of claims.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) Special rule for vendor refunds with respect to farmers.—

"(A) In general.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) Conforming amendments.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) In general.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).", and

(2) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(c) Effective Date.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) In General.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) Registered ultimate vendor to administer credits and refunds of gasoline tax.—

"(A) In general.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) Timing of claims.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) Credit Card Purchases of Diesel Fuel or Kerosene by State and Local Governments.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after "section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) OFF-HIGHWAY VEHICLES.—

"(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.".

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.".

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3). REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.".

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes shall be transferred", and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4) is amended by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "Account in the Aquatic Resources".

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund".

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking "Account in the Aquatic Resources" in subparagraph (A), and

(ii) by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund" in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "Trust Fund", and

(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".

(B) Subsection (d) of section 9501, as amended by section 5001 of this Act, is amended—

(i) by striking "AQUATIC RESOURCES" in the heading,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sports Fish Restoration", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9501, as amended by section 5002 of this Act, is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund".

(D) Section 9504 is amended by striking "**AQUATIC RESOURCES**" in the heading and inserting "**SPORT FISH RESTORATION**".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration".

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end the following new paragraph:

"(5) an LED display.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting "or a portable aerated bait container" after "fish".

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking "ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH" and inserting "CERTAIN SPORT FISHING EQUIPMENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III--AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "AND RATE OF TAX" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "AND RATE OF TAX" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.

"Sec. 5132. Prohibited purchases by dealers.".

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.".

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.

"Sec. 5733. Provisions relating to liability for occupational taxes.

"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking "January 1, 2004" and inserting "October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2001, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.

(i) IN GENERAL.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) ARROWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "ARROWS.—" in the heading and inserting "ARROW COMPONENTS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) for purposes of chapter 35 (relating to taxes on wagering).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler—

"(i) the number of cases of bottled distilled spirits—

"(I) which were bottled in the United States, and

"(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5101 of this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5101 of this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.".

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) Exception for Vehicles Used by Governments, Etc.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) Termination.—This section shall not apply with respect to any calendar year after 2006.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the commercial power takeoff vehicles credit under section 45G(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

"(13) No carryback of section 45G credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Commercial power takeoff vehicles credit.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

"(a) General Rule.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

"(1) purchased by the taxpayer, and

"(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

"(b) Definitions.—For purposes of this section—

"(1) Qualified auxiliary power unit.—The term 'qualified auxiliary power unit' means any integrated system which—

"(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

"(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

"(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

"(2) Qualified heavy-duty highway vehicle.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

"(c) Termination.—This section shall not apply with respect to any installation occurring after December 31, 2006.".

. (b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the auxiliary power unit credit under section 45H(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

"(14) No carryback of section 45H credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

"Sec. 45H. Auxiliary power unit credit.".

(d) Effective Date.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) Establishment.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) Function.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) Terms.—Members shall be appointed for the life of the Commission.

(3) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Travel expenses.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) Chairman.—The Chairman of the Commission shall be elected by the members.

(d) Funding.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) Consultation.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) Obtaining Data.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) Termination.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) Establishment.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) Function.—

(1) In general.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

. (a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5509. REDUCTION OF EXPENDITURES FROM THE HIGHWAY TRUST FUND.

The amount made available under titles I, II, III, and IV of this Act shall be reduced on a pro rata basis, so that the total of such reductions equals $214,000,000,000.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

SEC. 5612. Section 9053(b) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall transfer to the Highway Trust Fund an amount equal to $6 billion total to terminate at the end of fiscal year 2009."

SA 2474. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State does not prohibit by statute, regulation, or executive order issuance of a State driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1001 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of

Homeland Security shall issue a list of documents or combination of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SA 2475. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104-208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104-208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2476. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF ISSUANCE OF DRIVERS LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State does not prohibit by statute, regulation, or executive order issuance of a State driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing a legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determining compliance with subsection (a).

SEC. ___. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104-208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104-208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2477. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF ISSUANCE OF DRIVERS LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State permits by statute, regulation, or executive order issuance of a State's driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SEC. 4702. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104-208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104-208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2478. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr.

INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

"(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

"(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

"(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

"(d) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

"(2) OWNER.—The term 'owner' means a person who is—

"(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

"(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

"(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

"(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

"(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

"30106. Rented or leased motor vehicle safety and responsibility.".

SA 2479. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

(1) Not later than 90 days after enactment, the Secretary of Homeland Security shall enter into a memorandum of understanding with the Secretary to define and clarify the roles and responsibilities of the department of Transportation and Homeland Security as they relate to public transportation security. Such memorandum of understanding shall:

(a) establish national security standards for public transportation agencies;

(b) establish funding priorities for Department of Homeland Security grants to public transportation agencies; and

(c) create a method of coordination with public transportation agencies on security matters.

SA 2480. Mrs. LINCOLN (for herself and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. . SPECIAL EXEMPTION FOR VEHICLE WEIGHT LIMITS FOR SEASONAL SEED COTTON HAULERS.

Section 127(a) of title 23, United States Code, is amended by striking "not to exceed 100 days annually." and inserting the following: "not to exceed 100 days annually. States may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of seed cotton during the harvest season, not to exceed 180 days annually.".

SA 2481. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, insert the following:

SEC. ___. CREDIT FOR MAINTENANCE OF RAILROAD TRACK;

(a) CREDIT FOR MAINTENANCE OF RAILROAD TRACK.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is 50 percent of the amount of qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

"(1) $20,000, and

"(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

"(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2004, by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

"(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

"(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

"(g) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

"(1) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

"(2) any Class II or Class III railroad.".

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 5453, is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.".

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by section 5253 of this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the railroad track maintenance credit determined under section 45I(a).".

(B) Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e).".

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

"Sec. 45I. Railroad track maintenance credit.".

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(b) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

“SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

“(a) General Rule.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount of qualified project expenditures paid or incurred by an eligible taxpayer during the taxable year.

“(b) Qualified Project Expenditures.—For purposes of this section, the term ‘qualified project expenditures’ means expenditures (whether or not otherwise chargeable to capital account) with respect to rail lines which are included in a State rail plan (within the meaning of section 22101 of title 49, United States Code) for—

“(A) planning and environmental review,

“(B) rail line rehabilitation,

“(C) upgrades and development of rail lines,

“(D) projects for safety and security with respect to rail lines,

“(E) passenger equipment acquisition with respect to rail lines,

“(F) rail station improvement, and

“(G) intermodal facilities development.

An expenditure shall not be a qualified project expenditure unless there is a written agreement between a State and the owner of the infrastructure improved by the expenditures regarding the use and ownership of such infrastructure, including compensation for such use and assurances regarding the capacity of such infrastructure.

“(c) Limitations.—

“(1) In general.—The credit allowed under subsection (a) shall not exceed 50 percent of the amount allocated to such project under this subsection.

“(2) National limitation.—There is a railroad revitalization and security investment credit limitation of $167,000,000 for each calendar year.

“(3) Allocation of limitation.—The limitation under paragraph (2) shall be allocated by the Secretary to each State with a State rail plan (within the meaning of section 22101 of title 49, United States Code) based on the following considerations:

“(A) the number of rail miles in active use in the State;

“(B) the number of rail cars loaded in the State;

“(C) the number of railroad and public road grade crossings in the State;

“(D) the number of intercity passenger rail miles; and

“(E) the number of intercity passenger embarkations.

“(d) Eligible Taxpayer.—For purposes of this section, the term ‘eligible taxpayer’ means a taxpayer who is an employer for purposes of the Railroad Retirement Act of 1974 and who is a carrier for purposes of the Railway Labor Act (unless such person is a commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code) operator of a State or local authority (as defined in section 5302 of such title) or an Alaska railroad or it contractor).

“(e) Controlled Groups.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

“(f) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

“(g) Application of Section.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

“(h) Credit Transferability.—

“(1) In general.—Any credit allowable under this section may be transferred (but not more than once) as provided by the Secretary, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

“(2) Minimum price for transfer.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.”.

(2) Limitation on carryback.—Section 39(d) (relating to transition rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

“(16) No carryback of section 45J credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45J.”.

(3) Conforming amendments.—

(A) Section 38(b) (relating to general business credit), as amended by subsection (a), is amended by striking “plus” at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting “, plus”, and by adding at the end the following new paragraph:

“(21) the railroad revitalization and security investment credit determined under section 45J(a).”.

(B) Subsection (a) of section 1016 is amended by striking “and” at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting “, and”, and by adding at the end the following new paragraph:

“(30) in the case of qualified projects with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(f).”.

(4) Clerical amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by subsection (a), is amended by inserting after the item relating to section 45I the following new item:

“Sec. 45J. Railroad revitalization and security investment credit.”.

(5) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ___. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) Start-Up Expenditures.—

(1) Allowance of deduction.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

“(1) Allowance of deduction.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

“(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

“(i) the amount of start-up expenditures with respect to the active trade or business, or

“(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

“(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.”.

(2) Conforming amendment.—Subsection (b) of section 195 is amended by striking “Amortize” and inserting “Deduct” in the heading.

(b) Organizational Expenditures.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

“(a) Election to Deduct.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

“(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

“(A) the amount of organizational expenditures with respect to the taxpayer, or

“(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

“(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.”.

(c) Treatment of Organizational and Syndication Fees or Partnerships.—

(1) In general.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

“(1) Allowance of deduction.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

“(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

“(i) the amount of organizational expenses with respect to the partnership, or

“(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

“(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

“(2) Dispositions before close of amortization period.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.”.

(2) Conforming amendment.—Subsection (b) of section 709 is amended by striking “Amortization” and inserting “Deduction” in the heading.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2482. Mr. TALENT (for himself and Mr. Wyden) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add insert the following:

Subtitle H—Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities

SEC. 5671. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) Treatment as Exempt Facility Bond.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (12), by striking the period at the end of paragraph (13), and by adding at the end the following:

"(14) qualified highway facilities, or

"(15) qualified surface freight transfer facilities.".

(b) Qualified Highway Facilities and Qualified Surface Freight Transfer Facilities.—Section 142 is amended by adding at the end the following:

"(l) Qualified Highway and Surface Freight Transfer Facilities.—

"(1) Qualified highway facilities.—For purposes of subsection (a)(14), the term 'qualified highway facilities' means—

"(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

"(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

"(2) Qualified surface freight transfer facilities.—For purposes of subsection (a)(15), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

"(3) Aggregate face amount of tax-exempt financing for facilities.—

"(A) In general.—An issue shall not be treated as an issue described in subsection (a)(14) or (a)(15) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

"(B) Allocation by secretary of transportation.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(14) and (a)(15) in such manner as the Secretary determines appropriate.".

(c) Exemption From General State Volume Caps.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "or (13)" and all that follows through the end of the paragraph and inserting "(13), (14), or (15) of section 142(a), and".

(d) Effective Date.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5672. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) Conforming Amendment.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(c) Effective Date.—

(1) Sales, etc.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5674. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine), as amended by section 5673 of this Act, is amended by adding at the end the following new subparagraph:

"(N) Any trivalent vaccine against influenza.".

(b) Effective Date.—

(1) Sales, etc.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5675. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) In General.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) Conforming Amendments.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) Section 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SA 2483. Mr. LEIBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 54 line 11, insert after the word census, "vehicle miles traveled per lane mile in excess of 4,000 in the year 2001."

SA 2484. Mr. LIEBERMAN (for himself and Mr. Dodd) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HIGH LEVEL OF SERVICE BONUS.

(a) In General.—Amounts made available for projects under sections 103, 133, 144, and 149 of title 23, United States Code, shall be apportioned to the States as follows:

(1) ⅓ in the ratio that—

(A) the population density of each State that has a population of over 250 residents per square mile; bears to

(B) the population density of a State that has a population of 250 residents per square mile;

(2) ⅓ in the ratio that—

(A) the vehicle miles traveled per lane mile in each State in which such ratio exceeds the ratio of total vehicle miles traveled for the States to the total lane miles of the States; bears to

(B) the ration of total vehicle miles traveled for the States to the total lane miles of the States; and

(3) ⅓ in the ratio that—

(A) the funding apportioned to each State for projects eligible under section 144 of title 23, United States Code, that exceeds the average of such funds apportioned: bears to

(B) the total of such funds apportioned to the States.

(b) Minimum State Share.—The minimum share apportioned to a State under paragraphs (1) and (2) of subsection (a) shall be at least ½ of 1 percent.

(c) Maximum Federal Share.—

(1) In general.—Except as provided in paragraph (2), the maximum Federal share payable for projects funded under this program shall not exceed 80 percent.

(2) Exception.—The maximum Federal share payable for projects on the Interstate system shall not exceed 90 percent.

(d) Equity Bonus.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocations of funds under this section.

(e) Funding.—There is authorized to be appropriated to carry out this section $1,000,000,000 for each fiscal year.

SA 2485. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 780, lines 21 and 22, strike "shall consider the prescription of" and insert "shall prescribe".

SA 2486. Mr. LIEBERMAN (for himself and Mr. Dodd) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr.

INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LEVEL OF SERVICE BONUS.

(a) IN GENERAL.—Amounts made available for projects under sections 103, 133, 144, and 149 of title 23, United States Code, shall be apportioned to the States as follows:

(1) ⅓ in the ratio that—

(A) the population density of each State; bears to

(B) the population density of the State with the least population density;

(2) ⅓ in the ratio that—

(A) the vehicle miles traveled per lane mile in each State; bears to

(B) the State with the least such ratio; and

(3) ⅓ in the ratio that—

(A) the funding apportioned to each State for projects eligible under section 144 of title 23, United States Code; bears to

(B) the total of such funds apportioned to the States.

(b) MINIMUM STATE SHARE.—The minimum share apportioned to a State under paragraphs (1) and (2) of subsection (a) shall be at least ½ of 1 percent.

(c) MAXIMUM FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the maximum Federal share payable for projects funded under this program shall not exceed 80 percent.

(2) EXCEPTION.—The maximum Federal share payable for projects on the Interstate system shall not exceed 90 percent.

(d) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocations of funds under this section.

(e) FUNDING.—There is authorized to be appropriated to carry out this section $1,000,000,000 for each fiscal year.

SA 2487. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, after line 23, add the following:

SEC. 21___. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking "Build an" and inserting "Build or integrate an"; and

(II) by striking "2,000,000" and inserting "2,500,000"; and

(ii) in the second sentence—

(I) by striking "300,000 and that" and inserting "300,000,"; and

(II) by inserting before the period at the end the following: ", and includes major transportation corridors serving that metropolitan area";

(B) in clause (ii), by striking all that follows "will be" and inserting "reinvested in the intelligent transportation infrastructure system.";

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking "July 1, 2002" and inserting "the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003";

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) The term "follow-on deployment areas" means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.";

(4) in subparagraph (F)—

(A) by striking "Of the amounts" and inserting the following:

"(i) THIS ACT.—Of the amounts"; and

(B) by adding at the end the following:

"(ii) SAFETEA.—Of the amounts made available by section 1101(5) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for fiscal years 2004 through 2009, $5,000,000 for each fiscal year shall be made available by the Secretary to carry out this paragraph.

"(iii) AVAILABILITY; NO REDUCTION OR SET-ASIDE.—Amounts made available by this subparagraph—

"(I) shall remain available until expended; and

"(II) shall not be subject to any reduction or setaside."; and

(5) by adding at the end the following:

"(H) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.".

(b) CONFORMING AMENDMENT.—Section 5204(k) of the Transportation Equity Act for the 21st Century (112 Stat. 453) is amended by striking subsection (k) (112 Stat. 2681-478).

SA 2488. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 396, line 4, strike "$40,000,000" and insert "$50,000,000".

On page 396, line 5, strike "$45,000,000" and insert "$55,000,000".

On page 403, in the analysis for chapter 5 of title 23, United States Code (as added by section 2101(a)), strike the item relating to section 511 and insert the following:

"511. University bridge research centers.
"512. Multistate corridor operations and management.

On page 475, strike lines 15 and 16 and insert the following:

"§ 511. University bridge research centers

"(a) IN GENERAL.—The Secretary shall establish and implement a university bridge research center program in accordance with this section.

"(b) PURPOSES.—The Secretary, in coordination with nonprofit institutions of higher learning, shall encourage and promote specific research on—

"(1) advanced highway bridge materials and systems for economical, rapid, and durable repair, replacement, and protection of highway bridges; and

"(2) technology to monitor and evaluate bridge damage and deterioration to significantly extend the useful life of highway bridges.

"(c) BRIDGE CENTERS.—The Secretary shall make grants to nonprofit institutions of higher learning to establish and operate university bridge research centers.

"(d) SELECTION OF GRANT RECIPIENTS.—

"(1) APPLICATIONS.—To be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(2) SELECTION CRITERIA.—

"(A) IN GENERAL.—Except as otherwise provided by subparagraph (B), the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of—

"(i) the demonstrated research and development resources available to the recipient to carry out this section;

"(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range bridge deterioration and structure problems;

"(iii) the demonstrated commitment by the recipient of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing bridge research and education programs;

"(iv) the demonstrated ability of the recipient to disseminate results of bridge transportation research and education programs through a statewide or regionwide program;

"(v) the demonstrated ability of the recipient to partner with other institutions that have highway bridge research expertise;

"(vi) the demonstrated ability of the recipient to conduct analysis, laboratory testing, and field verification of bridge design through a record of demonstration projects with State transportation departments and private, public and quasi-public bridge authorities;

"(vii) the demonstrated record of the recipient in transferring technology to practitioners;

"(viii) the demonstrated record of the recipient in testing full-scale bridge components in laboratory facilities and implementing results in design changes and field verification; and "(ix) the strategic plan that the recipient proposes to carry out under the grant.

"(B) PREFERENCE.—Preference shall be given to nonprofit institutions of higher learning located in the 10 States with the worst deficiencies in highway bridges, as ranked by the 2002 Federal Highway Administration National Bridge Inventory.

"(e) ACTIVITIES.—A Federal Highway Administration university bridge transportation center that receives a grant under this section shall conduct—

"(1) basic and applied bridge research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in bridge longevity;

"(2) an education program that includes multidisciplinary course work and student participation in research; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, used, or otherwise applied.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

"(g) PROGRAM COORDINATION.—

"(1) COORDINATION.—The Secretary shall—

"(A) coordinate the research, education, training, and technology transfer activities that grant recipients carry out under this section; and

"(B) establish a clearinghouse for dissemination of the results of the research.

"(2) ANNUAL REVIEW AND EVALUATION.—At least annually the Secretary shall review and evaluate programs carried out by grant recipients.

"(3) FUNDING LIMITATION.—The Secretary shall use not more than 1 percent of amounts made available from Government sources to carry out this subsection.

"(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation for 2 years after the last day of the fiscal year for which the funds are made available.

"(i) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2005, 2006, 2007, 2008, and 2009, the Secretary shall make a grant of $2,000,000 to each of 5 nonprofit institutions of higher education to conduct bridge transportation research.

"§ 512. Multistate corridor operations and management

SA 2489. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, before line 1, insert the following:

(c) ADDITION.—

(1) DESIGNATION.—There is designated as an addition to the Appalachian development highway system under section 14501 of title 40, United States Code, Segment B of the Coalfields Expressway from Corridor B near Pound to Clintwood in Virginia.

(2) CONFORMING AMENDMENT.—Section 14501 of title 40, United States Code, is amended in the second sentence by striking "not be more than" and all that follows through the period and insert "not be more than 3,102 miles.".

SA 2490. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, before line 1, insert the following:

(c) ADDITION.—

(1) DESIGNATION.—There is designated as an addition to the Appalachian development highway system under section 14501 of title 40, United States Code, Segment B of the Coalfields Expressway from Corridor B near Pound to Clintwood in Virginia.

(2) SUBTRACTION.—The portion of Corridor H in Virginia from the West Virginia State line to Interstate 81—

(A) shall be subtracted from Corridor H; and

(B) may be included on a map of that system only for the purpose of continuity.

(3) CONFORMING AMENDMENT.—Section 14501 of title 40, United States Code, is amended in the second sentence by striking "not be more than" and all that follows through the period and insert "not be more than 3,102 miles.".

SA 2491. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 38, strike line 22 and all that follows through page 39, line 6, and insert the following:

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out thè infrastructure performance and maintenance program under section 139 of that title $1,328,000,000 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $$150,000,000 for each of fiscal years 2004 through 2009.

SA 2492. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§ 147. Construction of ferry boats and ferry terminal and maintenance facilities

"(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal and maintenance facilities in accordance with section 129(c).

"(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this section shall be 80 percent.

"(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

"(1) carry the greatest number of passengers and vehicles;

"(2) carry the greatest number of passengers in passenger-only service; or

"(3) provide critical access to areas that are not well-served by other modes of surface transportation.

"(d) SET-ASIDE.—Of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $112,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out this section.

"(e) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law—

"(1) paragraph (13) of section 1101(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be applied by substituting '$1,328,000,000' for '$2,000,000,000'; and

"(2) paragraph (14) of section 1101(a) of that Act shall be applied by substituting '$150,000,000' for '$38,000,000'.".

(b) CONFORMING AMENDMENTS.—

(1) Section 129(c) of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1), by inserting "and maintenance" after "terminal"; and

(B) in paragraph (3), by inserting "or maintenance" after "terminal" each place it appears.

(2) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(3) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SA 2493. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 588, strike line 21 and all that follows through page 589, line 2, and insert the following:

(E) by amending subparagraph (C), as redesignated, to read as follows:

"(C) capital projects to replace, rehabilitate, and purchase buses and related equipment, including the differential cost of purchasing alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42

U.S.C. 13211)), not to exceed the difference in purchasing costs between conventional bus fuels and such alternative fuels, and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and"; and

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SA 2494. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In subsection (b)(1)(B) of section 105 of title 23, United States Code (as added by section 1104(a)), strike "1,000,000" and insert "1,100,000".

SA 2495. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through line 8 on page 64, and insert the following:

SEC. 1201. HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"§139. High traffic density equity adjustment program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and implement a high traffic density equity adjustment program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $439,000,000 shall be available for obligation to carry out this section without further appropriation.

"(3) HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) for a fiscal year to each State in the proportion that—

"(i) the excess, if any, of the number of annual vehicle miles per lane mile in the State over the average of that number for all of the States; bears to

"(ii) the average of that number for all of the States.

"(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVEL.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Transportation.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall -

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(B) reallocate the funds and redistribute the obligation authority to States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. High traffic density equity adjustment program.".

SA 2496. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through page 64, line 23 and insert the following:

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"SEC. 139. HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish and implement a high traffic density apportionment program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $1,000,000,000 shall be available for obligation to carry out this section without further appropriation.

"(3) HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) for a fiscal year to each State in the proportion that—

"(i) the excess, if any, of the number of annual vehicle miles traveled per lane mile of each State-owned public road in the State over the average of that number for all of the States; bears to

"(ii) the number of daily vehicle miles traveled per the total lane miles of all State-owned public roads in the State.

"(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVELED.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(B) reallocate the funds and redistribute the obligation authority to States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding after the item relating the section 138 the following:

"105. High traffic density apportionment program.".

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

SA 2497. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through page 64, line 8 and insert the following:

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"SEC. 139. WEIGHTED HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish and implement a weighted high traffic density apportionment program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $1,000,000,000 shall be available for obligation to carry out this section without further appropriation.

"(3) WEIGHTED HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.—

"(A) IN GENERAL.—Of amounts made available under paragraph (2) for a fiscal year to each State—

"(i) the Secretary shall allocate ⅓ in the proportion that—

"(I) the excess, if any, of the number of annual daily vehicle miles traveled per lane mile of State-owned rural public roads in the State over the average of that number for all of the States; bears to

"(II) the total of those numbers for all of the States; and

"(ii) the Secretary shall allocate ⅔ in the proportion that—

"(I) the excess, if any, of the number of annual daily vehicle miles traveled per lane mile of State-owned urban public roads in the State over the average of that number for all of the States; bears to

"(II) the total of those numbers for all of the States.

"(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVELED.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(B) reallocate the funds and redistribute the obligation authority to States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding after the item relating the section 138 the following:

"105. Weighted high traffic density apportionment program.".

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

SA 2498. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 22 and 23, insert the following:

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105-277), $50,000,000 for each of fiscal years 2004 through 2009.

SA 2499. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. DENALI ACCESS SYSTEM.

(a) IN GENERAL.—The Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) is amended—

(1) by redesignating section 309 as section 310; and

(2) by inserting after section 308 the following:

"SEC. 309. DENALI ACCESS SYSTEM.

"(a) PURPOSE.—It is the purpose of this section to fund the construction of roads necessary to connect isolated rural communities to a road system and to construct essential access routes within isolated communities.

"(b) DEFINITIONS.—In this section:

"(1) STATE.—The term 'State' means the State of Alaska.

"(2) SYSTEM.—The term 'System' means the Denali Access System constructed under subsection (c).

"(c) PROGRAM.—The Secretary shall establish a program that provides for the transfer to the Commission of funds for the costs of construction (including the costs of planning, design, engineering, permitting, right-of-way acquisition, utility relocation, project management, and maintenance) of segments of the System in the State.

"(d) DESIGNATION OF SYSTEM BY COMMISSION.—The Commission shall submit to the Secretary—

"(1) designations by the Commission of the general location and description of segments comprising the System;

"(2) priorities for construction of segments of the System; and

"(3) other criteria applicable to the program established under this section.

"(e) CONNECTING INFRASTRUCTURE.—In carrying out this section, the Commission may construct such access infrastructure as the Commission determines to be necessary to provide for adequate surface, water, or air access for communities and regions in the State.

“(f) DESIGN STANDARDS.—Each project carried out under this section shall use technology and design standards determined by the Commission to be appropriate for the associated segments of the System.

“(g) ADDITION TO PUBLIC TRANSPORTATION SYSTEMS.—At the request of the Governor of the State, each completed segment of the System may be added to the National Highway System or other public transportation system, as appropriate, under the conditions applicable to other segments of that system in the State.

“(h) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—In the construction of the System under this section, the Commission—

“(1) shall, to the maximum extent practicable, encourage the use of employees and businesses that are residents of the State; and

“(2) may give preference—

“(A) to the use of materials and products produced in the State; and

“(B) with respect to construction projects in the State, to local residents and firms.

“(i) MATCHING FUNDS.—Notwithstanding any other provision of law—

“(1) funds made available under this section may be used as matching shares for any other Federal funds; and

“(2) Federal funds from any other source may be used as matching funds for funds made available under this section if the use of those Federal funds would contribute to the purposes for which funds are made available under this section, as determined by the State.

“(j) LEAD AGENCY.—The Secretary shall delegate authority to the Commission to serve as the lead agency in determining the purpose of and need for, and in developing and implementing all segments of, the System.

“(k) OBLIGATION OF FUNDS.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 310 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105-277) (as redesignated by subsection (a)) is amended by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—There are authorized to be appropriated to the Commission—

“(1) to carry out the duties of the Commission under this title (other than section 309), and in accordance with the work plan approved under section 304, such sums as are necessary for each fiscal year; and

“(2) to carry out section 309, $50,000,000 for each of fiscal years 2004 through 2009.”.

SA 2500. Ms. MURKOWSKI (for herself, Mr. INHOFE, Mr. STEVENS, and Mr. CAMPBELL) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 119, strike line 6 and all that follows through page 129, line 18, and insert the following:

highway safety matters (including motorcyclist safety); or

“(ii) enforce highway safety laws.

“(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

“(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means a plan developed by the State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

“(iii) representatives of major modes of transportation (including motorcycling);

“(iv) State and local traffic enforcement officials;

“(v) persons responsible for administering section 130 at the State level;

“(vi) representatives conducting Operation Lifesaver;

“(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

“(viii) motor vehicle administration agencies; and

“(ix) other major State and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, or local crash data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, public roads;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

“(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency; and

“(H) is consistent with the requirements of section 135(f).

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

“(B) produces a program of projects or strategies to reduce identified safety problems;

“(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

“(D) submits to the Secretary an annual report that—

“(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

“(ii) contains an assessment of—

“(I) potential remedies to hazardous locations identified;

“(II) estimated costs associated with those remedies; and

“(III) impediments to implementation other than cost associated with those remedies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

“(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads;

“(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

“(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall be—

"(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

"(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

"(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

"(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.".

(2) MOTORCYCLIST SAFETY—

(A) MOTORCYCLIST SAFETY TRAINING AND MOTORIST AWARENESS PROGRAMS.—

(i) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended—

(I) by redesignating section 413 (as added by section 4161(a)) as section 414; and

(II) by adding after section 414 (as redesignated by subparagraph (A)) the following:

"§ 415. Motorcyclist safety training and motorist awareness programs

"(a) DEFINITIONS.—In this section:

"(1) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means any formal program of instruction that—

"(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists, including innovative training opportunities to meet unique regional needs; and

"(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or a motorcycle advisory council appointed by the Governor of the State.

"(2) MOTORIST AWARENESS.—The term 'motorist awareness' means individual or collective motorist awareness of—

"(A) the presence of motorcycles on or near roadways; and

"(B) safe driving practices that avoid injury to motorcyclists, bicyclists, and pedestrians.

"(3) MOTORIST AWARENESS PROGRAM.—The term 'motorist awareness program' means any informational or public awareness program designed to enhance motorist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or, in the absence of a State Administrator, a motorcycle advisory council appointed by a Governor of the State.

"(4) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(b) ELIGIBILITY.—Not later than 90 days after the date of enactment of this section, on September 1, 2004, and on September 1 of each fiscal year thereafter, and based on a letter of certification provided by the Governor of each State, the Secretary shall develop and publish a list of States that, as of the date of publication of the list, have established motorcyclist safety training programs and motorist awareness programs, including information that indicates—

"(1) the level of base funding provided for each such program for the applicable fiscal year; and

"(2) whether the level of base funding provided for each such program for the applicable fiscal year was increased, decreased, or maintained from the level of funding provided for the program for the previous fiscal year.

"(c) ALLOCATION.—Not later than 120 days after the date of enactment of this section, on October 1, 2004, and on October 1 of each fiscal year thereafter, the Secretary shall allocate to each State for which the base funding allocated for motorcyclist safety training and motorist awareness programs was not less than the amount allocated for the previous year, not less than $100,000, to be used only for motorcyclist safety training and motorist awareness programs, including—

"(1) improvements to motorcyclist safety training curricula;

"(2) improvements in program delivery to both urban and rural areas, including

"(A) procurement or repair of practice motorcycles;

"(B) instructional aides;

"(C) mobile training units; and

"(D) leasing or purchase of facilities for classroom instruction and closed-course skill training;

"(3) an increase in the recruitment or retention of motorcyclist safety training instructors certified by a State Motorcycle Safety Administrator or motorcycle advisory council appointed by the Governor; and

"(4) public awareness, public service announcements, and other outreach programs to enhance motorist awareness.

"(d) CONTRACTS WITH ORGANIZATIONS.—The Secretary may enter into an agreement with an organization that is recommended by and represents the interests of State Motorcycle Safety Administrators to review, determine, and disseminate a description of best practices in motorcycle safety training and motorist awareness, and to recommend such practices, to State administrators, governors, State legislative bodies, and chief licensing officers of States.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $5,200,000 for each of fiscal years 2004 through 2009.".

(ii) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended—

(I) by redesignating the item relating to section 413 (as added by section 4161(b)) as relating to section 414; and

(II) by adding at the end the following:

"415. Motorcyclist safety training and motorist awareness programs.".

(B) REDUCTION OF CRASHES INVOLVING MOTORCYCLES.—Section 402 of title 23, United States Code, is amended by inserting after subsection (h) (as added by section 4103(c)) the following:

"(i) REDUCTION OF CRASHES INVOLVING MOTORCYCLES.—

"(1) IN GENERAL.—As part of the program carried out under this section, the Secretary shall make annual grants to States to pay the Federal share of expanding programs to reduce single- and multiple-vehicle crashes involving motorcycles.

"(2) ELIGIBILITY.—To be eligible for a grant under this subsection, a State shall demonstrate to the Secretary that for each of fiscal years 2004 and 2005, at least 1, for fiscal years 2006 and 2007, at least 2, and for fiscal years 2008 and 2009, at least 3, of the programs or conditions described in the following subparagraphs apply to the State:

"(A) DRIVERS LICENSE SUSPENSION OR REVOCATION SYSTEM.—The State has implemented a statewide drivers license suspension or revocation system that suspends a drivers license for at least 1 year for an individual who operates a motor vehicle in a reckless or negligent manner that causes—

"(i) an accident with a motorcycle or other motor vehicle; and

"(ii) injury or death to an individual.

"(B) REDUCTION OF CRASH RATE INVOLVING MOTORCYCLES.—The State demonstrates to the Secretary that, for the year following receipt of a grant under this section, there has been a reduction in the crash rate of motor vehicles involving motorcycles in the State (expressed as a function of crashes per 10,000 motorcycle registrations as compared to the previous year).

"(C) MOTORCYCLE RIDER TRAINING COURSES.—The State demonstrates to the Secretary that, between the fiscal year for which a grant is received under this section and the preceding fiscal year, there has been no reduction in the number of individuals enrolled in motorcycle rider training based on a course of instruction approved for the State by the State Motorcycle Safety Administrator or, in the absence of a State Administrator, by a motorcycle advisory council appointed by the Governor of the State.

"(D) MOTORIST AWARENESS.—The State—

"(i) has implemented a statewide program to enhance motorist awareness of motorcyclists; and

"(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of multiple-vehicle collisions in the State involving motorcycles (expressed as a function of crashes per 10,000 motorcycle registrations).

"(E) IMPAIRED MOTORCYCLE OPERATION.—The State—

"(i) has implemented a statewide program to reduce impaired motorcycle operation; and

"(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of reported accidents involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

"(F) MOTORCYCLIST TRAINING.—The State—

"(i) has implemented a statewide program to expedite delivery of motorcyclist training to urban and rural areas; and

"(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of reported accidents involving motorcyclists with improper licenses or lacking a motorcycle endorsement (expressed as a function of 10,000 motorcycle registrations).

"(3) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing a program described in paragraph (2) for a fiscal year shall not exceed (as determined by the Secretary)—

"(A) for the first 3 years for which a State receives a grant under this subsection, 50 percent; and

"(B) for each additional year for which a State receives a grant under this subsection, 25 percent.

"(4) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection for any fiscal year unless the State enters into such agreement with the Secretary as the Secretary may require to ensure that the State will maintain the aggregate expenditures of the State from all other sources for motorcycle safety programs at a level that is at or above the average level of such expenditures for each of the 2 fiscal years preceding the date of enactment of this section, as determined by the Secretary.

"(5) FUNDING.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall use funds authorized to be appropriated to carry out this section for a fiscal year to carry out this subsection for the fiscal year.

"(B) LIMITATION.—The amount of a grant made to a State under this subsection for a fiscal year shall not exceed 10 percent of the amount apportioned to the State under this section for fiscal year 2002.".

SA 2501. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 384, strike line 21 and all that follows through page 386, line 19, and insert the following:

SEC. 1818. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

"§ 322. High-speed magnetic levitation system deployment program

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Railroad Administration.

"(2) ELIGIBLE PROJECT COSTS.—

"(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

"(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

"(C) EXCLUSION.—The term 'eligible project costs' does not include costs incurred for a new station.

"(3) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(4) MAGLEV.—

"(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

"(b) PHASE I—PRECONSTRUCTION PLANNING.—

"(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity may apply to the Administrator for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

"(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

"(A) a description of the purpose and need for the proposed project;

"(B) a description of the travel market to be served;

"(C) a description of the technology selected for the project;

"(D) forecasts of ridership and revenues;

"(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

"(F) a realistic schedule for construction and equipment for the project;

"(G) an environmental assessment;

"(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

"(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

"(3) DEADLINE FOR APPLICATIONS.—The Administrator shall establish an annual deadline for receipt of applications under this subsection.

"(4) EVALUATION.—The Administrator shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Administrator.

"(5) SELECTION.—The Administrator shall select for Federal support for preconstruction planning any project that the Administrator determines meets the criteria.

"(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

"(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may submit the studies to the Administrator, to support an application for Federal funding to assist in—

"(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(B) planning for construction, operation, and maintenance of a MAGLEV project.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The final environmental impact statement or analysis described in paragraph (1)(A) shall—

"(A) identify a preferred alternative; and

"(B) describe the organization that will own, plan, finance, construct, equip, operate, and maintain the proposed project.

"(3) DEADLINE FOR APPLICATIONS.—

"(A) IN GENERAL.—The Administrator shall—

"(i) establish an annual deadline for receipt of Phase II applications; and

"(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

"(B) CRITERIA.—The Administrator shall establish criteria to evaluate applications that include whether—

"(i) the technology selected is available for deployment at the time of the application;

"(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

"(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and "(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

"(C) PROJECTS SELECTED.—If the Administrator determines that a MAGLEV project meets the criteria established under subparagraph (B), the Administrator shall—

"(i) select that project for Federal Phase II support; and

"(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(d) PHASE III—DEPLOYMENT.—

"(1) IN GENERAL.—A proposed owner of a MAGLEV project that has initiated a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has refined planning for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Administrator for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

"(2) RECORD OF DECISION.—

"(A) IN GENERAL.—The Administrator shall publish a record of decision for each application, based on the information provided in the application and the environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) DECISION TO CONSTRUCT.—The Administrator shall issue a record of decision to construct for a project determined by the Administrator—

"(i) to have a high probability of being financed, constructed, equipped, and operated by the proposed owners; and

"(ii) to meet other criteria established by the Administrator.

"(C) FEDERAL FUNDING.—To the extent that funds are available, the Administrator shall negotiate a Federal funding agreement for each project that is recommended for deployment in the record of decision.

"(e) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

"(2) PREVAILING WAGE AND BUY AMERICA REQUIREMENTS.—Sections 5333(a) and 5323(j) of title 49 shall apply to financial assistance made available under this section and projects funded with that assistance.

"(3) FEDERAL SHARE.—

"(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

"(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

"(4) FUNDING.—

"(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

"(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2004 through 2009 to carry out this section—

"(I) $10,000,000 for Phase I—preconstruction planning studies;

"(II) $20,000,000 for Phase II—environmental impact studies; and

"(III) $60,000,000 for Phase III—deployment projects.

"(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

"(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

"(II) the availability of the funds shall be in accordance with subsection (f).

"(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

"(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

"(I) $12,000,000 for fiscal year 2004;

"(II) $6,000,000 for fiscal year 2005; and

"(III) $2,000,000 for each of fiscal years 2006 through 2009.

"(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

"(I) $5,000,000 for fiscal year 2004;

"(II) $5,000,000 for fiscal year 2005;

"(III) $5,000,000 for fiscal year 2006;

"(IV) $5,000,000 for fiscal year 2007; and

"(V) $5,000,000 for fiscal year 2008.

"(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

"(I) $355,500,000 for fiscal year 2004;

"(II) $376,000,000 for fiscal year 2005;

"(III) $392,000,000 for fiscal year 2006;

"(IV) $410,000,000 for fiscal year 2007;

"(V) $423,000,000 for fiscal year 2008; and

"(VI) $443,000,000 for fiscal year 2009.

"(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

"(I) $2,500,000 for fiscal year 2004;

"(II) $13,000,000 for fiscal year 2005;

"(III) $16,000,000 for fiscal year 2006;

"(IV) $8,000,000 for fiscal year 2007; and

"(V) $5,000,000 for each of fiscal years 2008 and 2009.

"(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2004 through 2009.

"(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

"(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

"(i) MANDATORY ADDITIONAL SELECTION.—

"(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Administrator may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

"(2) PRIORITY FUNDING.—The Administrator shall give priority funding to a MAGLEV project that—

Has received funding prior to the date of enactment of this section as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

"(B) to the maximum extent practicable, has met safety guidelines established by the Administrator to protect the health and safety of the public;

"(C) is based on designs that ensure the greatest life cycle advantages for the project;

"(D) contains domestic content of at least 70 percent; and

"(E) Those projects eligible for (d) Phase III—Deployment which were developed through a public-private partnership shall be implemented through the efforts of such a public-private partnership with the private sector taking a leadership position with regard to design, development and deployment those private sector industry participants involved throughout the development of the various projects under TEA–21 Section 1218, shall continue to participate in the Phase III-Deployment effort, if the private sector industry participants so choose.

SA 2502. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 876, strike line 12 and all that follows through the matter between lines 6 and 7 on page 880.

SA 2503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1609.

SA 2504. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . NATIONAL TRIBAL ROADS INVENTORY.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section), is amended by adding at the end the following:

"§ . National tribal roads inventory

"(a) DEFINITIONS.—In this section:

"(1) INVENTORY.—The term 'inventory' means the comprehensive national tribal roads inventory completed under subsection (b).

"(2) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(3) PRIMARY ACCESS ROUTE.—

"(A) IN GENERAL.—The term 'primary access route' means, as determined by a Native village in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), a route within the boundaries of land held or managed by a Village Corporation for the Native village that—

"(i) is most commonly used;

"(ii)(I) is a community street; or

"(II) provides access to the center of the Native village by the shortest practicable route; or

"(iii) in the case of a proposed route, is the shortest practicable route connecting 2 points.

"(B) INCLUSIONS.—The term 'primary access route' includes a road or trail that—

"(i) connects 2 villages (including a bridge over water);

"(ii) leads to a landfill;

"(iii) leads to a drinking water source;

"(iv) leads to a natural resource identified for economic development; and

"(v) provides access to an intermodal terminus such as an airport, harbor, or boat landing.

"(4) VILLAGE CORPORATION.—The term 'Village Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(b) INVENTORY.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary, in conjunction with the Secretary of the Interior, shall complete a comprehensive national tribal roads inventory.

"(2) INCLUSIONS.—The Secretary shall include in the inventory—

"(A) routes previously included in any similar inventory; and

"(B) primary access routes.

"(c) AVAILABILITY OF ACTIVITIES, FUNCTIONS, AND SERVICES.—All activities, functions, and services relating to or associated with the inventory shall be available to Indian tribes and tribal organizations in accordance with the contracting and compacting provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

"(d) REPORT.—Not later than January 1, 2006, the Secretary shall submit to Congress a report that includes the data gathered in completing, and the results of, the inventory.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code (as amended by section), is amended by adding at the end the following:

" . National tribal roads inventory.".

SA 2505. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1406.

SA 2506. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. GRANTS IN AID FOR AIRPORTS.

(a) APPROPRIATIONS TRANSFER.—Title I of Division I of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7) is amended—

(1) under the heading "GRANTS-IN-AID FOR AIRPORTS"—

(A) by striking "$3,100,000,000" and inserting "$3,100,500,000"; and

(B) by striking "$3,400,000,000" and inserting "$3,400,500,000"; and

(2) under the heading "CAPITAL INVESTMENT GRANTS", by striking "$607,200,000" each place it appears and inserting "$606,700,000".

(b) EARMARK ADJUSTMENT.—

(1) INCREASE.—Page 1258 of House Conference Report 108-10 is deemed to be amended by increasing the amount earmarked for Grants-in-Aid for Airports, high priority projects by $500,000, which is reserved for various improvements to the Henderson City-County, Kentucky Airport.

(2) OFFSET.—Page 1297 of House Conference Report 108-10 is deemed to be amended by striking the line that earmarks $500,000 for the Henderson County, Kentucky bus facility.

SA 2507. Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 1823. DEPARTEE CREEK WATERSHED PROJECT.

Pursuant to Subpart 505D of the National Watershed Manual, the Committee on Environment and Public Works of the Senate approves of the watershed plan and environmental impact statement submitted by the Departee Creek Watershed Project in Independence and Jackson Counties, Arkansas.

SA 2508. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1148, between lines 6 and 7, insert the following:

SEC. 5454. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits), as amended by section 5453 of this Act, is further amended by adding at the end the following new section:

"SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is the amount of qualified railroad track maintenance expenditures paid or incurred by the taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

"(1) $10,000, and

"(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

"(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

"(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

"(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

"(g) CREDIT TRANSFERABILITY.—

"(1) IN GENERAL.—Any credit allowable under this section may be transferred as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

"(2) TRANSFER TO ELIGIBLE TAXPAYER.—Any credit transferred under paragraph (1) shall be transferred to an eligible taxpayer. Any credit so transferred shall be allowed to the transferee, but the transferee may not assign such credit to any other person.

"(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

"(A) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

"(B) any Class II or Class III railroad.

"(4) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.".

(b) LIMITATION ON CARRYBACK.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transition rules) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45I may be carried to a taxable year beginning before January 1, 2004.".

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 (relating to general business

credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the railroad track maintenance credit determined under section 45I(a).".

(2) Subsection (a) of section 1016 of such Code is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) in the case of railroad track with respect to which a credit was allowed under section 45G, to the extent provided in section 45I(e).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 5453 of this Act, is further amended by inserting after the item relating to section 45H the following new item:

"Sec. 45I. Railroad track maintenance credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2509. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 91 (of the Committee Print for the proposed Federal Public Transportation Act of 2004), line 22 in Sec. 3012(a)'s proposed Sec. 5310(a)(1), insert a comma and the following phrase after the words "transportation projects": "and operating costs associated with public transportation capital projects."

On page 93, in Sec. 3012(a)'s proposed Sec. 5310(c)(1), replace the words "IN GENERAL" with "CAPITAL PROJECTS" at line 17, and add the following subparagraph after line 24:

"(C) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

SA 2510. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, after line 15, insert the following:

SEC. ___. HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

"(45) The Corridor consisting of I–95 from the border with Canada to the terminus of I-95 in the State of Florida.

"(46) The Corridor consisting of I–75 in the State of Florida.

"(47) The Corridor consisting of I–4 in the State of Florida.

"(48) United States Route 1 from Maine to its terminus in Florida.

"(49) Interstate Route 10 from Jacksonville, Florida, to Los Angeles, California.".

SA 2511. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 321, strike lines 15 through 22 and insert the following:

"(i) RESERVATION OF FUNDS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, for bridges located on Native American lands.

SA 2512. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 25, add the following:

SEC. 1106. FUNDING FORMULA.

Notwithstanding any other provision of this Act, all transportation funding shall be determined using the formula under the Transportation Equity Act for the 21st Century (Public Law 105–178) as in effect before the date of enactment of this Act.

SA 2513. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, insert the following:

SEC. . CREDIT FOR MAINTENANCE OF RAILROAD TRACK;

(a) CREDIT FOR MAINTENANCE OF RAILROAD TRACK.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is 50 percent of the amount of qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

"(1) $20,000, and

"(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

"(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2004, by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

"(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

"(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

"(g) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

"(1) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

"(2) any Class II or Class III railroad.".

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 5453, is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.".

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by section 5253 of this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the railroad track maintenance credit determined under section 45I(a).".

(B) Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e).".

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

"Sec. 45I. Railroad track maintenance credit.".

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(b) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount of qualified project expenditures paid or incurred by an eligible taxpayer during the taxable year.

"(b) Qualified Project Expenditures.—For purposes of this section, the term 'qualified project expenditures' means expenditures (whether or not otherwise chargeable to capital account) with respect to rail lines which are included in a State rail plan (within the meaning of section 22101 of title 49, United States Code) for—

"(A) planning and environmental review,

"(B) rail line rehabilitation,

"(C) upgrades and development of rail lines,

"(D) projects for safety and security with respect to rail lines,

"(E) passenger equipment acquisition with respect to rail lines,

"(F) rail station improvement, and

"(G) intermodal facilities development.

An expenditure shall not be a qualified project expenditure unless there is a written agreement between a State and the owner of the infrastructure improved by the expenditures regarding the use and ownership of such infrastructure, including compensation for such use and assurances regarding the capacity of such infrastructure.

"(c) Limitations.—

"(1) In general.—The credit allowed under subsection (a) shall not exceed 50 percent of the amount allocated to such project under this subsection.

"(2) National limitation.—There is a railroad revitalization and security investment credit limitation of $167,000,000 for each calendar year.

"(3) Allocation of limitation.—The limitation under paragraph (2) shall be allocated by the Secretary to each State with a State rail plan (within the meaning of section 22101 of title 49, United States Code) based on the following considerations:

"(A) the number of rail miles in active use in the State;

"(B) the number of rail cars loaded in the State;

"(C) the number of railroad and public road grade crossings in the State;

"(D) the number of intercity passenger rail miles; and

"(E) the number of intercity passenger embarkations.

"(d) Eligible Taxpayer.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is an employer for purposes of the Railroad Retirement Act of 1974 and who is a carrier for purposes of the Railway Labor Act (unless such person is a commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code) operator of a State or local authority (as defined in section 5302 of such title) or an Alaska railroad or it contractor).

"(e) Controlled Groups.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

"(f) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

"(g) Application of Section.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

"(h) Credit Transferability.—

"(1) In general.—Any credit allowable under this section may be transferred (but not more than once) as provided by the Secretary, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

"(2) Minimum price for transfer.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.".

(2) Limitation on carryback.—Section 39(d) (relating to transition rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(16) No carryback of section 45J credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45J.".

(3) Conforming Amendments.—

(A) Section 38(b) (relating to general business credit), as amended by subsection (a), is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the railroad revitalization and security investment credit determined under section 45J(a).".

(B) Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) in the case of qualified projects with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(f).".

(4) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by subsection (a), is amended by inserting after the item relating to section 45I the following new item:

"Sec. 45J. Railroad revitalization and security investment credit.".

(5) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. . CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) Start-Up Expenditures.—

(1) Allowance of deduction.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) Conforming amendment.—Subsection (b) of section 195 is amended by striking "Amortize" and inserting "Deduct" in the heading.

(b) Organizational Expenditures.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) Election to Deduct.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) Treatment of Organizational and Syndication Fees or Partnerships.—

(1) In general.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) Dispositions before close of amortization period.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) Conforming amendment.—Subsection (b) of section 709 is amended by striking "Amortization" and inserting "Deduction" in the heading.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2514. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1027, strike lines 14 through 18, and insert the following:

(h) Highway Trust Fund Expenditures for Highway Use Tax Evasion Projects.—Section 9503(c), as amended by this Act, is amended to add at the end the following new paragraph:

"(5) Highway use tax evasion projects.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

“(A) for each fiscal year after 2003 to the Internal Revenue Service—

“(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

“(ii) $10,000,000 for Xstars, and

“(iii) $10,000,000 for xfirs, and

“(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.”.

SA 2515. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, please insert the following:

SEC. . SENSE OF THE SENATE CONCERNING THE NEED FOR THE MAXIMUM POSSIBLE AMOUNT OF SURFACE TRANSPORTATION INVESTMENT OVER THE NEXT SIX YEARS.

(a) Findings—The Senate finds that—

(1) The U.S. Department of Transportation estimates that simply to maintain the current physical conditions and congestion levels of the nation's highway and transit network an annual federal surface transportation investment of $53.6 billion is necessary, and that improving the system would require $75 billion in annual federal investment in highways and transit;

(2) the Senate Environment and Public Works Committee, the Senate Banking, Housing, and Urban Affairs Committee, the Senate Finance Committee, and the Senate Commerce Committee have authorized a substitute amendment that provides $318 billion over six years to help address these considerable surface transportation infrastructure needs; and

(3) the United States Department of Transportation estimates that each $1 billion in surface transportation investment supports more than 47,000 jobs.

(b) Sense of the Senate.—It is the Sense of the Senate that the Senate should insist that the conference report on S. 1072 provide for a six-year federal investment in highway, transit, and rail infrastructure totaling at least $318 billion.

SA 2516. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 18, after “elements” insert “, including integrated, interoperable emergency communications,”.

SA 2517. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 404, line 7, before “communication” insert “integrated, interoperable emergency”.

SA 2518. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, after line 9, insert the following:

“(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.”.

SA 2519. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, line 14, before “reliability” insert “mobile communications,”.

SA 2520. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, line 14, before “reliability” insert “mobile communications,”.

SA 2521. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, after line 23, insert the following:

SEC. 2105. WIDEBAND MULTI-BAND MOBILE PILOT PROJECTS.

(a) In General.—The Secretary shall make grants for wideband multi-media mobile pilot projects to demonstrate emergency communications systems that provide wideband, two-way information transfer capabilities utilizing the public safety spectrum made available by the Federal Communications Commission in the 700 MHz radio frequency band and that are compliant with the public safety wideband data standard TIA-902 as recommended as the wideband data interoperability standard by the Public Safety National Coordinating Committee to the Federal Communications Commission.

(b) Locations.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish locations for pilot projects under this section. In determining pilot project locations, the Secretary shall certify that pilot project locations awarded grants have spectrum available for public safety purposes and are in the 700 MHz band pursuant to the Federal Communications Commission's rules.

(c) Limit on Time.—Grants under this section shall be awarded not later than 12 months after the date of enactment of this Act.

SA 2522. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 55, strike line 25 and all that follows through page 57, line 23, and insert the following:

“(c) Special Rules.—

“(1) Minimum combined allocation.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the sum of—

“(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

“(B) the sum of—

“(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

“(ii) an amount which is equivalent to—

“(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

“(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

“(2) Percentages.—The percentages referred to in paragraph (1)(B)(i) are—

“(A) for fiscal year 2004, 120 percent;

“(B) for fiscal year 2005, 130 percent;

“(C) for fiscal year 2006, 134 percent;

“(D) for fiscal year 2007, 137 percent;

“(E) for fiscal year 2008, 145 percent; and

“(F) for fiscal year 2009, 250 percent.”.

“(3) No negative adjustment.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

“(4) Minimum share of tax payments.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

“(d) Limitation on Adjustments.—

“(1) In general.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if

“(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

“(B) the sum of—

“(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

"(ii) an amount which is equivalent to—

"(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

"(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

"(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent;

"(E) for fiscal year 2008, 145 percent; and

"(F) for fiscal year 2009, 250 percent.".

SA 2523. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, line 4, insert the following:

VERMONT WILDLIFE AND TRANSPORTATION DEMONSTRATION PROJECT.—Under the Highways Safety Improvement Program, there is $5,000,000 available to the State of Vermont to research, design and construct connectivity infrastructure to facilitate wildlife movement and improve transportation safety at significant wildlife habitat areas.

SA 2524. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, line 4, insert the following:

WILDLIFE CONNECTORS RESEARCH PROGRAM.—Under the Highway Research and Technology Program, $15 million is authorized for the Department to work with states to conduct research and data collection to improve the design and placement of connectivity infrastructure to facilitate wildlife movement and improve transportation safety at significant wildlife habitat areas.

SA 2525. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, between lines 2 and 3, insert the following:

SEC. 1622. AIR QUALITY PLANNING INITIATIVE.

Section 104 of title 23, United States Code (as amended by section 1607(b)), is amended by adding at the end the following:

"(o) AIR QUALITY PLANNING INITIATIVE.—

"(1) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall establish an air quality planning initiative to support State and local governments, or groups of such governments organized to protect air quality in a specific region, in—

"(A) developing the technical capacity to perform transportation air quality conformity analysis, including carbon monoxide and particulate matter hot spot analysis;

"(B) providing training in areas such as modeling, monitoring, and data collection and synthesis to support air quality planning and analysis;

"(C) developing materials and systems to convey air quality information to decisionmakers and the public;

"(D) enhancing mobile source monitoring and emission inventorying capabilities; and

"(E) carrying out other activities necessary to assist State, regional, and local governments in achieving the national ambient air quality standards.

"(2) USE OF FUNDS.—

"(A) IN GENERAL.—Funds authorized to be appropriated to carry out this subsection may be used for activities and purposes consistent with paragraph (1), such as—

"(i) research;

"(ii) program and computer systems development;

"(iii) information collection and dissemination;

"(iv) technical assistance; and

"(v) training.

"(B) COOPERATION.—To carry out this subsection, the Secretary may, with the concurrence of the Administrator of the Environmental Protection Agency—

"(i) use funds under this section independently; or

"(ii) make grants to enter into contracts or cooperative agreements with—

"(I) Federal, State, and local agencies;

"(II) federally-recognized Indian tribal governments and tribal consortia;

"(III) associations of State or local governments; and

"(IV) nonprofit organizations, research institutions, or institutions of higher education.

"(3) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $20,000,000 for the period of fiscal years 2004 through 2009, to remain available until expended.

"(B) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out using funds made available under subparagraph (A) shall not exceed 100 percent.".

SA 2526. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 619, strike line 1 and all that follows through page 621, line 8, and insert the following:

"(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, and for operating costs of equipment and facilities for use in such projects, with priority given to the needs of these individuals to access necessary health care.

"(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) ALLOTMENTS AMONG STATES.—

"(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) FEDERAL SHARE.—

"(1) MAXIMUM.—

"(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) OPERATING COSTS.—Grant funds for operating costs under this section may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(C) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share under subparagraph (A) in accordance with the formula under that section.

SA 2527. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

SUBTITLE F—RAIL TRANSPORTATION

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT MILE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

“CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

“Sec. 22301. Capital grants for railroad track.

“§ 22301. Capital grants for railroad track

“(a) ESTABLISHMENT OF PROGRAM.—“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

“(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

“(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

“(2) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

“(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

“(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

“(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

“(iii) ensure that projects are part of a State rail plan.

“(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

“(i) the number of rail miles in active use in the State;

“(ii) the number of rail cars loaded in the State;

“(iii) the number of rail cars unloaded in the State; and

“(iv) the number of railroad and public road grade crossings in the State.

“(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

“(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

“§ 22302. State rail plans

“(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

“(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall

“(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

“(2) establish or designate a State rail plan approval authority to approve the plan;

“(3) submit the State's approved plan to the Secretary of Transportation for review; and

“(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for re-approval by the Secretary.

“§ 22303. Purposes

“(a) PURPOSES.—The purposes of a State rail plan are as follows:

“(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

“(2) To establish the period covered by the State rail plan.

“(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

“(4) To serve as the basis for Federal and State rail investments within the State.

“(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

“§ 22304. Content

“(a) IN GENERAL.—Each State rail plan shall contain the following:

“(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

“(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

“(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

“(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

“(5) A statement of public financing issues for rail projects in the State.

“(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

“(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

“(8) A statement that the State is in compliance with the requirements of section 22102.

“(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

“(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

“(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

“(B) A detailed funding plan for the projects.

“(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

“(A) a description of the anticipated public and private benefits of each such project; and

“(B) a statement of the correlation between—

“(i) public funding contributions for the projects; and

“(ii) the public benefits.

“(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

“(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

“(B) Rail capacity and congestion effects.

“(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

“(D) Regional balance.

“(E) Environmental impact. .

“(F) Economic and employment impacts.

“(G) Projected ridership and other service measures for passenger rail projects.

“(c) Waiver.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

“22306. Approval

“(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if

“(1) the plan meets all of the requirements applicable to State plans under this chapter;

“(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

“(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

“(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

“(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

§ Definitions

In this chapter:

“(1) PRIVATE BENEFIT.—The term ‘private benefit’—

“(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

“(2) PUBLIC BENEFIT.—The term ‘public benefit’—

“(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.”.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) Operators Deemed Rail Carriers and Employers for Certain Purposes.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SEC. 4604. GRANT PROGRAM FUNDING.

(a) In General.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

“(D) Rail infrastructure category.—The term ‘rail infrastructure category’ means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under division B of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that division.”.

(b) Budget Authority; Outlays.—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) Budget authority.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;

(B) $600,000,000 for fiscal year 2006;

(C) $900,000,000 for fiscal year 2007;

(D) $1,200,000,000 for fiscal year 2008;

(E) $1,500,000,000 for fiscal year 2009; and

(F) $1,500,000,000 for fiscal year 2010.

(2) Outlays.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;

(B) $180,000,000 for fiscal year 2006;

(C) $360,000,000 for fiscal year 2007;

(D) $480,000,000 for fiscal year 2008;

(E) $900,000,000 for fiscal year 2009; and

(F) $1,140,000,000 for fiscal year 2010.

(c) Applicable Percent.—From funds appropriated to carry out the grant programs authorized by sections 651 and 652, the Secretary of Transportation shall reserve—

(1) 50 percent for the intercity passenger rail development grant program under section 651; and

(2) 50 percent for the freight infrastructure development grant program under section 652.

SA 2528. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

Subtitle F—Rail Transportation

Part 1—Railroad Track Modernization

SEC. 4601. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) Authority.—Chapter 223 of title 49, United States Code, is amended to read as follows:

“CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

“Sec.

“22301. Capital grants for railroad track.

“§ 22301. Capital grants for railroad track

“(a) Establishment of Program.—

“(1) Establishment.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

“(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

“(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

“(2) Regulations.—

“(A) In General.—The Secretary shall prescribe regulations to carry out the program under this section.

“(B) Criteria.—In developing the regulations, the Secretary shall establish criteria that—

“(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

“(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

“(iii) ensure that projects are part of a State rail plan.

“(C) Grant allocations.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

“(i) the number of rail miles in active use in the State;

“(ii) the number of rail cars loaded in the State;

“(iii) the number of rail cars unloaded in the State; and

“(iv) the number of railroad and public road grade crossings in the State.

“(b) Federal Share.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

“(c) Authorization of Appropriations.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

“§ 22302. State rail plans

“(a) In General.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

“(b) Requirements.—For the preparation and periodic revision of a State rail plan, a State shall—

“(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

“(2) establish or designate a State rail plan approval authority to approve the plan;

“(3) submit the State's approved plan to the Secretary of Transportation for review; and

“(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

“§ 22303. Purposes

“(a) Purposes.—The purposes of a State rail plan are as follows:

“(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

“(2) To establish the period covered by the State rail plan.

“(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

“(4) To serve as the basis for Federal and State rail investments within the State.

“(b) Coordination.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

“§ 22304. Content

“(a) In General.—Each State rail plan shall contain the following:

“(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

“(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

“(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

“(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

“(5) A statement of public financing issues for rail projects in the State.

“(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

“(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

“(8) A statement that the State is in compliance with the requirements of section 22102.

“(b) Long-Range Service and Investment Program.—

“(1) Program content.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

“(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

“(B) A detailed funding plan for the projects.

“(2) Project list content.—The list of freight and intercity passenger rail capital projects shall contain—

“(A) a description of the anticipated public and private benefits of each such project; and

“(B) a statement of the correlation between—

“(i) public funding contributions for the projects; and

“(ii) the public benefits.

“(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

“(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

“(B) Rail capacity and congestion effects.

“(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

“(D) Regional balance.

“(E) Environmental impact.

“(F) Economic and employment impacts.

“(G) Projected ridership and other service measures for passenger rail projects.

“(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

“§ 22306. Approval

“(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

“(1) the plan meets all of the requirements applicable to State plans under this chapter;

“(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan

“(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

“(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

“(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

“§ Definitions

“In this chapter:

“(1) PRIVATE BENEFIT.—The term ‘private benefit’—

“(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

“(2) PUBLIC BENEFIT.—The term ‘public benefit’—

“(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.”.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SA 2529. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

SUBTITLE F—RAIL TRANSPORTATION

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

“CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

“Sec.

“22301. Capital grants for railroad track.

“§ 22301. Capital grants for railroad track

“(a) ESTABLISHMENT OF PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

“(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

“(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

“(2) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

“(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

“(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

“(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

“(iii) ensure that projects are part of a State rail plan.

“(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

“(i) the number of rail miles in active use in the State;

“(ii) the number of rail cars loaded in the State;

“(iii) the number of rail cars unloaded in the State; and

“(iv) the number of railroad and public road grade crossings in the State.

“(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

“(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

“§ 22302. State rail plans

“(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

“(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

“(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

“(2) establish or designate a State rail plan approval authority to approve the plan;

“(3) submit the State's approved plan to the Secretary of Transportation for review; and

“(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

“§ 22303. Purposes

“(a) PURPOSES.—The purposes of a State rail plan are as follows:

“(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

“(2) To establish the period covered by the State rail plan.

“(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

“(4) To serve as the basis for Federal and State rail investments within the State.

“(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

“§ 22304. Content

“(a) IN GENERAL.—Each State rail plan shall contain the following:

“(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

“(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

“(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

“(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

“(5) A statement of public financing issues for rail projects in the State.

“(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

“(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

“(8) A statement that the State is in compliance with the requirements of section 22102.

“(b) Long-Range Service and Investment Program.—

“(1) Program content.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

“(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

“(B) A detailed funding plan for the projects.

“(2) Project list content.—The list of freight and intercity passenger rail capital projects shall contain—

“(A) a description of the anticipated public and private benefits of each such project; and

“(B) a statement of the correlation between—

“(1) public funding contributions for the projects; and

“(ii) the public benefits.

“(3) Considerations for project list.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

“(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

“(B) Rail capacity and congestion effects.

“(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

“(D) Regional balance.

“(E) Environmental impact.

“(F) Economic and employment impacts.

“(G) Projected ridership and other service measures for passenger rail projects.

“(c) Waiver.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

“§22306. Approval

“(a) Criteria.—The Secretary may approve a State rail plan for the purposes of this chapter if—

“(1) the plan meets all of the requirements applicable to State plans under this chapter;

“(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

“(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

“(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

“(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

“§ Definitions

In this chapter:

“(1) Private benefit.—The term ‘private benefit’—

“(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

“(2) Public benefit.—The term ‘public benefit’—

“(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary: and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.”.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) Operators Deemed Rail Carriers and Employers for Certain Purposes.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SEC. 4604. GRANT PROGRAM FUNDING.

(a) In General.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

“(D) Rail Infrastructure Category.—The term ‘rail infrastructure category’ means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under division B of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that division.”.

(b) Budget Authority; Outlays.—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) Budget authority.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;

(B) $600,000,000 for fiscal year 2006:

(C) $900,000,000 for fiscal year 2007;

(D) $1,200,000,000 for fiscal year 2008;

(E) $1,500,000,000 for fiscal year 2009; and

(F) $1,500,000,000 for fiscal year 2010.

(2) Outlays.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;

(B) $180,000,000 for fiscal year 2006;

(C) $360,000,000 for fiscal year 2007;

(D) $480,000,000 for fiscal year 2008;

(E) $900,000,000 for fiscal year 2009; and

(F) $1,140,000,000 for fiscal year 2010.

(c) Applicable Percent.—From funds appropriated to carry out the grant programs authorized by sections 651 and 652, the Secretary of Transportation shall reserve—

(1) 50 percent for the intercity passenger rail development grant program under section 651; and

(2) 50 percent for the freight infrastructure development grant program under section 652.

SEC. 4605. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking “March 31, 2004,” and inserting “March 31, 2014,”.

SA 2530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 601 and add the following after section 662:

SUBTITLE D—AMTRAK AUTHORIZATIONS

SEC. 681. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) In General.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

“(5) ‘national rail passenger transportation system’ means—

“(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

“(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

“(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

“(D) short-distance corridors or routes operated by Amtrak.”.

(b) Amtrak Routes with State Funding.—

(1) In general.—Chapter 247 is amended by inserting after section 24701 the following:

“§24702. Transportation requested by States, authorities, and other persons

“(a) Contracts for Transportation.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

“(b) Discontinuance.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.”.

(2) Conforming amendment.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

“24702. Transportation requested by States, authorities, and other persons”.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 682. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) IN GENERAL.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) CERTAIN CONDITIONS WAIVED.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) FEDERAL RAILROAD ADMINISTRATION.—

(1) IN GENERAL.—Section 11123 is amended—

(A) by striking "failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation," in subsection (a);

(B) by inserting "or" after the semicolon in subsection (a)(3);

(C) by striking "permits; or" in subsection (a)(4) and inserting "permits.";

(D) by striking paragraph (5) of subsection (a);

(E) by striking "(A) Except as provided in subparagraph (B), when" in subsection (b)(3) and inserting "When";

(F) by striking subparagraph (B) of sub section (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking "11123,".

SEC. 683. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure in its entirety or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $109,500,000.
(B) For fiscal year 2006, $114,700,000.
(C) For fiscal year 2007, $202,900,000.
(D) For fiscal year 2008, $164,300,000.
(E) For fiscal year 2009, $155,800,000.
(F) For fiscal year 2010, $203,500,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.
(B) For fiscal year 2006, $146,300,000.
(C) For fiscal year 2007, $137,500,000.
(D) For fiscal year 2008, $125,300,000.
(E) For fiscal year 2009, $117,100,000.
(F) For fiscal year 2010, $107,800,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect such reductions.

SEC. 684. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.—

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

"(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.".

(d) AMTRAK REPORTS.—Section 21315 is amended—

(1) by striking "February 15" in subsection (a) and inserting "January 31st";

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

"(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;";

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

"(D) the total revenue-to-total cost ratio;";

(4) by striking subparagraphs (C), (F), and (G) of subsection (a)(1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking "February 15" in subsection (b) and inserting "January 31st".

SEC. 685. EXCESS RAILROAD RETIREMENT.

Beginning in fiscal year 2005, the Secretary of the Treasury each year shall pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. There are authorized to be appropriated such sums as may be necessary in each fiscal year beginning after fiscal year 2005 through 2010 for these payments.

SEC. 686. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE. There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.
(B) For fiscal year 2006, $21,700,000.
(C) For fiscal year 2007, $22,300,000.
(D) For fiscal year 2008, $15,100,000.
(E) For fiscal year 2009, $15,900,000.
(F) For fiscal year 2010, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.
(B) For fiscal year 2006, $19,800,000.
(C) For fiscal year 2007, $19,800,000.
(D) For fiscal year 2008, $19,000,000.
(E) For fiscal year 2009, $19,000,000.
(F) For fiscal year 2010, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS. Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5)), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the

National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 687. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, D.C., Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(c) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 688. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.
(2) For fiscal year 2006, $566,700,000.
(3) For fiscal year 2007, $557,700,000.
(4) For fiscal year 2008, $528,500,000.
(5) For fiscal year 2009, $522,000,000.
(6) For fiscal year 2010, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.
(2) For fiscal year 2006, $835,200,000.
(3) For fiscal year 2007, $760,800,000.
(4) For fiscal year 2008, $733,600,000.
(5) For fiscal year 2009, $774,300,000.
(6) For fiscal year 2010, $874,300,000.

(c) REPLACEMENT EQUIPMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.
(2) For fiscal year 2007, $250,000,000.
(3) For fiscal year 2008, $350,000,000.
(4) For fiscal year 2009, $350,000,000.
(5) For fiscal year 2010, $350,000,000.

SEC. 689. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 690. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 686, 687, and 688.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 691. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 692. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking "January 1, 1999," and inserting "January 1, 2009,".

SEC. 693. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"§ 24302. Board of directors

"(a) COMPOSITION AND TERMS.—

"(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

"(A) The President of Amtrak.

"(B) The Secretary of Transportation.

"(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

"(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

"(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

"(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

"(5) The Secretary may be represented at board meetings by the Secretary's designee.

"(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

"(c) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

"(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.".

SEC. 694. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of

Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 695. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5–YEAR FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5–YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources,

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service.

(8) lump sum expenditures of $10,000,000 or more and sources of funding.

(9) estimates of long-term and short-term debt and associated principal and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(C) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 652 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

SEC. 696. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 697. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, on-board services, stations, facilities, equipment, and other services.

SEC. 698. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

“(f) ON-TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section 697 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.”.

SEC. 699. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

“§ 24910. Rail cooperative research program

“(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

“(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

“(2) consider research on the interconnectedness of commuter rail, passenger rail, and other rail networks; and

“(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

“(b) CONTENT.—The program to be carried out under this section shall include research designed—

“(1) to identify the unique aspects and attributes of rail passenger service;

“(2) to develop more accurate models for evaluating the impact of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

“(3) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict utilization;

“(4) to recommend priorities for technology demonstration and development;

“(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

“(6) to explore improvements in management, financing, and institutional structures;

“(7) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

“(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger service;

“(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

“(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

"(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

"(c) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation agencies;

"(B) transportation and environmental economists, scientists, and engineers; and

"(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.".

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

"24910. Rail cooperative research program".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2005 through 2010 to carry out the rail cooperative research program under section 24910 of title 49, United States Code.

Strike section 4601 and add the following after section 4662:

PART 4—AMTRAK AUTHORIZATIONS

SEC. 4681. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

"(5) 'national rail passenger transportation system' means—

"(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

"(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

"(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

"(D) short-distance corridors or routes operated by Amtrak.".

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by l inserting after section 24701 the following:

"24702. Transportation requested by States, authorities, and other persons

"(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

"(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

"24702. Transportation requested by States, authorities, and other persons".

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 4682. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) IN GENERAL.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) CERTAIN CONDITIONS WAIVED.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) FEDERAL RAILROAD ADMINISTRATION.—

(1) IN GENERAL—Section 11123 is amended—

(A) by striking "failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation," in subsection (a);

(B) by inserting "or" after the semicolon in subsection (a)(3);

(C) by striking "permits; or" in subsection (a)(4) and inserting "permits.";

(D) by striking paragraph (5) of subsection (a);

(E) by striking "(A) Except as provided in subparagraph (B), when" in subsection (b)(3) and inserting "When";

(F) by striking subparagraph (B) of subsection (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking "11123,".

SEC. 4683. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure in its entirety or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $109,500,000.

(B) For fiscal year 2006, $114,700,000.

(C) For fiscal year 2007, $202,900,000.

(D) For fiscal year 2008, $164,300,000.

(E) For fiscal year 2009, $155,800,000.

(F) For fiscal year 2010, $203,500,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.

(B) For fiscal year 2006, $146,300,000.

(C) For fiscal year 2007, $137,500,000.

(D) For fiscal year 2008, $125,300,000.

(E) For fiscal year 2009, $117,100,000.

(F) For fiscal year 2010, $107,800,000.

(3) REDUCTIONS IN AUTHORIZATION ON LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

SEC. 4684. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49

U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

"(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.".

(d) AMTRAK REPORTS.—Section 24315 is amended—

(1) by striking "February 15" in subsection (a) and inserting "January 31st";

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

"(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;";

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

"(D) the total revenue-to-total cost ratio;";

(4) by striking subparagraphs (C), (F), and (G) of subsection (a)(1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking "February 15" in subsection (b) and inserting "January 31st".

SEC. 4685. EXCESS RAILROAD RETIREMENT.

Beginning in fiscal year 2005, the Secretary of the Treasury each year shall pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. There are authorized to be appropriated such sums as may be necessary in each fiscal year beginning after fiscal year 2005 through 2010 for these payments.

SEC. 4686. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.
(B) For fiscal year 2006, $21,700,000.
(C) For fiscal year 2007, $22,300,000.
(D) For fiscal year 2008, $15,100,000.
(E) For fiscal year 2009, $15,900,000.
(F) For fiscal year 2010, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.
(B) For fiscal year 2006, $19,800,000.
(C) For fiscal year 2007, $19,800,000.
(D) For fiscal year 2008, $19,000,000.
(E) For fiscal year 2009, $19,000,000.
(F) For fiscal year 2010, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.—Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 4687. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, D.C., Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 4688. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.
(2) For fiscal year 2006, $566,700,000.
(3) For fiscal year 2007, $557,700,000.
(4) For fiscal year 2008; $528,500,000.
(5) For fiscal year 2009, $522,000,000.
(6) For fiscal year 2010, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.
(2) For fiscal year 2006, $835,200,000.
(3) For fiscal year 2007, $760,800,000.
(4) For fiscal year 2008, $733,600,000.
(5) For fiscal year 2009, $774,300,000.
(6) For fiscal year 2010, $874,300,000.

(c) REPLACEMENT EQUIPMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.
(2) For fiscal year 2007, $250,000,000.
(3) For fiscal year 2008, $350,000,000.
(4) For fiscal year 2009, $350,000,000.
(5) For fiscal year 2010, $350,000,000.

SEC. 4689. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 4690. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 686, 687, and 688.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 4691. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 4692. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking "January 1, 1999," and inserting "January 1, 2009,".

SEC. 4693. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"§ 24302. Board of directors

"(a) COMPOSITION AND TERMS.—

"(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

"(A) The President of Amtrak.

"(B) The Secretary of Transportation.

"(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

"(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

"(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

"(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

"(5) The Secretary may be represented at board meetings by the Secretary's designee.

"(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

"(c) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

"(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.".

SEC. 4694. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 4695. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5-YEAR, FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service;

(8) lump sum expenditures of $10,000,000 or more and sources of funding;

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 4652 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

SEC. 4696. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 4697. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with

Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, onboard services, stations, facilities, equipment, and other services.

SEC. 4698. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

"(f) ON-TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section 4697 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.".

SEC. 4699. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

"24910. Rail cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

"(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

"(2) consider research on the interconnectedness of commuter rail, passenger rail, and other rail networks; and

"(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

"(b) CONTENT.—The program to be carried out finder this section shall include research designed—

"(1) to identify the unique aspects and attributes of rail passenger service;

"(2) to develop more accurate models for evaluating the impact of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

"(3) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict utilization;

"(4) to recommend priorities for technology demonstration and development;

"(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

"(6) to explore improvements in management, financing, and institutional structures;

"(7) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

"(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger service;

"(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

"(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

"(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

"(c) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation agencies;

"(B) transportation and environmental economists, scientists, and engineers; and

"(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.".

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

"24910. Rail cooperative research program".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2005 through 2010 to carry out the rail cooperative research program under section 24910 of title 49, United States Code.

SA 2531. Mr. CRAPO (for himself, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, between lines 20 and 21, insert the following:

(d) FLEXIBILITY IN MEETING SET ASIDE REQUIREMENTS.—Section 104(b) of title 23, United States Code (as amended by section 1401(b)(2)), is amended by adding at the end the following:

"(6) FLEXIBILITY IN MEETING SET ASIDE REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), any provision of this title that establishes a requirement on or after the date of enactment of this paragraph that a portion of funds apportioned to a State under paragraph (1), (3), or (4) be reserved or obligated for a particular purpose, on an annual basis, shall be considered satisfied if the State sets aside or obligates, as applicable, over the 6-year period of fiscal years 2004 through 2009, the sum of the individual annual requirements over the 6-year period.

"(B) REQUIREMENT.—The flexibility provided by subparagraph (A) does not permit a State to have set aside or obligated, as of the end of a fiscal year, with respect to a requirement, an amount less than—

"(i) the sum of the individual annual requirements for each of fiscal years 2004 through the fiscal year; less

"(ii) the sum obtained by adding the individual requirement for fiscal year 2004 and an amount equal to 50 percent of the requirement for fiscal year 2005.".

SA 2532. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert:

"SEC. . THE DELTA REGIONAL AUTHORITY.

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a), is amended by adding at the end the following:

"178. Delta Region transportation development program

"(a) IN GENERAL.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) Federal Share.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) Availability of Funds.—Amounts made available to carry out this section shall remain available until expended.".

(b) Conforming Amendment.—The analysis for chapter I of title 23, United States Code (as amended by section 1841(b)), is amended by adding at the end the following:

"178. Delta Region transportation development program.".".

On page 678, after line 5, insert:

(16) Delta Region Transportation Development Program.—For planning and construction activities authorized under the Delta Regional Authority, $400,000,000 for each of fiscal years 2004 through 2009.

SA 2533. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Sec. . Section 201(b) of the Appalachian Regional Development Act of 1965 is amended by striking "and" before (4) and inserting after "section" the following:

", and an estimate of the cost to construct highways and access roads for the Appalachian development highway system every 24 months."

SA 2534. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 930, line 6 insert the following:

"(3) Cost to complete study.—The Appalachian Regional Commission shall prepare an estimate of the cost to construct highways and access roads for the Appalachian development highway system every 24 months."

SA 2535. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) Pay-As-You-Drive-And-You-Save (PAYDAYS) Grant Program.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

"(f) Pay-As-You-Drive-And-You-Save (PAYDAYS) Grant Program.—

"(1) Establishment.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

"(2) Special requirements.—

"(A) In general.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

"(B) Grant purpose.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

"(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

"(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

"(C) Subgrants, loans, and revenue and loss guarantees.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

"(D) Limitation on use.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

"(i) solicit applications;

"(ii) oversee grant activities; and

"(iii) conduct research and outreach.

"(E) Federal share.—

"(i) In general.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

"(ii) Matching funds.—The designated partner shall require a subgrantee to provide matching funds.

"(F) Minimum funding guarantees.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

"(3) Reporting.—

"(A) In general.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

"(i) publish performance goals for the PAYDAYS grant program and for each project; and

"(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

"(B) Performance goals.—Performance goals shall include—

"(i) traffic volumes and congestion;

"(ii) air quality;

"(iii) safety;

"(iv) use of alternative transportation modes; and

"(v) equity.

"(4) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.".

(d) Conforming Amendments.—

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) Pay-As-You-Drive-And-You-Save (PAYDAYS) Grant Program.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

"(f) Pay-As-You-Drive-And-You-Save (PAYDAYS) Grant Program.—

"(1) Establishment.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

"(2) Special requirements.—

"(A) In general.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

"(B) Grant purpose.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

"(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

"(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

"(C) Subgrants, loans, and revenue and loss guarantees.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

"(D) Limitation on use.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

"(i) solicit applications;

"(ii) oversee grant activities; and

"(iii) conduct research and outreach.

"(E) Federal share.—

"(i) In general.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

"(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

"(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

"(3) REPORTING.—

"(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

"(i) publish performance goals for the PAYDAYS grant program and for each project; and

"(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

"(B) PERFORMANCE GOALS.—Performance goals shall include—

"(i) traffic volumes and congestion;

"(ii) air quality;

"(iii) safety;

"(iv) use of alternative transportation modes; and

"(v) equity.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.".

(d) CONFORMING AMENDMENTS.—

SA 2537. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

"(f) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

"(2) SPECIAL REQUIREMENTS.—

"(A) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

"(B) GRANT PURPOSE.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

"(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

"(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

"(C) SUBGRANTS, LOANS, AND REVENUE AND LOSS GUARANTEES.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

"(D) LIMITATION ON USE.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

"(i) solicit applications;

"(ii) oversee grant activities; and

"(iii) conduct research and outreach.

"(E) FEDERAL SHARE.—

"(i) IN GENERAL.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

"(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

"(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

"(3) REPORTING.—

"(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

"(i) publish performance goals for the PAYDAYS grant program and for each project; and

"(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

"(B) PERFORMANCE GOALS.—Performance goals shall include—

"(i) traffic volumes and congestion;

"(ii) air quality;

"(iii) safety;

"(iv) use of alternative transportation modes; and

"(v) equity.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.".

(d) CONFORMING AMENDMENTS.—

SA 2538. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

"(i) provide direct transportation services to senior citizens; and

"(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

"(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

"(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

"(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).".

SA 2539. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section

5314 is amended by adding at the end the following:

"(c) National Technical Assistance Center for Senior Transportation.—

"(1) Establishment.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) Eligibility.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) Use of funds.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) Grants authorized.—

"(A) In general.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) Use of funds.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

"(i) provide direct transportation services to senior citizens; and

"(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

"(5) Allocations.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

"(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

"(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).".

SA 2540. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) National Technical Assistance Center for Senior Transportation.—Section 5314 is amended by adding at the end the following:

"(c) National Technical Assistance Center for Senior Transportation.—

"(1) Establishment.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) Eligibility.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) Use of funds.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) Grants authorized.—

"(A) In general.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) Use of funds.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

"(i) provide direct transportation services to senior citizens; and

"(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

"(5) Allocations.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

"(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

"(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).".

SA 2541. Mr. SMITH submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 619, strike line 1 and all that follows through page 621, line 8, and insert the following:

"(1) Authorization.—The Secretary may award grants to a State for public transportation capital projects, and operating costs associated with public transportation capital projects, that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

"(2) Acquisition of public transportation services.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) Administrative costs.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) Allotments Among States.—

"(1) In general.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) Transfer of funds.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) Reallocation of funds.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) Federal Share.—

"(1) Maximum.—

"(A) Capital projects.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) Exception.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

"(C) Operating costs.—Grant funds for operating costs under this section may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary."

SA 2542. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before equipment in Section 148(a)(2)(B)(xiv): "integrated, interoperable emergency communications".

SA 2543. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following after elements in Section 148(a)(5)(C): ", including integrated, interoperable emergency communications,".

SA 2544. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before communications in Section 501(2): "integrated, interoperable emergency".

SA 2545. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before communications in Section 501(2)(C): "integrated, interoperable emergency".

SA 2546. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike enhanced and insert the following in Section 502(h)(2)(iii): "integrated, interoperable emergency".

SA 2547. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Add new paragraph (7) to Section 149(b): "If the project or program involves the purchase of integrated, interoperable emergency communications equipment."

SA 2548. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before reliability in Section 503(a)(3)(B): ", mobile communications,".

SA 2549. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1027, strike lines 3 through 13, and insert the following:

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS UNDER NEW PROGRAMS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects under programs beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)).".

SA 2550. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) Amendment to 23 U.S.C. 306.—Section 23 U.S.C. 306 is amended as follows:

SEC. 306.—MAPPING.

(a) In General.——

In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) Regulations.—

The Secretary shall issue regulations to require States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropraite roles for States and private mapping and surveying activities, including—

(1) State participation in—

(i) Preparation of standards and specifications;

(ii) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector; and

(iii) providing technical guidance, coordination, and administration of State surveying and mapping activities; and

(2) private sector participations in—

(i) performance of surveying and mapping activities, to include but not be limited to such activities as measuring, locating and preparing maps, charts, surveys, aerial photographs, satellite images, or other graphical or digital presentations depicting natural or manmade physical features, phenomena, and legal boundaries of the Earth.

(c) The Secretary shall implement a program to assure that States implement this section in such a manner as to assure that government agencies do not complete with its citizens and that such agencies not start or carry on any activity to provide a commercial surveying and mapping product or service if the product or service can be procured more economically from the commercial sources to supply the surveying and mapping products and services the government needs.

SA 2551. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 10 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State permits by statute, regulation, or executive order the issuance of a State Driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SA 2552. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2341 submitted by Mr. TALENT (for himself and Mr. WYDEN) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the "Build America Corporation". The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a cost-effective alternative for efficiently maximizing mobility of individuals and goods.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "qualified project" means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term "qualified project" means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term "qualified highway project" means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term "qualified public transportation project" means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term "congestion relief project" means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART 2—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

"(A) directly to the class II or class III railroad; or

"(B) with the concurrence of the class II or class III railroad, to a State or local government.

"(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

"(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

"(iv) ensure that all such grants are awarded on a competitive basis.

"(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

"(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

"(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

"(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) LABOR STANDARDS.—

"(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. Capital grants for railroad track .... 22301".

SEC. 4633. REGULATIONS.

(a) REGULATIONS.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§ 20154. Capital grants for rail line relocation projects

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

"(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

"(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

"(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

"(3) meets the costs-benefits requirement set forth in subsection (c).

"(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

"(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

"(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

"(3) Equitable treatment of the various regions of the United States.

"(e) ALLOCATION REQUIREMENTS.—

"(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

"(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

"(g) STATE SHARE.—

"(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"'(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) COSTS NOT SHARED.—

"(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than March 31, 2004, the Secretary shall issue final regulations implementing the program.

SA 2553. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2340 submitted by Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

Subtitle H—Build America Bonds

SEC. 5671. SHORT TITLE; ETC.

(a) SHORT TITLE.—This subtitle may be cited as the "Build America Bonds Act of 2004".

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 5672. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Our Nation's highways, public transportation systems, and rail systems drive our economy, enabling all industries to achieve growth and productivity that makes America strong and prosperous.

(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.

(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.

(4) The construction of infrastructure requires the skills of numerous occupations, including those in the contracting, engineering, planning and design, materials supply, manufacturing, distribution, and safety industries.

(5) Investing in transportation infrastructure creates long-term capital assets for the Nation that will help the United States address its enormous infrastructure needs and improve its economic productivity.

(6) Investment in transportation infrastructure creates jobs and spurs economic activity to put people back to work and stimulate the economy.

(7) Every billion dollars in transportation investment has the potential to create up to 47,500 jobs.

(8) Every dollar invested in the Nation's transportation infrastructure yields at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.

(9) The proposed increases to the Transportation Equity Act for the 21st Century (TEA-21) will not be sufficient to compensate for the Nation's transportation infrastructure deficit.

(b) PURPOSE.—The purpose of this subtitle is to provide financing for long-term infrastructure capital investments that are not currently being met by existing transportation and infrastructure investment programs, including mega-projects, projects of national significance and high priority projects, multi-State transportation corridors, intermodal transportation facilities, replacement and reconstruction of deficient and obsolete bridges, interstate highways, public transportation systems, and rail systems.

SEC. 5673. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Build America Bonds

"Sec. 54. Credit to holders of Build America bonds.

"SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Build America bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any Build America bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(e) BUILD AMERICA BOND.—For purposes of this part, the term 'Build America bond' means any bond issued as part of an issue if—

"(1) the net spendable proceeds from the sale of such issue are to be used—

"(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

"(B) for deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

"(2) the bond is issued by the Transportation Finance Corporation, is in registered form, and meets the Build America bond limitation requirements under subsection (g),

"(3) the Transportation Finance Corporation certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

"(4) the Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l),

"(5) except for bonds issued in accordance with subsection (g)(6), the term of each bond which is part of such issue does not exceed 30 years,

"(6) the payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

"(7) with respect to bonds described in paragraph (1)(A), the issue meets the requirements of subsection (h) (relating to arbitrage).

"(f) QUALIFIED PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified project' means any—

"(A) qualified highway project,

"(B) qualified public transportation project, and

"(C) congestion relief project,

proposed by 1 or more States and approved by the Transportation Finance Corporation.

"(2) QUALIFIED HIGHWAY PROJECT.—The term 'qualified highway project' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

"(3) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term 'qualified public transportation project' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

"(4) CONGESTION RELIEF PROJECT.—The term 'congestion relief project' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

"(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

"(B) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

"(g) LIMITATION ON AMOUNT OF BONDS DESIGNATED; ALLOCATION OF BOND PROCEEDS.—

"(1) NATIONAL LIMITATION.—There is a Build America bond limitation for each calendar year. Such limitation is—

"(A) with respect to bonds described in subsection (e)(1)(A),

"(i) $11,000,000,000 for 2004,

"(ii) $16,000,000,000 for 2005,

"(iii) $16,000,000,000 for 2006,

"(iv) $6,000,000,000 for 2007,

"(v) $3,500,000,000 for 2008,

"(vi) $3,500,000,000 for 2009, and

"(vii) except as provided in paragraph (5), zero thereafter, plus

"(B) with respect to bonds described in subsection (e)(1)(B), such amount each calendar year as determined necessary by the

Transportation Finance Corporation to provide funds in the Build America Trust Account for the repayment of Build America bonds at maturity.

"(2) CONGESTION RELIEF PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), $1,000,000,000 of net spendable proceeds shall be reserved for each of the calendar years 2004, 2005, 2006, 2007, 2008, and 2009 for allocation to congestion relief projects.

"(3) ALLOCATION OF BONDS FOR HIGHWAY AND PUBLIC TRANSPORTATION PURPOSES.—Except with respect to qualified projects described in subsection (j)(3), and subject to paragraphs (2) and (4)—

"(A) QUALIFIED HIGHWAY PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 80 percent of the net spendable proceeds to the States for qualified highway projects in the following manner:

"(i) 50 percent of such allocation shall be in accordance with the formulas for apportioning funds under sections 104(b) and 144 of title 23, United States Code.

"(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

"(B) QUALIFIED PUBLIC TRANSPORTATION PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 20 percent of the net spendable proceeds to the States for qualified public transportation projects in the following manner:

"(i) 50 percent of such allocation shall be in accordance with the distribution of public transportation formula grants under sections 5307, 5308, 5310, 5311, and 5327 of title 49, United States Code.

"(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

"(4) MINIMUM ALLOCATIONS TO STATES.—In making allocations for each calendar year under paragraph (3), the Transportation Finance Corporation shall ensure that the amount allocated for qualified projects located in each State for such calendar year is not less than 1 percent of the total amount allocated for such year.

"(5) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Build America bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of Build America bonds.

"(6) ISSUANCE OF SMALL DENOMINATION BONDS.—From the Build America bond limitation for each year, the Transportation Finance Corporation shall issue a limited quantity of Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America's infrastructure.

"(h) SPECIAL RULES RELATING TO ARBITRAGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Transportation Finance Corporation reasonably expects—

"(A) to spend at least 85 percent of the net spendable proceeds from the sale of the issue for 1 or more qualified projects within the 5-year period beginning on such date,

"(B) to incur a binding commitment with a third party to spend at least 10 percent of the net spendable proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 12-month period beginning on such date, and

"(C) to proceed with due diligence to complete such projects and to spend the net spendable proceeds from the sale of the issue.

"(2) SPENT PROCEEDS.—Net spendable proceeds are considered spent by the Transportation Finance Corporation when a sponsor of a qualified project obtains a reimbursement from the Transportation Finance Corporation for eligible project costs.

"(3) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at least 85 percent of the net spendable proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if the Transportation Finance Corporation uses all unspent net spendable proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period.

"(4) REALLOCATION.—In the event the recipient of an allocation under subsection (g) fails to demonstrate to the satisfaction of the Transportation Finance Corporation that its actions will allow the Transportation Finance Corporation to meet the requirements under this subsection, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

"(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

"(1) IN GENERAL.—If any bond which when issued purported to be a Build America bond ceases to be such a qualified bond, the Transportation Finance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) FAILURE TO PAY.—If the Transportation Finance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55.

"(j) BUILD AMERICA TRUST ACCOUNT.—

"(1) IN GENERAL.—The following amounts shall be held in a Build America Trust Account by the Transportation Finance Corporation:

"(A) The proceeds from the sale of all bonds issued under this section.

"(B) The amount of any matching contributions with respect to such bonds.

"(C) The investment earnings on proceeds from the sale of such bonds.

"(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

"(2) USE OF FUNDS.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Transportation Finance Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

"(3) USE OF REMAINING FUNDS IN BUILD AMERICA TRUST ACCOUNT.—Upon the redemption of all Build America bonds issued under this section, any remaining amounts in the Build America Trust Account shall be available to the Transportation Finance Corporation to pay the costs of any qualified project.

"(4) COSTS OF QUALIFIED PROJECTS.—For purposes of this section, the costs of qualified projects which may be funded by amounts in the Build America Trust Account may only relate to capital investments in depreciable assets and may not include any costs relating to operations, maintenance, or rolling stock.

"(5) APPLICABILITY OF FEDERAL LAW. The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

"(A) funds made available under the Build America Trust Account for similar qualified projects, including contributions required under subsection (k), and

"(B) similar qualified projects assisted by the Transportation Finance Corporation through the use of such funds.

"(6) INVESTMENT.—It shall be the duty of the Transportation Finance Corporation to invest in investment grade obligations such portion of the Build America Trust Account as is not, in the judgment of the Board of Directors of the Transportation Finance Corporation, required to meet current withdrawals. Such investments may be made in State and local transportation bonds.

"(k) STATE CONTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to any qualified project if the Transportation Finance Corporation has received from 1 or more States, not later than the date of issuance of the bond, written commitments for matching contributions of not less than 20 percent of the cost of the qualified project.

"(2) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

"(l) Utilization of Updated Construction Technology for Qualified Projects.—For purposes of subsection (e)(4), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

"(m) Other Definitions and Special Rules.—For purposes of this section—

"(1) Administrative costs.—The term 'administrative costs' shall only include costs of issuance of Build America bonds and operation costs of the Transportation Corporation.

"(2) Bond.—The term 'bond' includes any obligation.

"(3) Net spendable proceeds.—The term 'net spendable proceeds' means the proceeds from the sale of any Build America bond issued under this section reduced by not more than 5 percent of such proceeds for administrative costs.

"(4) State.—The term 'State' shall have the meaning given such term by section 101 of title 23, United States Code.

"(5) Treatment of changes in use.—For purposes of subsection (e)(1)(A), the net spendable proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Transportation Finance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions which may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

"(6) Partnership; S corporation; and other pass-thru entities.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(7) Bonds held by regulated investment companies.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(8) Credits may be stripped.—Under regulations prescribed by the Secretary—

"(A) In general.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(B) Certain rules to apply.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(9) Credits may be transferred.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

"(10) Reporting.—The Transportation Finance Corporation shall submit reports similar to the reports required under section 149(e).

"(11) Prohibition on Use of Highway Trust Fund.—Notwithstanding any other provision of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with the Build America bonds issued under this section.".

(b) Amendments to Other Code Sections.—

(1) Reporting.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) Reporting of credit on Build America bonds.—

"(A) In general.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) Reporting to corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) Regulatory authority.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) Treatment for estimated tax purposes.—

(A) Individual.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Special Rule for Holders of Build America Bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(B) Corporate.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

"(5) Special rule for holders of Build America bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(c) Clerical Amendments.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Subpart H. Nonrefundable Credit for Holders of Build America Bonds.".

(2) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

(d) Effective Date.—The amendments made by this section shall apply to obligations issued after the day after the date of the enactment of this Act.

SEC. 5674. TRANSPORTATION FINANCE CORPORATION.

(a) Establishment and Status.—There is established a body corporate to be known as the "Transportation Finance Corporation" (hereafter in this section referred to as the "Corporation"). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

(b) Principal Office; Application of Laws.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

(c) Functions of Corporation.—The Corporation shall—

(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code,

(3) act as a centralized entity to provide financing for qualified projects,

(4) leverage resources and stimulate public and private investment in transportation infrastructure,

(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds, and

(7) not later than February 15 of each year submit a report to Congress—

(A) describing the activities of the Corporation for the preceding year, and

(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to such section 54.

(d) Powers of Corporation.—The Corporation—

(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

(2) may adopt, alter, and use a seal, which shall be judicially noticed,

(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

(9) shall have such other powers as may be necessary and incident to carrying out this Act.

(e) Nonprofit Entity; Restriction on Use of Moneys; Conflict of Interests; Audits.—

(1) Nonprofit entity.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

(2) Restriction.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such

revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) AUDITS.—

(A) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(i) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants that are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) REPORTING REQUIREMENTS.—The report of each annual audit described in clause (i) shall be included in the annual report required by subsection (c)(8).

(B) RECORD KEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance,

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance,

(II) the total cost of the project or undertaking in connection with which such assistance is given or used, and the extent to which such costs are for a qualified project, and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and

(iii) such other records as will facilitate an effective audit.

(C) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance.

(f) EXEMPTION FROM TAXES.—

(1) IN GENERAL.—The Corporation, including its franchise, capital, reserves, surplus, sinking funds, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) FINANCIAL OBLIGATIONS.—Build America bonds or other obligations issued by the Corporation and the interest on or tax credits with respect to its bonds or other obligations shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(g) ASSISTANCE FOR TRANSPORTATION PURPOSES.—

(1) IN GENERAL.—In order to carry out the corporate functions described in subsection (c), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in this subsection, the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate functions described in subsection (c), and

(B) to review the activities of State transportation agencies and other entities receiving assistance from the Corporation to assure that the corporate functions described in subsection (c) are carried out.

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as a department, agency, or instrumentality of the United States Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the United States Government.

(h) MANAGEMENT OF CORPORATION.—

(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 15 members appointed by the President, by and with the advice and consent of the Senate.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) INDIVIDUALS FROM PRIVATE LIFE.—Eleven members of the Board shall be appointed from private life.

(D) FEDERAL OFFICERS AND EMPLOYEES.—Four members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 8 members of the Board are members of any 1 political party.

(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 5 shall be appointed for terms of 1 year and 5 shall be appointed for terms of 2 years.

(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

SA 2554. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

"(a) STUDY.—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure."

SA 2555. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

"(a) NOTIFICATION PROCEDURES.—

(1) REGULATIONS.—The Secretary of Transportation shall prescribe regulations setting forth procedures for a railroad to immediately notify first responders in communities that lie in the path of a runaway train.

(2) TIME FOR ISSUANCE OF REGULATIONS. The Secretary shall issue the final regulations under this section not later than 120 days after the date of enactment of this Act.

(3) DEFINITIONS.— In this section, the term 'runaway train' means a locomotive, train, rail car, or other item of railroad equipment that, at a particular moment in time, is rolling on tracks outside the operations limits of a railroad and is not under the control of the railroad.

(b) RESPONSE PROCEDURES.—Not later than 60 days after the Secretary prescribes the regulations under subsection (a), each railroad shall submit to the Department of Transportation for the Secretary's approval the procedures proposed by the railroad for providing the notice described in such subsection.

(c) REPORTING OF INCIDENTS REQUIRED.—The Secretary shall require railroads to report-to the Department of Transportation each incident of a runaway train."

SA 2556. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2302 submitted by Mr. Bayh (for himself, Mr. Durbin, Mr. Lugar, Mr. Kohl, and Mr. Fitzgerald) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 55, strike line 25 and all that follows through page 57, line 23, and insert the following:

"(c) Special Rules.—

"(1) Minimum combined allocation.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the sum of—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

"(B) the sum of—

"(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

"(ii) an amount which is equivalent to—

"(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

"(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

"(2) Percentages.—The percentages referred to in paragraph (1)(B)(i) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent;

"(E) for fiscal year 2008, 145 percent; and

"(F) for fiscal year 2009, 250 percent.".

"(3) No negative adjustment.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(4) Minimum share of tax payments.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(d) Limitation on Adjustments.—

"(1) In general.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

"(B) the sum of—

"(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

"(ii) an amount which is equivalent to—

"(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

"(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

"(2) Percentages.—The percentages referred to in paragraph (1)(B)(i) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent;

"(E) for fiscal year 2008, 145 percent; and

"(F) for fiscal year 2009, 250 percent.".

SA 2557. Ms. STABENOW (for herself and Mr. Levin) submitted an amendment intended to be proposed to amendment SA 2441 submitted by Ms. Stabenow (for herself and Mr. Levin) and intended to be proposed to the amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

"(B)(i) $101,800,000 of the amounts made available under section 5338(b)(4) shall be allocated for the Bus Transit Equity Subaccount established under paragraph (7); and

"(ii) the remaining amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) Fixed guideway modernization.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) Preliminary engineering.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) Funding for ferry boats.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) Bus and bus facility grants.—

"(A) Considerations.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) Projects not in urbanized areas.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) Intermodal terminals.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

"(7) Bus transit equity subaccount.—

"(A) Establishment.—There is established a Bus Transit Equity Subaccount within the Mass Transit Account of the Highway Trust Fund.

"(B) Eligibility.—Any of the 50 States shall be eligible for funding under the Bus Transit Equity Subaccount if the State—

"(i) is otherwise scheduled to receive under sections 5303, 5307, 5309, 5310, 5311, 5313(b), 5336, and 5340 for fiscal years 2004 through 2009, an amount that is less than 175 percent of the amount the State received under sections 5303, 5307, 5309, 5310, 5311, 5313(b), and 5336 for fiscal years 1998 through 2003; and

"(ii) received less than 1.25 percent of the total amount allocated to the 50 States in fiscal year 2002 for fixed guideways modernization and new starts.

"(C) Allocation.—Each eligible State under subparagraph (B) shall be allocated from the Bus Transit Equity Subaccount, for each of the fiscal years 2005 through 2009, an amount that is equal to 20 percent of the difference between the amount the State is otherwise scheduled to receive under sections 5303, 5307, 5309, 5310, 5311, 5313(b), 5336, and 5340 for fiscal years 2004 through 2009, and the amount which is equal to 175 percent of the amount the State received under sections 5303, 5307, 5309, 5310, 5311, 5313(b), and 5336 for fiscal years 1998 through 2003.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 11, 2004, at 9:30 a.m. on Protecting Children From Violent and Indecent Programming.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, February 11 at 10:00 a.m. to consider pending calendar business.

Agenda Item 2: S. 213—A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes with an amendment.

Agenda Item 3: S. 524—A bill to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes.

Agenda Item 5: S. 943—A bill to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming with an amendment.

Agenda Item 6: S. 960—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act and the

Hawaii Water Resources Act of 2000 with an amendment.

Agenda Item 9: S. 1107—A bill to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes.

Agenda Item 13: S. 1516—Salt Cedar Control Demonstration Act with an amendment in the nature of a substitute.

Agenda Item 14: S. 1576—A bill to revise the boundary of Harper's Ferry National Historical Park, and for other purposes.

Agenda Item 15: S. 1577—A bill to extend the deadline for commencement of construction of hydroelectric project in the State of Wyoming.

Agenda Item 16: S. 1582—A bill to amend the Valles Preservation Act to improve the preservation of the Valles Caldera, and for other purposes with an amendment.

Agenda Item 17: S. 1848—A bill to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon with an amendment.

Agenda Item 18: H.R. 408—To provide for expansion of Sleeping Bear Dunes National Lakeshore.

Agenda Item 19: H.R. 417—To revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California with report language.

Agenda Item 20: H.R. 620—To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park with an amendment.

Agenda Item 21: H.R. 708—To require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

Agenda Item 23: H.R. 856—To authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

Agenda Item 26: H.R. 1598—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

Agenda Item 27: S. 1167—A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 11, 2004 at 10 a.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, February 11, 2004 at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the President's Fiscal Year 2005 Budget Request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, February 11, 2004 at 2 p.m. on "Judicial Nominations," in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Diane S. Sykes, to the Circuit Court of Appeals for the Seventh Circuit; James L. Robart, to the U.S. District Court for the Western District of Washington; Juan R. Sanchez, to the U.S. District Court for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet to conduct a hearing on "Cable Competition—Increasing Price; Increasing Value?" on Wednesday, February 11, 2004, at 10:30 a.m., in Room 226 of the Dirksen Senate Office Building.

Mr. Michael Willner, Vice-Chairman, President and CEO, Insight Communications Company, Inc.;

Mr. Rodger Johnson, CEO, Knology;

Mr. Robert Sachs, President and CEO, National Cable and Telecommunications Association;

Ms. Coralie Wilson, President, National Association of Telecommunications Officers and Advisors;

Mr. Scott Cleland, CEO, Precursor; and

Dr. Mark Cooper, Director of Research, Consumer Federation of America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. TALENT. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the Session of the Senate on Wednesday, February 11, 2004, at 1:00 p.m. to conduct a hearing on "Economic and Financial Reconstruction in Iraq."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Madam President, I ask unanimous consent that William Boyd, a fellow on the Environment and Public Works Committee, be granted floor privileges during the pendency of the matter which is now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Adam Rosenberg, who is an AAAS fellow on the Committee on Energy and Natural Resources, during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—S. 2061 AND S. 2062

Mr. FRIST. Mr. President, I understand there are two bills at the desk and due for a second reading. I ask unanimous consent that the clerk read the titles of the bills for the second time en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the titles of the bills.

The legislative clerk read as follows:

A bill (S. 2061) to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

A bill (S. 2062) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

Mr. FRIST. Mr. President, I object to further proceeding en bloc.

The PRESIDING OFFICER. Under the rules, the bills will be placed on the calendar.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to 10 U.S.C. 9355(a)(2), appoints the Senator from Arkansas, Mr. PRYOR, from the Armed Services Committee, to the Board of Visitors of the U.S. Air Force Academy.

The Chair, on behalf of the President pro tempore, pursuant to 10 U.S.C. 6968(a)(2), appoints the Senator from Maryland, Mr. SARBANES, from the Armed Services Committee, to the Board of Visitors of the U.S. Naval Academy.

ORDERS FOR THURSDAY, FEBRUARY 12, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 8:30 a.m., Thursday, February 12. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill, provided that the time until 9 a.m. be equally divided between the chairman and ranking member of the Environment and Public Works Committee or their designees.

I further ask consent that the mandatory quorum be waived for both cloture motions and the cloture vote on the substitute amendment occur at 9 a.m.; provided, further, that Senators have until 9 a.m. tomorrow to file second-degree amendments to the highway bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of S. 1072, the highway bill. The vote on the motion to invoke cloture on the pending substitute to the highway bill will occur at 9 a.m. It is my hope that if cloture is invoked, we will be able to dispose of any additional germane amendments in a timely manner, thereby clearing the way to wrap up consideration of the substitute. Once the substitute amendment is disposed of, we still may require a cloture vote on the bill itself. Again, it is my hope that we will be able to speed the process along and be in a position to complete action on the bill tomorrow. It is my intention, however, to remain in session until we pass this bill.

Senators should expect rollcall votes throughout the day tomorrow, with the first vote occurring at approximately 9 a.m. In addition, I remind all Senators that all second-degree amendments must be filed at the desk no later than 9 a.m. tomorrow.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I know the hour is late. I want to acknowledge how difficult this has been for the majority leader. This has been extremely difficult. I know there is pressure from a lot of different sources to do things differently than we have done this week.

I say to the majority leader, whom I compliment for standing firm on what he believes to be the proper role of the Senate on this matter, everyone will have their day. When we complete this legislation—I believe we will be able to do it tomorrow—the House will do theirs and there will be some process to meld together the legislation from the two bodies. Then, of course, there will be input from the administration. At this stage we don't have to be concerned about vetoes. We are a long way from that.

I want the RECORD to reflect my personal appreciation for the courage of the majority leader during this most difficult 2 weeks.

Mr. FRIST. I thank the assistant Democratic leader. It has been a challenge for both sides the last 2 weeks as we have been on this bill. Again, we gave the time for discussion and debate, and we had regular order throughout using the Senate rules. With that, we will be able to complete our goal of giving very careful consideration to this bill. At the end of this 2-week period, during which people have had plenty of time, plenty of opportunity to understand what is in this very important bill, they will have the opportunity to vote. They will have that opportunity tomorrow.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Thursday, February 12, 2004, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 11, 2004:

POSTAL RATE COMMISSION

DAWN A. TISDALE, OF TEXAS, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING NOVEMBER 22, 2006, VICE WILLIAM H. LEBLANC III, TERM EXPIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CATHY M. MACFARLANE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE DIANE LENEGHAN TOMB, RESIGNED.

DENNIS C. SHEA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ALBERTO FAUSTINO TREVINO, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

SUSAN J. BLOOD, 6238
GREGORY P. TOBER, 5043

To be lieutenant

HEATHER L. MORRISON, 0099

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

VIRGINIA A. SCHNEIDER, 3694

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

PERRY L. AMERINE, 4944
JAMES R. PATTERSON, 8033

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

STEWART J. HAZEL, 9627
JILL L. HENDRA, 0212
CHRISTOPHER J. KNAPP, 2907
CLEE E. LLOYD, 3919
WILLIAM W. POND, 4361

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

WILLIAM E. ENRIGHT JR., 1490
JOSEPH P. MOAN, 9048
VICTORIA A. REARDON, 7749
CASSIE A. STROM, 6069
MICHAEL F. VANHOOMISSEN, 4003

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

COLLEN B. HOUGH, 5586

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

NORMA L. ALLGOOD, 0377
DAVID E. ANISMAN, 9496
GARY I. ARISHITA, 9216
STEVEN L. BARNES, 9916
SVEN T. BERG, 8361
MARTIN D. BOMALASKI, 3780
DEAN A. * BRICKER, 7741
ELIZABETH P. CLARK, 3785
RICHARD A. CLARK, 3903
ROBERT B. CONNOR, 1330
STEVEN C. DECOUD, 5488
VICTOR A. FOLARIN, 8005
MICHAEL C. * GORDON, 2670
THOMAS C. * GRAU, 8562
DAVID E. HOLCK, 3169
KENNETH K. KNIGHT, 4940
CHRISTOPHER LEWANDOWSKI, 8322
THOMAS D. FADELL LUNA, 6346
ROBERT E. MANAKER, 3056
KURT D. MCCARTNEY, 0151
LYNN S. MCCURDY, 8837
ROBERT S. MICHAELSON, 2028
PATRICK P. MILES, 2993
RICHARD J. MONTMINY, 7540
DAVID M. OBRIEN, 4897
LORETTA M. OBRIEN, 5374
HERNANDO J. * ORTEGA JR., 7545
JOSEPH V. * PACE, 9564
AUGUST C. PASQUALE III, 8403
TIMOTHY LEE PENDERGRASS, 7132
CHRISTOPHER SARTORI, 6349
JEFFREY A. * SCHIEVENIN, 4326
THOMAS M. SEAY, 8606
TIMOTHY W. SOWIN, 1199
WAYNE K. SUMPTER, 7770
CRESCENCIO TORRES, 8930
MATTHEW P. * WICKLUND, 2152

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

RICHARD C. BATZER, 0340
TIMOTHY L. BRAY, 6662
WILLIAM R. BUHLER, 8085
PAUL N. CARDON, 2170
MICHAEL J. * CONLAN, 1431
MULLEN O. COOVER JR., 2571
DAVID P. DEWITT, 2508
WILLIAM E. DINSE, 2587
WILLIAM J. DUNN, 1159
BRYAN D. DYE, 5160
BLAKE J. EDINGER, 3843
DIANE J. FLINT, 7087
ROBERT F. GAMBLE, 9739
RIDGE M. GILLEY, 1736
LYNN C. HARRIS, 3561
CHARLES A. HUGGINS, 1224
RAY S. JETER, 0433
MICHAEL P. KLEPCZYK, 3196
MICHAEL A. KOCH, 9171
THOMAS S. MARSHALL, 8529
ALAN J. MORITZ, 8538

LARRY P. PARWORTH, 8789
JAMES L. PAUKERT, 5236
DOUGLAS L. RISK, 2647
JANET Y. ROBINSON, 8627
PAUL M. ROGERS, 5797
RIDLEY O. ROSS, 5003
KENT A. SABEY, 2142
PHILLIP R. SANDEFUR, 5262
JEFFREY A. STAPLES, 8524
DANIEL S. * STRECK, 6747
DALE C. THAMES JR., 0914
RICHARD I. VANCE, 9699

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

JOHN A. ALEXANDER, 7976
WILLIE ALLEN, 5262
WILLIAM E. ANDERSON JR., 6264
BRUCE D. BABCOCK, 6881
STEVEN T. BECK, 4391
DENNIS R. BLACK, 6439
MICHAEL L. BRICKNER II, 2139
JORGE R. CANTRES, 1126
CHRISTOPHER J. COCHRAN, 2661
STEVEN A. CRAY, 0543
JAMES L. CRUMPTON, 2074
RICHARD J. DENNEE, 4530
WILLIAM K. DUCKETT, 1990
DONALD P. DUNBAR, 6965
LOUIS M. DURKAC, 3611
TRULAN A. EYRE, 5649
MARK K. FOREMAN, 2944
GREGORY C. GRAF, 4016
BILLY T. GRAHAM JR., 4568
JOSEPH P. GRIFFIN, 4735
FLOYD H. HARBIN, 0554
JOSEPH G. HIGGINS, 7974
MICHAEL T. HINMAN, 4202
MARK W. HUGHES, 3871
BENJAMIN F. JABLECKI JR., 1345
JOSEPH A. JETT, 7804
MICHAEL L. KING, 4343
WILLIAM M. KREIGHBAUM, 6785
ENRIQUE LAMOUTTE, 8896
PATRICK L. MARTIN, 9994
JOHN E. MCCOY, 1971
CHARLES R. MELTON, 0901
BRIAN G. NEAL, 3939
PETER NEZAMIS, 5656
TIMOTHY R. OBRIEN, 5637
GRADY L. PATTERSON III, 1791
CHRISTOPHER A. POPE, 7786
RICHARD G. POPPELL, 4313
CARLOS A. QUINONESNIEVES, 3865
PHILIP D. QUINTENZ, 3285
WILLIAM N. REDDEL III, 9147
JOHN J. SAMUHEL, 6794
SIDNEY M. SCARBOROUGH, 6219
HENRY P. SERMONS JR., 2717
WAYNE M. SHANKS, 9148
ROY J. SHETKA, 8674
JOANNA O. SHUMAKER, 0535
ELIZABETH A. STANLEY, 6806
WILLIAM E. STANTON, 1451
ELSON E. STAUGAARD JR., 5015
FRANK J. SULLIVAN, 0823
DAVID A. TORRES, 1701
STEVEN J. VERHELST, 6061
FRANCIS J. WALKER, 9456
MICHAEL E. WELSH, 7024
JOHN A. WISNIEWSKI JR., 9061

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

TODD B. * ABEL, 1953
BRADLEY S. ABELS, 0359
LAURA K. ABTS, 3197
PAUL J. AFFLECK, 5557
SAKET K. AMBASHT, 5183
KATHLEEN C. AMYOT, 8320
JEFFREY A. * BAILEY, 3590
ALBERT H. * BONNEMA, 1720
MICHELE L. BRENNERVINCENT, 1814
JOHN R. * BRENT, 9585
MARK J. * BROOKS, 7851
MARY T. * BRUEGGEMEYER, 1826
MICHAEL G. BRYAN, 2435
LOUISE M. BRYCE, 9236
JOHN R. BURROUGHS, 7976
BRET D. * BURTON, 1330
EDITH D. * CANBYHAGINO, 6611
CREG A. * CARPENTER, 8672
THOMAS N. * CHEATHAM, 7814
NICOLA A. * CHOATE, 4102
BRANDON D. * CLINT, 0232
CHARLES D. * CLINTON, 4439
MARK R. * COAKWELL, 7099
LUBOV M. COVERDELL, 7330
MARCUS M. * CRANSTON, 5443
RANDOLPH K. * CRIBBS, 6463
BRIAN K. CROWNOVER, 8023
JEANINE M. CZECH, 3570
DEVIN L. * DONNELLY, 4233
PAUL D. * DOUGHTEN, 8066
COLLEEN M. DUGAN, 2014
JAMES R. * ELLIOTT, 0647
HARRY L. ERVIN JR., 1283
RENEE D. ESPINOSA, 3311
SUSAN C. FARRISH, 7278
MERLIN B. FAUSETT, 4919
CAROL M. * FERRUA, 0765
ERIC W. FESTER, 3084
WILLIAM F. * FOODY JR., 5078
KRISTEN A. FULTSGANEY, 7261
JOEL E. * GOLDBERG, 8202
PHILIP L. * GOULD, 5642
STEPHEN U. * HANLON, 3073
ALEXANDER V. HERNANDEZ III, 9878
KAREN A. HEUPEL, 8550
TERRY G. * HOEHNE, 2133
ROBERT G. * HOLCOMB, 1510
CAROL J. * IDDINS, 2485
JAMES L. JABLONSKI II, 6186
KERRY G. JEPSEN, 1489
WILMER T. * JONES III, 5166
JAMES A. * KEENEY, 0994
DEREK A. * KNIGHT, 1029
KRISTOPHER E. KORDANA, 5118
TIMOTHY J. KOSMATKA, 4665
MICHAEL R. KOTELES, 1381
ROBYN A. LAKAMSANI, 9314
RICHARD G. * LANE II, 4877
PHILIP D. LANHAM, 1822
KARL M. LARSEN, 6946
RAYMOND J. LEGENZA, 9485
GEORGE W. * LEON, 5015
ERIC J. * LETONOFF, 0630
TERRY J. * LEWIS, 4759
DOUGLAS W. * LITTLE, 4956
JOHN P. * LYNCH, 6548
DEBRA L. * MALONE, 7637
AMY LYNN * MARLOW, 1926
DANIEL S. * MARTINEAU, 9585
RANDY O. * MAUFFRAY, 5182
RANDALL R. MCCAFFERTY, 4797
KENT D. MCDONALD, 5819
KIRK A. * MILHOAN, 7304
CHANDRA M. * MILLER, 9277
WILLIAM F. * MOORE, 1258
PAUL H. NELSON, 8465
MARRINER V. * OLDHAM, 5350
DONELL BAIRD * OLIVER, 0707
TODD A. * PARRISH, 0500
MICHAEL J. * PASTON, 1096
TIMOTHY R. * PAULDING, 5845
KAREN M. PETERSON, 4940
ELLIOT * PINERO, 3599
TODD W. * POINDEXTER, 1783
MICHELE A. PREVOST, 3829
ROBERT PRIETO, 3771
ALEJANDRO PRUITT, 3905
TODD E. * RASMUSSEN, 6045
ROCKY R. RESTON, 0902
JOANN Y. * RICHARDSON, 2709
ROBBY C. RIDDLE, 4892
EDGAR * RODRIGUEZ, 9882
WALTER C. * RUSTMANN, 0847
DONALD M. * SANDERCOCK, 5836
KEVIN L. * SCHEU, 9974
LOWELL G. * SENSINTAFFAR, 8610
WADE J. * SEXTON, 4990
GRETCHEN S. * SHAAR, 1168
STACY A. * SHACKELFORD, 6614
MICHAEL D. * SIMMONS, 5178
JOSEPH P. * SIMON, 0382
TERESA M. SKOJAC, 8115
BRENT D. STEPHENSON, 8594
BRIAN L. * STRAUSS, 6896
MAUREEN J. SWEZEY, 1105
MICHAEL S. * TANKERSLEY, 2202
GRANT P. TIBBETTS, 8125
GEORGE F. TORRES, 8724
GARY N. * TOUPS, 4553
DEREK K. * URBAN, 0120
ERIC J. * VANDEGRAAFF, 2482
SCOTT A. * VANDEHOEF, 0815
RICHARD N. * VANLEEUWEN, 7780
DANNY X. * VU, 6355
BRYAN M. * VYVERBERG, 8021
LESLIE A. * WILSON, 5891
JON B. WOODS, 9966
RICHARD A. * YOKELL, 3521
GIANNA R. ZEH, 5704

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

DOUGLAS P. * BETHONEY, 9044
KEVIN C. * BOYLE, 8657
SEAN W. * DIGMAN, 3558
LARRY J. * EVANS, 9771
LORI L. * EVERETT, 6505
TOMMY D. * FISHER, 1602
MICHAEL E. * FULTON, 8897
KIMBERLY M. * GILL, 6019
JAMES B. * GRAHAM, 1732
MARK R. HENDERSON, 1193
TODD A. * LINCOLN, 2934
DAVID W. * NUNEZ, 9278
JACOB E. * PALMA, 3310
HYEKYUNG HELENA PAE * PARK, 8856
PHILLIP C. * PORTERA, 3416
ROGER E. * PRADELLI, 2538
DOUGLAS E. * THOMAS, 8737

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ADAM M. ANDERSON, 7961
BRETT C. ANDERSON, 9390
PAULA E. ANDERSON, 9267
BRETT M. ANDRES, 0522
ROBERT S. ANDREWS, 7286
MARIA M. ANGLES, 7533
WILLIAM A. ANKNEY, 4801
SHERYL L. ANTHOS, 1493
DANIEL W. ARNOLD, 9695
JORGE ARZOLA, 5053
DIANE M. ASLANIS, 9740
KARYN J. AYERS, 1479
KAREN M. AYOTTE, 1600
CARL W. BAKER II, 4588
SHAROLYN H. BALDWIN, 3806
ELLEN W. BALLERENE, 3185
KIMBERLY M. BALOGH, 6522
MICHAEL A. BARNETT, 6735
SAMUEL B. BARONE, 0300
JEFFREY W. BARR, 7643
JOSE E. BARRERA, 7972
CHRISTOPHER J. BASSETT, 0057
KRISTEN BAUER, 6356
CHAD C. BAUERLY, 0899
ETHAN A. BEAN, 8318
PETRAN J. BEARD, 3458
JEFFREY N. BEEN, 4281
AMY L. BELISLE, 2153
RICHARD W. BENTLEY, 7369
DONALD J. BERNARDINI, 8643
JOHN N. BERRY, 8343
HEIDI C. BERTRAM, 1051
JEFFREY J. BIDINGER, 2213
SCOTT R. BISHOP, 4075
JEFFREY F. BLEAKLEY, 3462
JAMES A. BLEDSOE, 4159
JESSICA J. BLOOM, 7266
ERIK A. BOATMAN, 4490
JAMES V. BODRIE JR., 2434
KEVIN J. BOHNSACK, 9296
DOUGLAS E. BOLER, 9209
WILLIAM S. BOLLING, 0641
DENNIS F. BOND II, 2449
CRAIG D. BOREMAN, 8967
STACEY L. BRANCH, 1074
BRETT D. BRIMHALL, 8162
WILLIAM R. BRODERICK, 0971
JODY L. BROWN, 6508
STEVEN S. BRUMFIELD, 6351
ERIC C. BRUNO, 7842
CHARLES L. BRYANT, 6167
JOHN T. BRYANT, 7517
CRAIG M. BURNWORTH, 0074
RAELYN M. CALENDINE, 7603
FERDINAND O. CALINAWAN, 9649
COLLEEN L. CALLAGHAN, 9344
ROBERT S. CALLAHAN, 7908
SCOT E. CAMPBELL, 4337
FRANCIS R. CARANDANG, 9530
GABRIELLA CARDOZAFAVARATO, 0589
JOSHUA P. CAREY, 0390
DAWN E. CARLSON, 1760
NATHAN D. CARLSON, 1072
DAVID H. CARNAHAN, 4973
MARK P. CARROLL JR., 7275
BRETT J. CASSIDY, 4143
DANIEL A. CHARLICK, 2186
RICHARD PAUL CHERN, 1789
BRYCHAN K. CLARK, 0718
DANIEL E. COLE, 1339
LEE M. COLEMAN, 7177
SEAN M. CONLEY, 0189
BARBARA A. COOPER, 7276
MERRILEE I. COX, 6711
LOUIS M. DAVIGNON, 3937
ERIC M. DEDEKE, 5628
CATHERINE J. B. DERBER, 2115
DONALD G. DETMERING, 4248
SCOTT V. DICKSON, 9374
KURT F. DITTRICH, 9400
MICHAEL R. DOBBS, 4668
GEORGE M. DOCKENDORF, 7596
AMANDA M. DRAPER, 1415
RORY C. DUNHAM, 9245
STEPHEN J. DURANT, 5347
BRYAN T. EDWARDS, 5256
MEREDITH GILSON ELGUESSAB, 4754
JEFFREY J. EMERY, 9744
QUENBY L. ERICKSON, 9823
BETH I. ESTERBROOK, 9600
MICHAEL E. FELDMAN, 6674
CHRISTOPHER F. FENNELL, 9720
ANN S. FENTON, 9904
ANDREW T. FIGURA, 0671
MICHAEL B. FISCHER, 5393
ANDREA D. FISK, 1957
COLLEEN FITZPATRICK WEISBROD, 3832
SHAWN A. FLANAGAN, 3698
WADE E. FLETCHER, 0719
WILLIAM P. FLINN, 9460
GERALD R. FORTUNA JR., 9101
SARAH O. FORTUNA, 9409
CURTIS M. FOY, 3822

CHRISTINA V. FRASER, 9921
JOHN F. FREILER, 3611
MICHAEL A. FREIMAN, 1391
DOUGLAS S. FRENIA, 8539
RODNEY A. FRIEND, 9771
JANETTE M. FROEHLICH, 3941
MARY CATHERINE GABRIEL, 7690
JOSHUA S. GADY, 2113
KELLY D. GAGE, 4435
JOSEPH P. GALLAGHER, 4974
ROBERT W. GARNER, 4492
ROBERT J. GARR, 5115
MICHAEL S. GARRETT, 2807
LAURA E. GIVENSMOYER, 0695
JAMIE D. GLOVER, 7920
BRADLEY J. GOEKE, 1664
VERONICA M. GONZALEZ, 0674
THERESA B. GOODMAN, 0643
DAVID D. GOVER, 6522
ANDRE D. GRAHAM, 7100
KIMBERLY A. GRANDINETTI, 0341
NOAH H. GREENE, 9063
CARRIE ASHBY GREGORY, 8695
BASIL M. GRIFFIN III, 7058
RICHARD C. GRIGGS, 6521
LOUIS Q. GUILLERMO, 4402
WILLIAM E. GUNN, 1605
ANN K. GWINNUP, 3510
MICHAEL J. HAFRAN, 6269
CAROL A. HALL, 2858
ERIC S. HALSEY, 2402
DERRICK A. HAMAOKA, 0586
HOPE S. HAMMETT, 1734
MATTHEW P. HANSON, 7212
CRAIG K. HARMS, 9362
PHILIP A. HARRIS, 6652
MICHAEL A. HASLER, 9731
KARIN N. HAWKINS, 4576
MEGHAN E. HAYES, 8323
JOHN R. HENNER, 3684
EMILY M. HENNING, 2703
JOHN E. HENRIKSEN, 6204
HEATHER R. HERBOLSHEIMER, 3052
ERIC J. HICK, 5002
JAMES M. HITCHCOCK, 4426
CRYSTAL L. HNATKO, 4434
JEANNE M. HOLLAND, 1303
JENNIFER E. HORN, 8624
PAULA R. HUBERT, 0087
KYLE B. HUDSON, 5088
TODD P. HUHN, 9090
KEANE K. Y. HUNG, 4140
SCOTT M. JENSEN, 7559
CHARLES D. JOHNSON, 7357
JAMES E. JOHNSON, 1860
KEVIN W. JOHNSON, 9725
DAVID S. JONES, 2692
HEATHER D. JONES, 2738
HEATHER M. JONES, 7095
LOREN M. JONES, 7264
ROGER E. JONES, 6698
PETER J. KAH, 7507
JOHN P. KALISZAK, 3824
TODD R. KELLEY, 3436
THOMAS E. KIBELSTIS, 3083
JEREMY A. KING, 0815
ROBERT M. KIRCHNER, 6595
MICHELLE L. KNIERIM, 9201
SANDRA J. KNUDSEN, 8531
GRETCHEN L. KOHLER, 2103
JANA S. KOKKONEN, 9588
JAMES B. KOPP, 9148
HENRY KORZENIOWSKI JR., 5684
GREGORY D. KOSTUR, 3309
KATHLEEN S. KREJCI, 2175
GEORGE BRADLEY D. KUEHN, 9120
ELLA B. KUNDU, 5027
NIRVANA KUNDU, 1902
JONATHON V. LAMMERS, 6221
SUSAN C. LAN, 6430
MICHAEL L. LANDRUM, 7783
ANDREW G. LAPADAT, 8390
APRIL L. LARKIN, 6689
THOMAS J. LAUDICO, 5569
JARRETT B. LEA, 5866
ALEX J. LEE, 7417
CHRISTINE Y. LEE, 8293
FRANK C. LEE, 8869
KENYA D. LEE, 5404
MARVIN LEE II, 5634
JAMES D. LEIBER, 5744
BRIAN E. LEININGER, 3259
JEFFREY D. LEWIS, 4549
RYAN L. LEWIS, 9012
PETER A. LIEHR, 3099
DOUGLAS LIM, 1654
PETER J. LODICO, 1030
JONATHAN C. LOHRBACH, 9393
MANUEL A. LOPEZ, 5499
BRIAN W. LOVERIDGE, 5642
KEEGAN M. LYONS, 1830
KIRIN L. MADDEN, 9507
MICHAEL A. MADRID, 4153
MEGAN E. MAHAFFEY, 1580
CHARLES G. MAHAKIAN, 6412
DAVID MALDONADO III, 5649
PATRICK MALLORY, 7765
GREGORY J. MALONE, 5853
KJERSTI A. MARIUS, 5574
PHILLIP E. MASON, 5884
RUSSELL E. MASSINE, 2727
DEREK A. MATHIS, 8540
ERICH C. MAUL, 8107
EDWARD L. MAZUCHOWSKI II, 9425
BRETT A. MCFADDEN, 7243
SOPHIA MCFADDEN, 4811
HOWARD J. MCGOWAN, 9743
MIA M. MCGREGOR, 5478
DAWN P. MCNAUGHTON, 6754
ALEKSANDR G. MELIKOV, 3868
CHRISTOPHER M. MEYER, 0154
EDWARD J. MEYERS, 7207
MICHAEL D. MICHENER, 4016
QUINTESSA MILLER, 0673
DOUGLAS D. MIN, 4756
ANTHONY L. MITCHELL, 0585
PAUL R. MONCLA, 6875
BRIAN A. MOORE, 6329
PAUL M. MORTON, 6560
CHER D. MOSEMAN, 2225
EVAN B. MOSER, 9119
DANIEL H. MURRAY, 1889
HAFEZ A. NASR, 4051
RICHARD E. NEUBERT, 9579
VISETH NGAUY, 8219
BRETT R. NISHIKAWA, 7840
ANTHONY B. OCHOA, 9672
BRIAN P. ODONNELL, 8923
DAVID D. ORTIZ, 6799
SARAH M. PAGE, 8064
BRIAN N. PALEN, 1111
WESLEY D. PALMER, 7111
MICHAEL T. PARKE, 9142
JEFFERY E. PARKER, 7174
AMIT I. PATEL, 8733
GILBERTO PATINO, 8065
JUDITH E. PECK, 2706
ALYSSA C. PERROY, 1933
RACHEL R. PETERSEN, 2196
LAURA J. PETERSON, 1089
JOEL M. PHARES, 0296
GRANT C. PHILLIPS, 1164
TIMOTHY M. PHILLIPS, 3301
BRIAN J. PICKARD, 0922
MICHAEL ALAN PROFFITT, 3584
CHRISTOPHER B. PUDOL, 7191
JAMES C. RACHAL, 6579
GREGORY N. RAMPEY, 3402
CHRISTIAN L. RANK, 4048
KRISTA WARE RANKIN, 4307
TONYA S. RANSNIGRO, 2670
DAVID A. RAPKO, 3181
TRACEE P. RAY, 7123
ALYSON D. READ, 9656
JERALD E. RECTOR, 4586
NATALIE L. RESTIVO, 7303
AMY M. REYNOLDS, 7182
NEAL PATRICK RIDGE, 1881
MARK G. RIEKER, 6966
JENNIFER M. RIZZOLI, 2452
CHARLES K. ROBERTS, 2837
KYLE M. ROCKERS, 3659
JEFFREY L. ROSE, 2109
CHRISTINE N. ROSSBACH, 1919
DONALD P. ROTEN, 5917
DAWN M. RUDD, 3755
GREGORY A. RUFF, 9057
NAYKALA A. RUSE, 6856
AMY M. SAGE, 5625
CHRISTOPHER P. SAMUELS, 4750
CORIE L. SANDALL, 1490
ANDRE G. SARMIENTO, 7302
BENJAMIN G. SARVER, 5378
GEOFFREY T. SASAKI, 1262
STEPHANIE A. SAVAGE, 6562
JENNIFER L. SCAGNELLI, 2271
MICHAEL J. SCHEEL, 0606
JACK D. SCHILLEN, 6814
DANIEL C. SCHUBERT, 0879
VINCENT SCIORTINO, 7572
STEPHEN E. SCRANTON, 6765
KATHRYN L. SELLEN, 0012
B. ADAM SHANES, 6644
DANIEL A. SHOEMAKER, 5447
REBECCA W. SHORT, 6234
JOEL M. SHULKIN, 5679
TERESA A. SIMPSON, 5375
JOHN HWA SLADKY, 1095
GREGORY S. SMITH, 4194
TODD R. SMITH, 2043
CHRISTOPHER R. SPINELLI, 2760
PRIYADARSHINI SRINIVASAN, 4925
GARY C. STARR, 5338
JAMES D. STEED JR., 2190
KEVIN E. STEEL, 3069
PHILLIP J. STEPHAN, 8927
ELIZABETH DOKFA P. STEWART, 3690
TIMOTHY J. SULLIVAN, 6361
JOSE V. SUMAQUIAL, 0082
DEENA E. SUTTER, 7567
LON J. TAFF, 0427
PAUL J. TAN, 9385
DAMON D. TANTON, 2576
TARA L. TAYLOR, 7334
BRIDGET A. THILL, 3101
WARREN W. THIO, 4565
JEFFREY B. THOMAS, 9986
MICHAEL R. THOMAS, 6052
PATRICK J. THOMPSON, 8647
ROBERT A. TIMMONS, 6456
MICHAEL K. TING, 9791
RAMONE A. TOLIVER, 6993
BRIAN J. TOLLEFSON, 3167
EMMANUEL A. TRIGENIS, 2275
COURTNEY T. TRIPP, 7454
ALECHIA M. TROUT, 7802
PAMELA TULI, 2449
RICHARD TYSON, 5615
JOSEPH D. VILLACIS, 7850
DANA T. VIRGO, 4503
KIRSTEN R. VITRIKAS, 7066
ERIK C. VON ROSENVINGE, 7905
KIMBERLY A. VORMBROCK, 5421
DANIEL R. WALKER, 7634
SPENCER D. WALKER, 8556
JAMES E. WALLACE, 1402
RAYMOND J. WALSH, 3160
DAVID T. WANG, 9611
NEIL P. WANG, 6768
RICHARD P. WARD JR., 5115
DARON A. WATTS, 8364
JENNIFER J. WEAVER, 3492
RYAN D. WELLS, 8198
JOHN C. WHEELER, 6384
PATRICK F. WHITNEY, 0972
CHRISTOPHER J. WIBBELSMAN, 2286
CAROLYN A. WILD, 7472
ERIC L. WILLIAMS, 6105
MAUREEN N. WILLIAMS, 4626
LYNN M. WILSON, 2062
BRICE P. WINDSOR, 7500
THOMAS C. WISLER JR., 7273
LEE T. WOLFE, 3441
ROGER A. WOOD, 7739
HENRY A. WOODS JR., 1639
KENNETH A. WOODWARD, 4486
JOSHUA L. WRIGHT, 5277
JOY C. WU, 8838
MANOJ S. WUNNAVA, 8978
CHRISTOPHER K. WYATT, 4823
MATTHEW C. YOUNG, 9462
SHAHID A. ZAIDI, 6284
MICHAEL A. ZANE, 0321
LANA A. ZERRER, 6371
REGGIE ZHAN, 7493
ZOFIA ZHIVANOVICH, 3921
DAVID J. ZOLLINGER, 2740

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARYA J. BARNES, 1600
ERIC R. BAUGH JR., 8271
GEORGE E. BOUGHAN, 7762
DORON BRESLER, 8741
STEPHEN H. CHARTIER, 2218
JILL A. CHERRY, 7087
KEITH L. CLARK, 9375
FREDERICK A. CONNER, 4721
GREGORY A. CONNER, 0890
MICHELLE D. DULLANTY, 8349
SARAH C. EAGER, 5151
JOSE F. EDUARDO, 5562
JONATHAN D. EVANS, 0997
ANDREW R. FENTON, 6706
TEGRAN O. FRAITES, 5150
DANIEL B. GABRIEL, 0061
MICHAEL T. GARDNER, 3175
CECILIA I. GARIN, 7730
SCOTT W. GEORGE, 1968
DAVID E. HALL, 5306
STEPHEN C. HOLMES, 7580
DENNIS M. HOLT, 0378
LANCE J. KIM, 7746
JAMES D. KISER JR., 5468
MIKELLE L. KUEHN, 1953
XAVIER LEOS, 4181
TRENT E. LOISEAU, 5404
ROBERT K. MCGHEE, 2351
ALI R. MIREMAMI, 5765
BARRY F. MORRIS, 2788
JESSE MURILLO, 3282
ANDREW M. NALIN, 5501
JEANLUC G. C. NIEL, 4293
KYLE W. ODOM, 1117
INAAM A. A. PEDALINO, 4607
MICHAEL J. SILVERMAN, 6713
YOUNG K. SUNG, 2886
SARAT THIKKURISSY, 7913
SARAH A. TRUSCINSKI, 6382
WILLIAM K. TUCKER, 1747
GEORGE S. TUNDER JR., 8803
TODD S. WELLER, 4239
KARYN E. YOUNGCARIGNAN, 8639

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID H. FORDEN, 3431
GERALD E. STONE, 1610

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STEVE E. HOWELL, 6802

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE

UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C, SECTION 624:

To be lieutenant colonel

RICHARD K. ROHR, 8873

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID J. WILSON, 6365

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624.

To be lieutenant colonel

WILLIAM E. HIDLE, 5736

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMEHNT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN T. BROWER, 5896

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RONALD W. COCHRAN, 6075
JOHNATHAN D. LAWSON, 7735
ROBERT J. MAGERS, 5066
PAUL J. MINER, 3790

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

TODD P. OHMAN, 1297

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL E. BEAN, 7688
GREGORY G. FRICH, 8199
WALTON S. PITCHFORD, 9453

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 12, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 13

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

FEBRUARY 24

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.
SH–216

FEBRUARY 25

9:30 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the government of the District of Columbia.
SD–138

Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR–485

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine current investigations and regulatory actions regarding the mutual fund industry, focusing on understanding the fund industry from the investor's perspective.
SD–538

FEBRUARY 26

2 p.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine current investigations and regulatory actions regarding the mutual fund industry, focusing on fund operations and governance.
SD–538

MARCH 2

9:30 a.m.
Armed Services
To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.
SH–216

10 a.m.
Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.
SD–366

MARCH 4

9:30 a.m.
Armed Services
To hold open and closed hearings to examine the Defense Authorization Request for Fiscal Year 2005, focusing on military strategy and operational requirements (closed in SH–219).
SH–216

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.
345 CHOB

MARCH 10

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.
SH–216

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.
SD–106

MARCH 25

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

SENATE—*Thursday, February 12, 2004*

The Senate met at 8:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The guest Chaplain, Father Norman H. Elliott, All Saints Episcopal Church, Anchorage, AK, offered the following prayer:

Almighty God, under whom our many States are one Nation, we honor on this day, Abraham Lincoln. We remember his words spoken on the battlefield of Gettysburg: "Four score and seven years ago, our fathers brought forth upon this continent a new nation conceived in liberty and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war, testing whether that nation—or any nation, so conceived and so dedicated—can long endure."

Today we are engaged in a war on terrorism, testing once again whether this Nation can endure. In these perilous times it is well that we remember the words of Lincoln as he left Springfield to become the President: "I now leave . . . with a task before me greater than that which rested upon Washington. Without the assistance of the Divine Being who ever attended him, I cannot succeed. With that assistance I cannot fail." Grant then, O God, Your assistance to the men and women called to the high office of Senator and the responsibilities entrusted to them in these grave hours. Give them the faith, wisdom, and courage they need to carry on and not fail. And bring soon, we pray, the day when these walls will resound, as they have in times past, with the shout of "Victory" and our Nation will again know peace and security and will endure.

We ask this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

> Inhofe amendment No. 2285, in the nature of a substitute.
>
> Clinton/Bingaman amendment No. 2311 (to language proposed to be stricken by amendment No. 2285), to express the sense of the Senate concerning the outsourcing of American jobs.
>
> Bond amendment No. 2327 (to amendment No. 2311), to limit liability with respect to the owners of rented or leased motor vehicles.

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will complete the final 30 minutes of debate prior to the vote on invoking cloture on the substitute amendment to S. 1072, the highway bill. That vote will occur at 9 a.m. today. If cloture is invoked, it is my hope that we will be able to dispose of any germane amendments in a timely manner, thereby clearing the way to wrap up consideration of the substitute. Once the substitute is disposed of, we still may require a cloture vote on the bill itself. It is my hope that we will be able to speed the process along and be in a position to complete action on the bill today. As was announced last night, it is my intention to remain in session until we pass this bill.

Senators should expect rollcall votes throughout the day. In addition, I remind all Senators that all second-degree amendments must be filed at the desk no later than 9 a.m.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, the managers will yield to the Senator from California 5 minutes.

The PRESIDENT pro tempore. Under the previous order, the time until 9 a.m. shall be equally divided between the chairman and ranking members of the Environment and Public Works Committee or their designees. Does the Senator yield a portion of his time to the Senator from California?

Mr. JEFFORDS. Yes.

The PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I start off by thanking the chairman of the Environment and Public Works Committee, Senator INHOFE, for telling me yesterday that he would be really pleased for me to speak for 5 minutes. This Environment and Public Works Committee is quite a unique committee, extremely bipartisan. Working with Senator JEFFORDS, Senator INHOFE, also with Senator REID, Senator BOND, and also with the help of the majority leader and the Democratic leader, this is a very important moment for this Senate.

Why do I say that? Times are very tough in this Nation and we have a Nation divided on so many issues. But one thing we are not divided about is the fact that we have a very serious job issue in our country. Now, each party has reasons for why they think this is happening and I will not go into that; I don't have enough time to do it now.

This morning, I learned on the news that, surprisingly, jobless claims are up this week again, and retail sales are down. We have a problem in this country—outsourcing of jobs. That is a big problem in this country, although it seems that the administration doesn't think so. I think most Americans a very strong number of Americans—believe that taking jobs overseas is a serious problem. Without those jobs, families struggle. With the fear of losing their jobs, our families are anxious.

This is a bill that will build the highway and transit systems we need. This is a bill that will put people to work with good jobs, excellent jobs, and good benefits that will bring a benefit to the country. No country that wants to be the leader of the world—which we already are—can survive if it doesn't keep it up with its infrastructure needs. This committee understands that. This Public Works Committee has overcome the things that divide us.

Is the formula perfect? No, it is not.

For my State, we are definitely doing better, and I am very pleased about that. But I can tell you this: We need the million jobs this bill will bring. We need the 100,000 jobs that will come to my State. We need these important road projects. We need to move goods in this society. Goods movement is one of the key issues we have addressed in this bill.

In States such as California, where goods are moving off ports and into the interior of the country, we need attention to these problems. This bill pays attention to these problems.

At my behest, there is language in the bill about using funds to reduce congestion. Congestion is a real problem. This chart shows how many hours are wasted every year with people sitting in their cars in traffic.

In Los Angeles—we are talking about a year's time—136 hours. That is what the average person is wasting sitting in their car in Los Angeles: San Francisco-Oakland, 92 hours a year; San Jose, 74; the inland empire, an area that is receiving all the goods from a very robust port of Los Angeles, 64 hours; San Diego, 51 hours.

Whether you are looking at jobs, whether you are looking at goods movement——

The PRESIDENT pro tempore. The Senator has used 5 minutes.

Mrs. BOXER. Mr. President, I ask if I may have 1 minute to complete my thoughts.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from California, Mrs. BOXER, have an additional 2 minutes.

Mrs. BOXER. That would be wonderful.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for an additional 2 minutes.

Mrs. BOXER. Mr. President, since I have 2 minutes, I wish to say to my chairman—he may not have heard me—how proud I am of this committee. His work, along with Senator REID, Senator JEFFORDS, and the two leaders, has brought us to this point. I personally say for my State and the people in my State who are stuck sitting in traffic 136 hours a year in Los Angeles, thank you.

The Senator's State is a small State. We are a State with 35 million people, growing to 50 million people. This bill is our lifeblood. I am so pleased we have a chance today to vote up or down on a clean bill.

Are there problems with the fact the Commerce Committee did not produce a piece about rail? I think it is a problem. I sit on the Commerce Committee, and I wish we had done it, and I hope, as this bill moves forward, we can address that issue. But we have a bill that is going to meet the problems of this century, that is going to move us forward.

This is the greatest country in the world. We have to have an infrastructure that keeps up. I thank very much the leaders of the committee on which I am proud to serve. I thank the Chair. I hope we get a resounding vote so we can move to this bill and do something to create jobs and create an infrastructure that we need at this time.

Mr. FEINGOLD. Mr. President, today the Senate will vote on cloture on the Inhofe substitute amendment to S. 1072, the SAFETEA bill. As we all know, the country has important transportation needs that Congress must address, and I commend the managers of the bill for working hard to address highway construction, mass transit, highway safety, and other important programs.

This is a very important bill, and I am not taking my vote lightly. However, I am concerned that this bill does not do enough to help meet the transportation needs of my constituents in Wisconsin. And for that, and other reasons, I will be voting against cloture today.

Before I discuss some of my main concerns with the bill, I want to note that the substitute amendment before us was laid down on Tuesday. Furthermore, I understand that the text was not immediately available for review. I know how hard the managers have been working, and I know how important this bill is. But surely it is reasonable to give Senators more than 24 or even 48 hours to review a huge and complicated piece of legislation like this before filing cloture.

I appreciate the months of hard work that my colleagues have spent on this bill. However, I have serious concerns about the funding formula that this bill would establish. Under that formula, certain States would continue to receive significantly more money than they pay into the highway trust fund, while other States continue to be denied their fair share.

Wisconsin is one of the States that will get the short end of the stick. While increasing the total dollars coming to Wisconsin, this bill would ensure that citizens of Wisconsin no longer get back at least one dollar for every dollar that they pay into the highway trust fund.

I worked hard with the rest of the Wisconsin delegation during the last authorization to make sure that our State finally got a fair rate of return. Let me tell my colleagues, that change was long overdue. According to numbers from the Department of Transportation, from 1956 through 2000, Wisconsin got back just 90 cents on every dollar it paid into the trust fund.

In TEA–21, Wisconsin at last received a fair return. Unfortunately, this bill will take us back to where we were for the previous four decades—in the hole. Under the new formula, Wisconsin will once again be a donor State, with average rate of return of 95 percent. I have spoken to other members of our State's delegation, and I think I can safely say we agree that Wisconsin deserves better.

I am also concerned about some of the environmental provisions in the bill, particularly those with a potential impact on the Nation's air quality. The substitute modifies current transportation regulations dealing with long-range transportation planning, which could result in a failure to adequately consider the long-term effects of new projects on air quality.

The substitute also potentially undermines the National Environmental Policy Act—NEPA—and section 4(f), which guarantee meaningful public participation in review of the impacts of proposed highway projects.

And I am concerned that the substitute would allow the Federal Department of Transportation to ignore the often valuable input of States, tribes, and local governments, who, in my State of Wisconsin, have spent valuable public resources and time to develop transportation and land use plans.

All of which leads me to believe that now is not the time to cut off debate on the substitute. We need plenty of time to analyze and understand the full ramifications of this bill. And, I think we need time to try to improve the bill. I will continue to work hard with the senior Senator from Wisconsin and the rest of the State's delegation to do everything that we can to provide Wisconsin with a transportation bill that is fair for our constituents.

Mr. REID. I suggest the absence of a quorum.

The PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, the vote we are about to take is not just a cloture vote on a transportation bill. The vote to move forward on this legislation is about safety, it is about worker productivity, it is about family, it is about fairness, and it is about fulfilling our responsibility to the American public. But most importantly, it is about jobs—jobs, jobs, jobs.

These jobs are not in China or Singapore or Chile. These jobs are in Portland, Springfield, Los Angeles, Kansas City, and Burlington. This legislation is balanced, it is fair, and it is paid for. We owe it to our constituents to finish this bill today. Tomorrow let's send it to the House and then to the President.

I urge my colleagues to support moving forward and completing this vital legislation. Vote for cloture, vote for jobs.

I yield the floor.

The PRESIDENT pro tempore. Who seeks time?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we have had 2 weeks of a lot of discussion. We haven't had a chance to vote on amendments mostly because there are some Members who have been objecting to moving forward to consideration of amendments. I think that is regrettable.

We are now to the point where we are going to have a vote on cloture. It is absolutely necessary. The alternative to this would be an extension. Probably

20, 30 different times Members have come in and said we should have an extension. If we have an extension, we will not have streamlining provisions, and we cannot move on with IPAM. We cannot immediately start constructing these roads and bridges.

It doesn't make any sense to stall and stall and wait around and do nothing. We want to get this bill on the road. That is what we are going to do, and we are going to do it today.

I regret a lot of people who wanted to have amendments considered during the last 2 weeks have not been able to do so. I regret that some people just blocked them from having that opportunity.

There have been a lot of objections that have come up on this bill. Members keep talking about the 40-percent increase—40-percent increase. That is 40 percent over 6 years. If you said 6.2 percent for the infrastructure of America that is lagging so far behind, no one could complain about that. They are making it appear this is 40 percent in one year. It is not.

They are talking about the amount of money in this bill. We have to understand we have two things we are looking at. One is capital outlay and one is obligation limitation. This is a perfectly reasonable bill. We have done something that has not been done before. It was not done in 1991, and it was not done in 1998. We have stayed with the formula. The alternative is to stay with the formula, like we failed in TEA–21 and failed in ISTEA, and we will have to put in a minimum guarantee where all you do is pacify some 60 voters by giving them whatever they want in the percentage of the overall, and as to the rest, who cares; we have our 60 votes and we run.

That is not the way we did it this time. For that we have been punished. We have had people assail this bill when this is the first time it has been done right.

The formulas took into consideration many factors. I know others want to be heard. I don't want to use a lot of time. At an appropriate time, I am going to go over what went into these formulas. Fast-growing States, slow-growing States, donor States, donee States—all these factors were considered, and then we came up with a formula.

Sure, I heard the two Senators from Arizona were complaining they didn't think their State had enough and, at the same time, they were complaining we were spending too much on the bill. When we look at the formula, their State still gets $40 million more than my State of Oklahoma over 6 years. Any State can complain about how the formula comes out. The bottom line is every State gets a minimum of a 10-percent increase. The average is 35.6 percent.

It is a good bill. We are going to get cloture. We are going to move ahead. If there are germane amendments everyone agrees should be considered, we will consider them. I look forward to doing that. Cloture is important. We are going to get cloture and bring this step to a halt.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Democratic leader.

Mr. DASCHLE. Mr. President, I wish to speak for a couple of minutes to say I hope we can invoke cloture this morning. I think this debate has been less than many of us had hoped. We hoped we could see more amendments. We hoped we could have a good debate about many of the issues.

This is a good bill. It will create the jobs that many of us have talked about on this floor for the last couple of weeks. It will create perhaps 1 million, 2 million jobs. We have an infrastructure deficit that is growing, and this bill, more than any other bill we will take up this year, is going to address that deficit.

For a lot of reasons, this represents the commitment and investment to infrastructure and our economic growth that I think warrants support for the bill.

I am very concerned about where we go from here. The administration has expressed opposition to this legislation. The House has indicated they do not support the approaches that have been reflected in this bill, the very delicate balance we have achieved in public transit and a commitment to highways. I am disappointed we were not able to deal with the railroad question, as Senator HOLLINGS and others noted yesterday. The business of completing our work is far from finished.

I will put my colleagues on notice that we will not be prepared to move forward to conference until we have a better understanding of the degree to which there is some meeting of the minds on these issues, on the commitment and investment to highways themselves, on a commitment to railroads, on a commitment to public transit, on a commitment to a budget that will accommodate the infrastructure deficit we face. We will take conferences one step at a time, and certainly in this case that is all the more imperative.

I commend the managers of the bill for the extraordinary bipartisanship that was reflected in coming to this point. Senator INHOFE, Senator JEFFORDS, Senator BOND, Senator REID, and others deserve great credit for working as closely together as they have. If we can do that through this whole process, we will have a good result at the end. We will have a result that will generate strong bipartisan support.

I think we will win cloture today in large measure because we have been able to demonstrate the bipartisanship that has brought us to this point, even with the misgivings I have just articulated. I look forward to working with our colleagues in that spirit and fashion and I hope that colleagues on both sides of the aisle will recognize the value of this work product and support cloture this morning.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the minority leader for his very solid views. Once again, I thank my colleagues on the other side of the aisle, Senator JEFFORDS and Senator REID, for working in a bipartisan way to produce a bill that is extremely important for the long-term economic growth and well-being of our country.

Everybody agrees we need to put much more money into roads, highways, bridges, and mass transit. This bill does that. This bill also would create significant numbers of jobs right away if we get it passed. If this bill passes, 90,000 jobs will be created this year. For every billion dollars spent on highways, it creates 47,500 jobs.

There are some on our side of the aisle and some others who have said, well, this bill is too much. The President has recommended $256 billion in obligation limits. Obligation limits are what is spent under the bill. The contract authority is authorizing language that allows spending up to the higher amount. That is subject to the normal process in appropriations and subject to limits imposed by the budget on transportation.

This bill is at $290 billion. The President was at $256 billion. I believe clearly they have indicated there has to be negotiations. There have to be negotiations with the House. Whatever bill we pass is going to be changed because we have to negotiate with the House. Obviously we want to hear the concerns of the White House so we can develop a bill that will be signed by them. We did not go through this drill for over a year not to get something through. Make no mistake about it, this is the last and only chance to get started on the kind of major construction we need on highways, roads, and bridges this year, and to do what is needed for mass transit this year. If we do not invoke cloture and pass this bill this week, there will be no highway bill. We will be stuck at the old level at best, even if we get an extension, and that extension does not do us any good. That extension does not increase the building of roads and does not increase the assistance for mass transit that is so important.

There will be amendments. We look forward to having healthy debates. I am sure after people have rested up for almost 2 weeks they will have lots of good ideas. We look forward to having a busy day, but we cannot work on this bill unless we invoke cloture. Whatever the Senate decides, we will take that to conference. We need to pass this bill. I believe this is going to be the most important economic development bill and job-creating bill in this session of Congress.

Furthermore, it is, as its title says, a major contribution to safety on our highways. The administration has named it SAFETEA and we have included almost all of their safety proposals in this bill. Having traveled the roads of Missouri and traveled the two-lane highways that are marked with white crosses where somebody's family member, somebody's friend, somebody's spouse has died, because there is too much traffic on a two-lane road and somebody has taken a chance, fatalities result. They passed where they should not have. They had gotten out of their lane. That is why we have four-lane highways. We do not have them in Missouri.

There are many provisions that are going to be important for this Nation. I know the distinguished President pro tempore has a proposal to help connect communities in Alaska that have not been connected by roads. I believe that is a high-priority item. There are many other priority items that must be dealt with in this bill.

I urge my colleagues on both sides of the aisle, let's invoke cloture; let's get about the business of voting on amendments. We are ready and open for business, but we will have to negotiate with the House and the White House before we bring back a final version, which I hope can be passed very shortly, perhaps by the end of the month, to get highway construction going, improve safety, and improve the job situation in the United States.

I yield the floor.

The PRESIDENT pro tempore. There is one minute and 55 seconds on the majority side and one minute and 42 seconds on the minority side.

Mr. BOND. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I know we have a couple of minutes remaining. This morning we have covered some of the arguments that have been made over the last 2 weeks. There are some aspects that have not been talked about. I do think we should compliment the Finance Committee. They have taken a lot of heat. They have taken a lot of criticism—unjustly, I might add. We made a request of them when we came up with this bill, at the figures we had in both capital outlay and obligation limitation. We asked Senator BAUCUS and Senator GRASSLEY if they could come up with the amount of money to do this so it will comply with what the President outlined when he said he did not want a tax increase, he did not want to go into deficit or have it come out of the general fund, and they have done that. They have been criticized on this floor.

I do know this, that the highway trust fund has been raided for years, and we are now in a position where we can correct and rectify that problem. I think this is one of the good things that has come out of this bill, and I applaud the Finance Committee for the work they have done.

The PRESIDENT pro tempore. The Senator's time has expired. The minority has one minute remaining.

Mr. JEFFORDS. Mr. President, I yield back our time, through the Chair.

CLOTURE MOTION

The PRESIDENT pro tempore. All time is yielded back. Under the previous order, the hour of 9 a.m. having arrived, the Senate will proceed to a vote on the motion to invoke cloture on amendment No. 2285.

Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute to Calendar No. 426, S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, James M. Inhofe, Christopher S. Bond, Gordon Smith, Lamar Alexander, Richard G. Lugar, Pat Roberts, Robert F. Bennett, Mike Crapo, Jim Bunning, Ted Stevens, Conrad Burns, Chuck Hagel, Charles Grassley, Trent Lott, Saxby Chambliss.

The PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 2285 to S. 1072, a bill to authorize funds for Federal aid highways, highway safety programs, and transit programs, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 11, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—86

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—11

Ensign
Feingold
Gregg
Hollings
Hutchison
Kohl
Kyl
McCain
Santorum
Specter
Sununu

NOT VOTING—3

Edwards
Graham of Florida
Kerry

The PRESIDING OFFICER. On this vote the ayes are 86, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Oklahoma.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2311

Mr. INHOFE. Mr. President, I raise a point of order that amendment No. 2311 is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

The Senator from Texas.

AMENDMENT NO. 2388 TO AMENDMENT NO. 2285

Mrs. HUTCHISON. Mr. President, I rise to offer amendment No. 2388 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN, proposes an amendment numbered 2388 to amendment No. 2285.

The amendment is as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike "SET-ASIDE.—" in subsection (b)(2) and insert "FUNDING.—";

(2) strike "of the amounts made available" in subsection (b)(2) and insert "the amounts made available";

(3) strike "$439,000,000" in subsection (b)(2);

(4) strike "allocated" in subsection (c)(1)(A) and insert "apportioned";

(5) strike "subsection (d)." in subsection (c)(1)(B) and insert "subsection (e).";

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

"(d) DISTRIBUTION OF FUNDS.—

"(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

"(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

"(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

"(2) EQUITY DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return for all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

"(A) for fiscal year 2005, 91 percent;

"(B) for fiscal year 2006, 92 percent;

"(C) for fiscal year 2007, 93 percent;

"(D) for fiscal year 2008, 94 percent; and

"(e) for fiscal year 2009, 95 percent.

"(3)(E) REMAINDER DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

"(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

"(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account)."; and

(7) strike subsection (e), as redesignated, and insert the following:

"(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(1) withdraw—

"(A) any funds allocated to a State under this section that remain unobligated; and

"(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(2) reallocate the funds and redistribute the obligation authority to those States that—

"(A) have fully obligated all amounts allocated under this section for the fiscal year; and

"(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.".

AMENDMENT NO. 2591 TO AMENDMENT NO. 2388

Mr. INHOFE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFF] proposes an amendment numbered 2591 to amendment No. 2388.

The amendment is as follows:

At the end, add the following:

"SEC. . This section shall take effect one day after enactment of this Act."

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to talk about the importance of amendment No. 2388 without the second degree. It is a very important time for us to start treating our States more equitably and this bill—I am sorry to say—is a step backward.

TEA–21 embraced as its simple goal the elimination of redistribution of highway funds based on political considerations. For example, under the 1998 bill, Texas' rate of return rose from 77 percent to 90 percent in the formula programs. This means that for every dollar a Texas gasoline purchaser sent to Washington, we got 90 cents back on the dollar. So we contributed 10 percent of our revenue to other States. All of the donor States in TEA–21 were raised to the 90.5 percent level. There has never been a time when we have treated donor States differently from one another until this year.

The bill before us creates a new superdonor status. Growing States and big States, such as California, Texas, Florida, and some smaller States, such as Colorado and Arizona that are also rapidly growing, are locked into superdonor status, still sending nearly 10 percent of our highway funds that we need even more because we are fast growing.

My State is facing budget deficits and is trying to make those up so we can spend the money we need to fix our highways. Our States are rapidly growing, and yet we are continuing to be asked to send 10 percent of our highway funds to other States. We are the States that need the most new infrastructure, because we are experiencing the greatest population growth.

My amendment would correct a small part of this glaring inequity. It would take $9 billion from the nebulous IPAM account and redirect it to the States that need it the most. Basically what you would do is take the IPAM account, which contains projects chosen on the basis of favoritism, and put that into the formula so that everyone is on a more level playing field.

It is not a level playing field. Neither my State nor any other donor State will come out of donor status under this amendment. But it will provide gradual relief for these States to begin to work up to that 95 cent rate of return over the course of the bill.

Under my amendment, all States would receive a minimum of 91 cents on the dollar in fiscal year 2005, and that minimum would rise 1 percent each year until 2009. My amendment would guarantee more money for every State. It would not reduce any State's formula percentage. It would not reduce any State's formula income by a penny. It simply distributes unallocated funds already in the bill, not increasing the bill, not lowering any State's income level. But instead distributing that money by projects, it will create a much fairer formula-based system.

For 50 years, the Federal aid highway program and the States have maintained one of the world's finest highway networks. Highways are the first choice to transport most of the goods that drive our economy. The majority of that system was designed in the 1950s to help a rapidly growing Nation to connect to new population centers, especially in the West.

Today there are other critical needs to be addressed. We are not in the 1950s. We are in another century, and we have new problems. One of those is the trade that has been created by NAFTA. That is not a problem, except that it has increased the highway needs in the States that have the corridors from Mexico to Canada. NAFTA has provided huge national benefits. The resulting traffic is crippling to our Nation's infrastructure. Early on smaller States and Western States needed extra help from larger and more established States such as Texas. Today the reverse is true.

The funding inequity is increasing at a time when States are growing more equal in their abilities to contribute and our levels of existing infrastructure among the States are much more similar.

In the name of fairness, why don't we go to a strict formula system that will increase everyone's part of the pie on a more equitable basis than when 100 Senators from 50 States go in a room and start trying to divide the funding themselves, knowing that some States are going to be left out, and some States are not going to be fairly treated? Why not make it fair from the beginning?

My home State of Texas has borne the greatest burden over the life of the Federal aid highway program. Since 1956, Texas has contributed over $5 billion more to the program than we have received back in funds to build and repair our own highways. Each and every year Texas has sent more highway funding to Washington than it has received to cover projects in our State.

Texas has more than 300.000 highway miles, the most of any State in our Nation. Our highways make up almost 8 percent of the total national mileage and 7 percent of interstates. As a result, the over 20 million people of Texas necessarily buy more gasoline and contribute more to the highway trust fund financed by the gasoline tax.

In the past 12 years, Texas and other donor States have made good progress. In 1998, Texas received only a 77-cent return on every dollar sent to Washington, a loss of $1.7 billion. Current law guarantees us 90.5 cents on the dollar, but this is still $2.6 billion less than the contribution we make. This is a significant loss to a State that needs the infrastructure improvement to take on the added traffic caused by NAFTA.

The minimum guarantee applies only to formula funding programs and does not restrict funds distributed through earmarks or by the administration in the underlying bill. Though we had hoped for more equality this year, and we hoped for the minimum of 95 cents return on every dollar we send to Washington, it has not happened.

Of course, I hope the chairman and the committee understand I could not possibly support a highway funding formula so contrary to the needs of my home State. We are the biggest loser in this bill, to be sure.

I am also concerned about the precedent it sets to create a superdonor status for the largest, fastest growing States in our country. This is not a good precedent for a United States that is supposed to be one United States.

Our States are much more equal now in ability to contribute and pay for their own services. This is no longer a situation where we have vast amounts of western land that have no roads and no infrastructure. So I hope we will not set a precedent of a superdonor State category where we take the largest, fastest growing States and treat them even worse than they have been treated before and for so long.

The bill before us distributes $227 billion in highway funds using a formula that will hold six States—Texas, California, Arizona, Colorado, Florida, and Maryland—at this 90.5 percent rate of return for 5 years. Only in the sixth and final year does the level increase to 95 cents. If Texas were to receive 95 cents for all 6 years, the formula would provide Texas hundreds of millions of additional dollars over this period. But the amendment I have pending today does not even try to make up this discrepancy. What we are trying to do is increase just the rate of return 1 percent per year, starting at 91 cents, and reaching 95 cents in the last year. It is, I think, a reasonable compromise. It is fair to every State. It increases every State's take in this bill, and it will set a precedent of fairer distribution, even though there will still be many donee States that will get more than they send to Washington.

The superdonor States have one aspect in common: They are the fastest growing States in America. But the formula in the bill offers the least relief to the States whose needs are most pronounced: the States and cities with populations that are developing most rapidly. Three of these six are also on the Southwest border, so we have the added burden of infrastructure needs brought on by NAFTA.

In 2002, Texas contributed 9.11 percent of the total dollars in the trust fund, up from 8.27 percent 4 years earlier. Buying more gas allows us to contribute more funds. That is why when the distinguished chairman of the committee says, "But you are getting more money than the spending increases in this bill," I have to say, yes, but that is because we are contributing more. We are still getting less in return than the other donor States that are going to be raised to a higher level at an earlier time.

So, yes, we are getting more than the 36 percent increase in spending in the bill—I am told we are getting 42 percent—but what we are contributing is far more than the 42 percent growth we would be receiving. It is an enormous loss to Texas over the period of this bill; that amount could go a long way toward alleviating the huge traffic jams we are facing on our major NAFTA corridors.

Eighty percent of NAFTA traffic travels through my home State of Texas. And while the entire Nation benefits from that resulting commerce, Texas bears the brunt of maintenance and upkeep on our highways. In 2002, over 4 million trucks hauling 18 billion pounds of cargo entered from Mexico through 24 commercial border crossing facilities. Over 3 million of those trucks—or 68 percent—entered through Texas. In addition to commercial traffic, 90 million personal vehicles from Mexico also traveled through the southwest border States.

So Texas, with its increased infrastructure burden, is getting a lower percentage of what it sends to Washington than almost all of the other States. I hope we don't break precedent and create this new stepchild in donor States because I know if we see it go through today, we will see it again in every formula. So the inequity in formula funding for Texas, California, and Florida will be imprinted on every formula we have in our system. This is a terrible precedent for a country that calls itself the United States of America.

To its credit, the committee did, for the first time, create a border and corridor fund that reflects the added burden on the States on our northern border with Canada and southern border with Mexico. I commend the chairman and thank him for adding those funds. However, I have to say the $1 billion for each of those funds, when Texas gets its portion, will still not bring us anywhere close to a fair share or match the amount we are losing by not being treated like other donor States. The superdonor category just sets a terrible precedent.

I would love to take the chairman of the committee and the ranking member to Interstate 35. Interstate 35 goes from the border of Mexico up through Austin, San Antonio, and Dallas. I had the unfortunate experience of driving from Austin to Dallas one evening, and it was a parking lot. It took us longer to drive from Austin to Dallas—almost 6 hours—than it does to fly from Washington, DC, to California. It is ridiculous. It is a parking lot because of the added traffic from Mexico that comes through this very important NAFTA corridor.

I know small States have more voting power in the Senate. I also understand small States have traditionally had a larger piece of the funding pie than larger States. However, I have to say I think the concept of donor/donee States should go by the wayside, in a gradual manner, because States are much more equal in their capacity to pay than ever before, and some of these larger States on the border have a real and huge infrastructure need due to NAFTA traffic.

I see my distinguished colleague from Arizona is in the Chamber. He wishes to speak on the bill and on my amendment as well. I am going to yield the floor, but first it is my great hope that the Senate will not take the unprecedented move of creating superdonor States that are in fact the stepchildren of America. Creating such an inequity says, "because you are bigger, you should pay more," without considering you are sending more to Washington, you are in a crunch from the NAFTA traffic that is coming through your State, you have extra needs, you are a large, growing State, and you are being asked to take a 10 percent deficit on the funding you send to Washington despite all these reasons."

It is time for the Senate to step up to the plate and say that we should not have stepchildren in formula funding. This is a new concept. In the past, the donor status has been shared by 20 to 25 States. So the cost of helping smaller States has been less of a burden. It is no longer fair to have such a disadvantage, and it is especially not right when many of these border States have greater infrastructure needs.

When we were trying to help the West, Texas stepped up to the plate, as other States did. Now it is time to help the States that have the fastest growing populations and the greatest infrastructure needs and not to put them in a stepchild status for our country that calls itself the United States of America.

I thank the Chair. I yield to the distinguished senior Senator from Arizona.

The PRESIDING OFFICER (Ms. MURKOWSKI). The senior Senator from Arizona.

Mr. MCCAIN. Madam President, I rise in strong support of the amendment being offered by the Senator from Texas. Her eloquent explanation of the amendment is very compelling.

Let me go back to the larger issue. It is fascinating to me that after receiving a Statement of Administration Policy where the President of the United States says:

> In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit . . . a full $62 billion above the President's request for the same period. . . .
>
> Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

There was discussion amongst Republican Senators yesterday that we will fix it in conference. I have this quaint and unusual idea that when we are authorizing $256 billion or $318 billion, maybe the whole Senate ought to be involved rather than "fixing it" in conference.

I cannot speak for my friends on the other side of the aisle—they are the opposition party—but how does this party, the party of fiscal sanity, the party of smaller Government, the party of lower taxes, the party that insisted that any revenues to fund highways should come out of the trust fund, now support a bill—according to the last vote—overwhelmingly when the President of the United States and the American people are saying "enough." Enough deficit spending, my friends. Enough. We are mortgaging our children's futures.

We just found out we have been sold a bill of goods on the Medicare prescription drug bill. It is $153 billion more than it was advertised to be a few months ago. When does it stop? When does the Republican Party find its soul? And this bill is an outrageous manifestation of how badly we have left our moorings. The amendment of the Senator from Texas at least restores some equity and fairness to this proposal.

I don't want to take too much more time except to mention one other point about the President's message:

> In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms. . . .

What is interesting about that aspect of the President's message is, as chairman of the Commerce Committee, none of the provisions that the administration objects to came out of the Commerce Committee, the authorizing committee. It was stuck in by the managers of the bill who have about as much knowledge, expertise, and jurisdiction over Amtrak as I do over nuclear science.

It is fascinating the overreach of this bill. They add provisions for Amtrak that have nothing to do with their area of jurisdiction, and what we reported out of the Commerce Committee was not objectionable to the administration.

Finally, this whole formula is just crazy. It is bizarre and byzantine. In TEA-21, there was an immediate increase in the highway formula to provide each State a minimum return of 85 percent to 90.5 percent. The very first year of the authorization period, all donor States received an immediate increase. It has still not been explained to me or any of my colleagues why we should wait 5 years before our share increases. Why should we wait 5 years? It is patently unfair, and it is patently abusive, particularly for those of us who represent States that are dramatically growing in population, which means that our needs, obviously, are greater.

I make no argument that my State deserves more, not in any way. I say the citizens of my State deserve $1 back for every dollar they sent in the form of taxes to the Federal Government.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have said on this floor on a number of occasions how the chairman and ranking member of the full committee and how the subcommittee chair and the ranking member of the subcommittee have worked together for more than a year to come up with a program that we thought would be the most fair for this country.

I say to my friend from Arizona for whom I have the deepest respect, and my friend from Texas for whom I also have great affection, in years past we did not go through the turmoil of coming up with 95 percent for all States. In years past we just decided how many votes it would take to get a bill passed. Some States did very poorly.

When I started in this process, some States got less than 80 cents' return on every dollar. It was moved up to 80, then 85, then 90.5. We have taken this gigantic first step from the last bill, which had no increase, for 95 cents for every State. It is a remarkably fair, good way of doing business.

I say to my two friends—I acknowledge it is imperfect—but we have had people who have run on computers numerous other programs to try to come up with something that would satisfy the needs of this country. How would the State of Alaska like it if for every dollar they paid into the highway trust fund they got $1 back? Alaska would suffer. The State of Alaska, which has such tremendous, important needs and has weather conditions that make road construction and road rehabilitation extremely expensive, could not survive with a return of $1 for every $1 they paid in.

My friends have indicated that would be the fair thing to do: For every dollar a State puts in, they get a dollar back. It doesn't work.

Yesterday, the distinguished senior Senator from Wyoming spoke. Wyoming is a perfect example of a State that cannot survive on dollar for dollar. What we have done is taken into consideration in this formula States, such as Wyoming and Alaska, and made sure they get more than $1. If some States get more than $1, some States are going to have to get less than $1. That is the way it is.

These big States—Texas, which has two votes in this body; Florida, which has two votes in this body; California, which has two votes in this body—we could have made it so that all States got 95 percent except States with populations of more than 15 million people. That would have been easy. We would have lost six votes. We could have still passed this bill.

We thought in fairness that those large States should also get 95 cents on the dollar, and we have done that. I think this is fair and reasonable, and I commend and applaud my colleagues on this committee.

We have a diverse group of Senators on this committee. We were able, working for more than 1 year, to come up with a formula that met the needs of this country to the best of our ability. To come in at this late date and say: We have a better formula, we have worked on it the last week, and your work the past year does not mean much, and let's have the State of Alaska get a dollar back for what they pay in, the State of Wyoming get a dollar back for what they pay in, and everybody will be happy and we can go home—what we have done has been extremely fair.

I hope the Senate will respond as they did with this cloture vote. This is a resounding vote that we had this morning because the Senators recognized by a vote of 86 to 11 that what we have done is appropriate.

There are very few measures that come before this body that get a vote like this: 86 to 11. I think that represents fairness in this legislation.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. MCCAIN. Will the Senator from Oklahoma yield to me for a comment, through him, that is a correction?

Mr. INHOFE. I will yield for 1 minute.

Mr. McCAIN. I say to the Senator from Oklahoma, I was incorrect in my comments concerning the Amtrak provisions. These were provisions that I opposed in the bill and I was incorrect when I stated that they were put in by the committee. My apologies to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I am going to withhold commenting on this amendment because I have made notes. I know it was not deliberately misrepresented, but the information is not accurate that we have heard on this amendment. It is very important that everyone know that, but I would rather have everyone vent everything they want to vent.

I wish to make one comment, first, though. The Senator from Nevada pointed out what we could have done with the six fastest growing States, the largest States. We could have lost six votes and never even looked back. That is exactly what happened 6 years ago. They went into a minimum guarantee program where they were counting votes. It was totally political and that is what we are getting away from. We have a good formula. I will defend that momentarily after we hear from everyone who is speaking in support of this flawed amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, this bill contains a very carefully crafted formula. This committee worked for close to a year to develop the formula contained in S. 1072. Balance, that is what this bill is about. The donor States such as Texas have gained 95 percent. That has been their goal for 6 years. Some would say for longer. Now they have achieved their goal and they are still complaining.

This formula is fair. The formula the Senator from Texas put forward would undermine the highway program in many States and therefore I oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I rise in support of the amendment of the Senator from Texas, and I will explain a couple of reasons for that. First, there has been a suggestion to the States that did not receive their full share of funding, the fast growing States—California, Texas, Florida, Arizona, Colorado primarily—that there just was not enough money to be able to bring those States up to the same level as the other States.

There is an acknowledgment that a lot of other States get to the 95-cent level long before these five States do. That is the primary reason for the deficiency. In fact, as my colleagues can see from this chart. Arizona is in the dark blue, and we have simply selected a State—and I do not mean to pick on my colleagues from this particular State because there are others that reveal the same kind of thing—this happens to be the State of Missouri. We can see that beginning in the very first year, Missouri is returned 95 cents for every dollar. That is guaranteed to the State of Missouri all the way across from the very beginning. Whereas in my home State of Arizona, we are stuck at the current level of 90.5 cents in 2004, 2005, 2006, and 2007. It goes up one- or two-tenths of a percent in 2008. It is not until the sixth year, if the funding is available, that Arizona, as well as these other donor States that I mentioned, would be brought up to the same level that all the other States have been at all this time.

In the case of Arizona, the lost revenue during this period of time is about $160 million. So that is money Arizona would have received had it been treated the same as Missouri in terms of the 95 cents received per dollar.

The Senator from Oklahoma is quite right that when there are States that need more than a dollar, then there are going to be States that do not get a dollar for every dollar in taxes that they send in. That is, of course, true. Under the Federal system I think there is an acknowledgment that it is not totally unfair that some States are going to send more in in gasoline taxes than other States. When it is way out of balance and the balance can be corrected, it ought to be corrected.

The argument has been that it would simply have cost too much money to bring States such as Arizona up to this level. I think it would only cost $2 billion. In any event, the Senator from Texas distributes $9 billion over this period of time and makes these States whole.

One place that the $9 billion could have come from, had they wanted to, is the set-aside program in the committee-reported bill for something called the Infrastructure Performance and Management Program. The IPAM is a—I do not want to call it a slush fund but it is a source of funding that is very unclear about where it is going to be spent.

Very little is known about the purpose of such a program, although there are some who believe that it basically will be used to distribute to folks who vote for the bill and whose vote is needed for the bill and that the money, therefore, needs to be held in reserve in order to ensure that in the end they will have enough money to do all that they want to do. Why not use that money to bring the States such as Arizona, California, Texas, and those other States up to this 95-cent level? It is more than enough to do that.

So when they say there is not enough money to do what we are complaining needs to be done, that is simply incorrect. There is enough money. It just needs to be moved from this one program, which does not seem to have a very clear or fair purpose, and move it over to fund this deficiency.

I have just used the State of Arizona with another State that is somewhat comparable, in terms of size and so on, to illustrate the point, but I think the same can be demonstrated for the other States involved. That is why I support the amendment of the Senator from Texas because what it would do is restore this funding level so that from the very beginning all of the States would be treated the same.

Now, that can be done at whatever level of spending one wants to do it. I believe that the level of spending should be much less than the level in the bill. The President believes it should be much less than is in the bill. The President believes that the total amount should be $256 billion. That ought to be enough. That is a 21-percent increase. That is what I think. Whatever the level of spending in the bill, it should be fair as between the States.

Not all States can be treated exactly the same. We understand that. At least it is fair to have a base level. I will give credit to the chairman of the committee and others; they wanted to get this base level at 95 cents and they got there for most of the States but they did not get there for five or six of the States. My State happens to be one of them. It is not fair to the citizens of Arizona.

As a result, I support the amendment because it would bring this level up to 95 cents for the entire period of time we are talking about, not only in the very last year. I urge my colleagues to support fairness and to support the amendment of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I, too, support the amendment of the senior Senator from Texas. As a member of the Environment and Public Works Committee, it has been my privilege to work with the Senator from Oklahoma as the chairman and the Senator from Vermont as the ranking member.

While admittedly I was not satisfied with the formula that came out of the committee, based on my belief and the good faith of the chairman and others, we have been discussing ways that we could make this bill fairer to my State. The reason I support this amendment is because I believe it would do that—not just to the State of Texas but to also other what I would call superdonor States such as Florida, California, Arizona, Texas, Colorado, and Maryland.

As the Senator from Arizona says, it is a matter of fundamental fairness. Texas contributes a dollar to the gas tax and, all things considered, currently gets back about 88 cents on the dollar. In fact, I have had some of my legislators come to see me and say that our transportation needs are so great in Texas, given our size, given the 10-year lifespan of NAFTA, increased truck traffic on our highways, that we would just simply like to be able to keep that dollar in Texas, spend it on our own roads and not send it to Washington, DC, and have 10 or 12 cents taken off that dollar and the remainder simply sent back to us. I understand this is a national transportation system we are trying to take care of here. But I believe Texas, and I believe all of the superdonor States, the ones that contribute the lion's share for transportation needs in this country, are entitled to greater consideration than is currently reflected in the formula.

I think the senior Senator, Senator HUTCHISON, has come up with a good idea on how to do that, by using the $9.1 billion that is currently not distributed, which I understand remains in a discretionary spending account which can later be doled out. In other words, this will not add to the cost of this bill. It is money that is already figured into the bill but will simply be distributed according to the formula which she has already laid out, and which I think will not only result in greater fairness to my State but also to other States.

In the end, this does not just benefit the superdonor States—Florida, Maryland, Arizona, Texas, Colorado. Indeed, under this amendment every State would end up with more money, so I think every State would win.

If I can say a couple of more words, though, about the unusual posture of my State when it comes to the transportation dollars. As I mentioned earlier, NAFTA is a big consideration. Obviously, for the 10 years NAFTA has been in effect, it has resulted in tremendous increases in trade and benefits to Americans, to Mexicans, and to Canadians. It has raised the level of the water and all boats have risen. Because of the increased trade, more products from our country were bought in Mexico and Canada, and vice versa.

One of the things we are concerned about—we will have a hearing on it today in the Judiciary Committee—is our broken immigration system. One of the best ways I believe we can deal with the causes of illegal immigration is to increase trade with Mexico, for example, so the prosperity of that country will increase, jobs will increase, so people feel less and less need to immigrate illegally to this country to provide for their own families.

My point is this. Because of our proximity to the border, because we have a 1,200-mile border, because of the number of border crossings we have, Texas transportation infrastructure has simply borne a disproportionate amount of the burden, from which eventually all of the country benefits because of this increase in trade and truck traffic I mentioned a moment ago. As a matter of fairness to Arizona, which is in a similar situation, and Texas, our infrastructure has degenerated. It has been overused, in a sense. The public safety has suffered because we have simply been a donor State and have not been getting back enough of the gas tax dollar to help provide for our transportation needs in the State.

As I say, as a member of the Environment and Public Works Committee and the Transportation Subcommittee, I continue to hope—not just hope but also will work toward trying to make this bill acceptable and fair. It is certainly something I hope I will be able to support in the end. But I do think the proposal of the senior Senator, resulting as it will in a greater distribution of discretionary funds now into a formula that will then result in all States seeing an increase in transportation funds, is a step in the right direction.

Finally, I would like to allude for a moment to the comments of Senator KYL relative to the cost of this bill. I, too, believe in fiscal responsibility. I don't know ultimately how the Finance Committee will find a way to pay for this bill in its entirety. I think it is clear the President is not going to go for either a gas tax or for deficit spending. But should the overall amount of money be reduced from the current level to a lower level that would not require an increase in the gas tax or an increase in deficit spending, then my understanding is essentially the formulas we are looking at right now are out the window and we are going to have to look to ways to live within our means. But also, at the same time, we have to make sure this bill is fair to all States, particularly, I submit, the donor States that for a long time have paved roads and provided transit systems in other parts of the country from which the citizens of my State get no benefit. That is a matter of fundamental fairness we need to take care of. I believe this bill, with this amendment, would go a long way to doing just that.

I yield the floor.

Mr. McCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I hope very much our colleagues will also listen to the arguments against the second-degree amendment and for this amendment. I know the committee tried very hard to balance what they considered to be every State's wishes and needs, but they have made a major precedent-setting change in the business of the Senate by creating a new stepchild category for superdonor States.

They picked States that have other huge problems such as high growth and falling median incomes. Targeting these high-growth, large States that have huge infrastructure problems and other problems that go with being on the border with another country is a major step in the wrong direction.

I hope the chairman will reconsider. That is not likely right now, but we have been trying to work with the chairman to see if there could be some accommodation that would acknowledge the huge infrastructure needs of these superdonor States created in this bill. I hope the Senate does not do this in the end. In our amendment every State comes out better. It will create a more level playing field. The existing bill is not a level playing field by any stretch of the imagination.

We are trying to gradually raise the percentage that every State will be able to get when we are sending more to Washington than we receive in return. Our amendment simply assures that every State will get at least 91 cents back from what it sends to Washington next year; the year after that, 92 cents; the year after that, 93 cents; and the year after that, 94 cents, until all the donor States reach 95. It would be a gradual increase to 95. If we went to 95 immediately, it would deliver even more to Texas. We are not trying to do that. We are trying to enact a modest increase aimed at a more equitable donor status.

We will never get $1 back for what we send to Washington in this bill or in this environment. My hope, of course, is that at some point we will, that at some point other States will step up to the plate and say: We can bear our fair share and we do not need other States to pay our costs. That is not the case today.

This amendment is a measured approach. Every State gets more under this amendment. Alabama will receive $125 million more under this amendment than they would under the committee bill before the Senate; Alaska, $13 million; Arizona, $216 million; Arkansas, $84 million; California, $1.30 billion; Colorado, $178 million; Connecticut, $66 million; Delaware, $16 million; the District of Columbia, $7 million.

All of these are increases in what these States will receive under my amendment over 6 years: Florida, $481 million; Georgia, $288 million; Hawaii, $15 million; Idaho, $35 million; Illinois, $460 million more; Indiana, $291 million more; Iowa, $120 million more; Kansas, $68 million more; Kentucky, $142 million more; Louisiana, $12 million more; Maine, $40 million more; Maryland, $164 million more, Massachusetts, $119 million more; Michigan, $337 million more; Minnesota, $217 million more; Mississippi, $96 million more; Missouri, $188 million more; Montana, $28 million more; Nebraska, $48 million more; Nevada, $64 million more; New Hampshire, $29 million more; and New Jersey, $265 million more.

Every State comes out better. It is more equitable and it takes out a lot of the politics. Senators who end up voting against my amendment think they will do better by divvying up a $9 billion pot into specific projects in their States, but all 100 Senators cannot come out winners that way. I would rather see us respond in a statesmanlike way, divide all of the money by formula, and give every State a more equitable portion. Every State will be helped and that is how our country should operate, with greater equity and a more level playing field.

I ask for the yeas and nays.

The PRESIDING OFFICER. What is the Senator seeking the yeas and nays on at this time?

Mrs. HUTCHISON. I seek the yeas and nays on my amendment, and I seek the yeas and nays on the second-degree amendment, as well.

The PRESIDING OFFICER. It is only in order at this time to ask for the yeas and nays on the second-degree amendment.

Mr. REID. Madam President, I ask unanimous consent that the Senate vote on her amendment. I believe it takes unanimous consent. And I ask for the yeas and nays, not a vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator seeking consent to request the yeas and nays on the first-degree amendment?

Mr. REID. The amendment offered by the Senator from Texas.

The PRESIDING OFFICER. Is there objection to it being in order to request the yeas and nays on that amendment at this time?

Without objection, the Senator may request the yeas and nays.

Mrs. HUTCHISON. Let me make a parliamentary inquiry. I was trying to get the yeas and nays on the underlying amendment, but I need the parliamentary way to get there, which I think both Senator REID and Senator INHOFE are trying to help do.

The PRESIDING OFFICER. Consent has been granted for the Senators to seek the yeas and nays. Does the Senator seek the yeas and nays?

Mrs. HUTCHISON. Madam President, I seek consent to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered on the first-degree amendment.

The Senator from Oklahoma.

Mr. INHOFE. Madam President, I ask the Senator from Texas, do you have others who want to speak on behalf of your amendment?

Mrs. HUTCHISON. No.

Mr. INHOFE. All right.

First of all, I recognize we are not objecting to a rollcall vote like some have been doing all week long.

I make a couple of comments about this because it has been inadvertently misrepresented. Let me talk a little bit about the States of Texas and Arizona. We have talked about this before. Arizona has a 40 percent growth rate, dramatically greater than the average, which is 35.6 percent. Arizona is comparable to Oklahoma in many ways. But Arizona actually gets $40 million more than my State of Oklahoma.

If we average that amount over TEA–21, it averaged $463 million. It goes up to $800 million at the end of this time and it reaches the donor status that is desired. In the State of Texas, the average over the 6-year period of TEA–21 was $2.1 million. It is the third highest growth rate in the Nation. It is the second highest amount of money, second only to California. It is part of the formula.

Let me say something about the formula. Everyone is deriding this formula. We went through the same thing 6 years ago. They did not like the formula because everyone wants to get something more than perhaps they are entitled to under any formula. That is human nature. We made a commitment, working on this formula for over a year, that we would stay with the formula. I am talking about a bipartisan bill, Democrats and Republicans on our committee.

When we looked at the factors—this is not just some States: let's see the big States and the little States and things like that—we covered a number of things: total lane miles on the interstate; the VMT, that is the vehicle miles traveled; the annual contributions to the highway trust fund attributed to commercial vehicles; the diesel fuel used on highways; the relative share of total cost to repair and replace deficient highway bridges—like in my State of Oklahoma, we are dead last in the Nation—weighted nonattainment and maintenance areas; rate of return of donor States, donee States, fast-growing States.

We have ceilings. We have floors. It is a very complicated formula. You don't come along at the eleventh hour and say, oh, we are going to change one thing and everyone is going to be happy because if you did that, then you are going to affect some other States in a way that is certainly not fair.

Now, let's just look at some of the arguments that have been made. The NAFTA corridor: Because of the insistence of one of the members of our committee, the junior Senator from Texas, Mr. CORNYN, we added $280 million—this goes to Texas—under the Borders Program. The IPAM Program, that has been ridiculed on the floor, is a program that takes projects that are ready for construction. These projects can start jobs immediately. You don't have to sit around and wait. That is why I am personally offended when people come along and say, well, let's have another extension. If we have another extension, none of this stuff gets done, none of the streamlining elements in this bill happen, which means we will not be able to do nearly as many roads per dollar as we can under this bill. That is why we are going to have, at the end of this thing, a 6-year bill. It is going to go to conference, and we are going to end up with a good bill. But we are not going to operate any longer on the extensions.

Now, I know there is politics involved in these things. We have tried to keep this at a minimum. If you look at TEA–21, it was dominated by the Northeastern States. You had several very important people on the committees.

Certainly, Congressman SHUSTER, over there from Pennsylvania—I served for 8 years with him on that House committee—and, yes, they got up to a very large amount in TEA–21: $1.21 return for every $1 they paid in.

Senator Moynihan—we all loved Senator Moynihan—he had a lot of influence on the committee. New York, as a result of that influence, I believe, got $1.25 back for every $1 they paid in.

Certainly, our beloved John Chafee from Rhode Island did his best work. They ended up with $2.16 for every $1 they paid in.

Montana—Senator BAUCUS was actually the ranking member of both the committee and the Subcommittee on Transportation and Infrastructure—$2.18. Now, there are reasons for this, of course, because they do not have a lot of people paying up there. But you have to have roads. You have to get through Montana. You have to get through the Western States.

My State of Oklahoma—and I was on the committee, and I was on the conference committee—90.5 cents.

We have done a job here in really helping people out. But I want to point out the most important part of this program. Everyone who stood up and talked about this new formula has talked about how everyone is going to get a little bit more. Let's stop and think about that. That is going to cost money, isn't it? I do not think there is a person who is supporting this bill who did not first come down to the floor and complain that we are spending too much money in this bill, that $255 billion is too much—and you add the transit on there—it is too much money.

This amendment will increase the cost of this bill by $7.25 billion. If you want to increase the cost, if you want to go tell the White House, "No, we didn't like the $255 billion so we are going to raise it up to $262.25 billion," go ahead and do it. I don't think you would be very well received. The money has to come from someplace. It is coming from IPAM. Quite frankly, I am not going to stand here and accept and support a change in the formula that increases the cost by $7.25 billion. It is totally unreasonable, and after a year we are not going to do it.

I say to the Senator, do you want me to yield for a question?

Mr. REID. I simply want to say, when the Senator finishes, we have been advised by leadership that they need a vote in the next 5 minutes. If we have more speakers, then I will have no alternative but to move to table. But what we have agreed to do, I say to the chairman of the committee, on this side, is to allow an up-or-down vote, but there will not be an up-or-down vote unless there is some acknowledgement that the debate is going to end now because we have spent considerable time on this amendment. It has been a good debate, but all things have to come to an end, and they will, either with a motion to table or an up-or-down vote now.

Mr. INHOFE. I am through, Madam President.

I want to reemphasize this amendment costs $7.25 billion more, and people have to understand that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Thank you very much. I would direct, through the Chair, a question to the Senator from Texas.

Are you about to complete your statement?

Mrs. HUTCHISON. Yes.

Madam President, I would just like to take a couple minutes to respond to the chairman's remarks, and then I will be ready to vote.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, we are not adding money to the bill. We are taking money in the bill that is unallocated—promised but not yet granted to specific projects in specific States—and redistributing that on a fairer basis than that of political rewards in project money. We are trying to take the politics out and establish fairness for the States made superdonors, or stepchildren, in the Senate's highway bill.

I hope people will look beyond their pet projects and see that everyone benefits and the money used is already in the bill. The amendment does not add even a penny. Yet it creates a fairer planing field for every State already.

So I hope the Senate will rise above project fighting and distribute this funding on a formula basis in order to treat every State more fairly.

Madam President, when I came to the Senate, one thing that impressed me the most is that although I was a member of the minority party at the time, no State ever was ever penalized for size or growth. Every State was given funding that matched its needs.

This bill is setting a new precedent that has never been the policy of the Senate to use big States as providers for other States. Everyone can see this play is not fair.

I hope Senators will support this amendment. We are not adding a dime to the bill. We are redistributing the money that is in the bill in a fairer way. No one loses from the formula that is in the bill, and everyone gains much-needed funding.

I hope the bill does not go to the President without a formula amendment. It would set a terrible precedent to institute a new superdonor category of States with more highway mileage and therefore always paying more money to the highway trust fund than they will ever get back.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, we have discussed the formula, which is what the Senator from Texas has been discussing in the last couple minutes. I want everybody to know, this is 7.25 billion new dollars, new spending under this formula. If you vote for this, you are voting to increase the authorized level by $7.25 billion.

If you look at the pending bill, it says: Under the IPAM Program, under section 139 of that title, $2 billion for fiscal year 2004 and nothing thereafter. If you look at the amendment, it says:

> $2,000,000,000 for each of fiscal years 2004 and 2005. . . .

That is $4 billion, plus:

> $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

You add it up, and that is $9.25 billion, $7.25 billion more than the pending bill. Everyone has to understand that. When you vote for this, you are voting to increase the spending under this bill.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I echo what my good friend, the chairman of the committee, stated. The amendment does not keep the balance between donor and donee States. Our staff has run through many of these options, 300-plus runs from the Federal Highway Administration, to come up with a fair balance between donor and donee States.

When you take a look at what is fair, we have heard complaints about the increase, that they are not getting enough percentage increase, but when you look at the State of Texas, over the 6 years of the bill, it gets a 42-percent increase. That is $5.3 billion. If you look at the State of Arizona, it gets a 40.23-percent increase, or $1.11 billion over the 6 years. California has a 40.14-percent increase, or $6.1 billion. There are a couple of States that even get 40-percent increases. This amendment purports to increase fairness by giving an even greater share to some of the States that have the largest share of the increase already. That does not have much to do with fairness.

This is a very ill-advised amendment. As the chairman has pointed out, there is not money in the bill. This would add approximately $7 billion to the cost of the bill. I find it passing strange that some of the cosponsors of this bill were ones who opposed the Bond-Reid amendment to set the figure at $255 billion, and they have been very vocal in saying this bill spends too much. They would add about $7 billion to the bill.

We are going in the wrong direction. We are being asked to reward those States that are already doing better than almost any other State in terms of the increase in the money that is coming back. This bill followed the formula as best we could. We did get all States to increase by at least 10 percent. We got all donor States up to 95 cents on the dollar. But nobody, other than about two States, has made it up to a 40-percent increase.

To say certain States who are already in the 40-percent increase need more is unacceptable. I urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I am going to move to table. We have waited. The time has come. We either have an up-or-down vote now or I am moving to table. I am not going to yield the floor anymore.

Mrs. HUTCHISON. Madam President, it is fine for the Senator to move to table.

Mr. REID. Madam President, I have the floor.

Mrs. HUTCHISON. There was a misrepresentation that just occurred.

Mr. REID. Madam President, I have the floor. I direct a question through the Chair to the Senator from Texas: Can we have an up-or-down vote? The leadership wanted one 5 minutes ago. We either do it now or I am moving to table.

Mrs. HUTCHISON. Madam President, misrepresentations have just been made. If the Senator feels he needs to cut off the ability to answer that, the Senator is perfectly free to do so.

Mr. REID. I ask the Senator from Texas, how much more time do you need to respond?

Mrs. HUTCHISON. If there are no further arguments that misrepresent the facts, I need 1 minute.

Mr. REID. I ask the Senator be yielded 1 minute prior to a vote on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Senator from Nevada.

This bill came out of the committee with $9 billion in money that was unallocated. Now we are being told there is only $2 billion. It is a fair question to ask, where did the other $7 billion go?

The fact is, the money has not been allocated until we vote on this bill. We would have the ability to create a level playing field with the exact same money that is in the bill. It has not been voted on by the Senate. Where is the $7 billion?

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2591, WITHDRAWN

Mr. INHOFE. First of all, the pending substitute has been available for 2½ days now. Everything is in there. We dropped IPAM down to $2 billion. You want to increase it to $9.25 billion. That is an increase of $7.25 billion. It has been down there. We all looked at the pending substitute. We read it. We have been debating it now for 2 days. It is an increase of 2.5.

Madam President, I withdraw my pending amendment so the Senator may have her up-or-down vote.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 2388

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2388 offered by the Senator from Texas.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring the vote?

The result was announced—yeas 17, nays 78, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—17

Bayh
Boxer
Campbell
Cornyn
Durbin
Feingold
Feinstein
Hutchison
Kohl
Kyl
Levin
Lugar
McCain
Mikulski
Nelson (FL)
Stabenow
Sununu

NAYS—78

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Landrieu
Lautenberg
Leahy
Lieberman
Lincoln
Lott
McConnell
Miller
Murkowski
Murray
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—5

Edwards
Graham (FL)
Kerry
Santorum
Specter

The amendment (No. 2388) was rejected.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, yesterday Federal Reserve Chairman Alan Greenspan sent Congress what should be a much needed and sobering wake-up call. He warned that a lack of fiscal discipline could lead to increased long-term interest rates and called for new steps to restrain spending.

In delivering the Fed's monetary report to the House Financial Services Committee, Mr. Greenspan said that should investors become significantly more doubtful that the Congress will take the necessary fiscal measures, then appreciable backup in long-term interest rates is possible.

Also, as we know, yesterday the administration transmitted its statement of administrative policy which we will continue to talk about throughout this debate. We all know the projected budget deficit for 2005 is over $500 billion, half a trillion dollars. Almost every Member in this Chamber has been talking the talk about reining in spending, but when are we going to start to back up our words with our actions? Passage of this bill would be the quintessential example of what we are doing wrong and how we are not stepping up to future financial straits for our children and grandchildren.

The current budget resolution provided $231 billion for the EPW Committee to spend on its portion of the bill. That is the current budget resolution. The pending EPW proposal would instead provide $255 billion, or $24 billion over the current budget resolution by which we are to be abiding. The current budget resolution provided $37 billion for the Banking Committee to spend on its transit portion of this bill. The Banking Committee proposal contained in the pending bill provides $46 billion or 25 percent over the budget resolution.

I guess I have to ask a question about this body's adherence to the budget resolution. We spend arduous days, and then with a vote-athon that is the most unpleasant day and evening of the year—certainly for me and I believe for most of my colleagues—we come up with a budget resolution and one we at least commit to abide by.

This bill, at least in two instances which I am bringing to your attention, is $24 billion over the current budget resolution by EPW, and 25 percent or $9 billion over the budget resolution by the Banking Committee.

A few days ago, the Wall Street Journal editorial entitled "Road Kill" had some pretty harsh comments about what we are doing today. I will not quote from all of it. The Wall Street Journal editorial says:

> An old political adage has it that the most dangerous place in Washington is between a Congressman and asphalt. That is exactly where taxpayers now find themselves as Congress conspires to pass another monster highway bill. The only good news is that President Bush is showing signs he may fight this election year.
>
> The administration has its own highway proposal which is hardly cheap. Mr. Bush is asking for $256 billion over six years, which is 21 percent more than the past six years and fairly close to Treasury estimates of revenue from the current 18.4-cent-a-gallon federal gas tax that is earmarked for roads.
>
> Ah, but this isn't enough for the boys of summer construction. The draft Senate bill demands $55 billion more than Mr. Bush and is loaded with fiscal gimmicks that divert money from general—non-gas-tax—revenues into roadbuilding.
>
> One of the more embarrassing arguments from Congress's highwaymen is that this is somehow a "jobs bill."

That is what we continue to hear on this floor over and over again.

> So at least for parochial matter, Republicans claim to believe in the superiority of government over private spending. Some Econ 101: Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy.

I would like to repeat that.

> Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy. Still, this is a fight worth having. Congress will keep spending freely until Mr. Bush shows he's willing to spend political capital to say no. In a letter to Congress last week, Administration officials warned that any bill that includes higher gas taxes, trickster accounting or a siphoning of general tax revenues will face a veto. Presidents who make veto threats and don't fulfill them quickly come irrelevant.

There are one of two things that are going to happen and let's be very clear about what is happening. One of two things is going to happen.

No. 1, if we pass this bill, it goes to conference and the President of the United States makes good on his very specific veto threat. I am sure that will be of benefit to the President of the United States in showing he is willing to crack down on reckless fiscal insanity, which is really what this bill is all about, or, somehow, a bill is passed by both bodies and they go to conference and, without the participation of the majority of Members of the Senate, the bill will be pared down to the President's demands.

Either way, this bill is rendered meaningless. What we are arguing about is a meaningless 1,300-page piece of document because the President has assured us that, unless it is a certain level, far lower than the present level, he will veto it.

I don't know if the President has the votes to sustain his veto in this body, but I am confident the President has the number of votes to sustain his veto in the other body. Either way, my dear friends of the Senate cannot come out of this looking good because we are so far over in excess of what the President has guaranteed he would veto.

As my colleagues who are managing this bill keep saying: We will fix it in conference. We will fix it in conference. The last time we fixed something in conference we got a Medicare prescription drug bill that, it turns out, was only $143 billion short.

I have seen things fixed in conference and there is nothing worse than seeing a piece of legislation "fixed in conference."

So we are arguing about a piece of legislation that cannot pass—that cannot pass, certainly at its present level, by a significant number of billions of dollars. We are in violation of our own budget resolution in this bill.

Therefore, I raise the point of order against the substitute amendment pursuant to section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Pursuant to section 904, I move to waive all Budget Act points of order for consideration of the pending substitute in its current status and the underlying bill as amended by the substitute.

The PRESIDING OFFICER. The motion to waive is debatable.

Mr. McCAIN. Parliamentary inquiry: Doesn't it have to be sent to the desk?

The PRESIDING OFFICER. No, the motion does not have to be in writing.

Mr. McCAIN. I ask for it to be sent to the desk.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I wish to debate the measure, waiving the Budget Act point of order. I would point out the chairman of the Commerce Committee, who has just spoken, is talking about the reckless fiscal insanity in this 1,300-page bill. A good portion of that is the Commerce Committee title, his committee's title. We don't know what is in that title.

We have laid out our bill. We have taken it through the committee. Our committee voted on it. We brought that bill to the floor. We have had it out here. We are still trying to find out what is in the Commerce Committee bill. We are told it is very different than what was passed out of the Commerce Committee. We have just tried to make an analysis of it and, as best we can tell, the budget resolution authorized the Commerce Committee to spend $4 billion and it appears the Commerce title before us spends about $6.5 billion. So we hope we could help the Commerce Committee by waiving the Budget Act point of order.

Let me talk a minute about why this vote is so important. The vote is on two very important issues. The first is the size of the highway bill—$255 billion for highways, $56 billion for transit. The second is firewalls ensure highway trust fund dollars are spent on this Nation's transportation needs. Last year, during consideration of the budget resolution, the Senate voted 79 to 21 in favor of funding the highway bill at $255 billion, and mass transit at $57 billion. That vote seemed to me to be a resounding victory for adequate funding levels for these two very important subjects.

The administration's proposed bill would fund highways at under $200 billion over the next 6 years, and to cut that would cut $4.5 billion. Furthermore, the highway funding would not reach the level included in the 2004 Omnibus bill until 2008, the second-to-last year of the bill. This would result in a net loss of 850,000 jobs compared to the CBO baseline, because that is how far the level would fall under that which the House-Senate budget resolution authorized.

The funding levels in this Senate transportation bill are responsible. When the budget was adopted there was a provision in there saying the level for highways would be $231 billion unless other funds could be put into the highway trust fund.

I commend the Senate Finance Committee, Chairman GRASSLEY, and Ranking Member BAUCUS, who have taken steps to ensure that they have closed loopholes; they have directed into the highway fund new highway fund measures, and as a result, according to the Finance Committee, this bill will not add to the deficit. Now, in fact, not only will this bill not add to the deficit, it will be a huge economic stimulus. Everyone knows $1 billion invested in transportation infrastructure creates 47,500 new jobs.

In addition, in the last year for which we have statistics available, over 42,000 Americans lost their lives on our Nation's roadways in motor vehicle accidents. Roughly 35 percent, or 14,000, of these are a result of road conditions. It is likely our State may be higher than 35 percent because we have many narrow, two-lane roads, with far more traffic than we have highway to accommodate. In other words, if you have 15,000 cars a day using a two-lane, two-way road, people try to pass at times that are not appropriate, and many other risks are taken by drivers with a result that there are head-on collisions and traffic fatalities.

This is a safety measure. The figures we have are figures that match the initial representations, the initial 79-Member vote in this body. The additional funding above the House-Senate joint resolution is achieved because the Finance Committee put additional funds into the highway trust fund. That is a very sound way of going about it. I urge my colleagues to support the Budget Act waiver.

The Senator from Arizona also raised questions about why we are going to write it in the conference. We have been in touch with the White House and just learned after the bill had been brought to the Senate they were reluctant to accept the figure we had. At this point we need to work with the House and the White House to come up with a final figure.

I cannot imagine anyone thinking a bill we pass out of here, which has so many different interests, will not be changed when it comes back from the conference with the House. We are not the only body. I have worked on a lot of conference reports and if it comes back looking very much like what we pass out of the Senate we have done a good day's work. I have never seen it come back looking exactly the way it left the Senate. That is how this place works. We have to have compromise when we go to the conference committee between the House and the Senate. When the White House feels strongly about it, they have a great say because they have the final say. They have the final say whether it is signed or vetoed.

We have worked too long and too hard to get a good bill. The chairman, the Senator from Oklahoma, the distinguished ranking members, the Senator from Vermont, the Senator from Nevada and the members of the committee, worked on the EPW portion. The other portions have been worked on in their committees. We will do the best we can to follow the outlines we have and come up with our proposal.

We should remind those who criticize this measure, who say they want to know more about it, that we marked up our bill before Congress recessed for Christmas and have used the base text throughout this entire process. For the past 2 weeks, we have consistently urged our colleagues to come to the Senate and offer amendments. Our staff, my staff, the other principal staffs, have been here late every night. We announced last week that the staff was available to discuss amendments throughout the week. Many Members took advantage of it. We tried hard to be open and accommodating to every Senator. That is why it is extremely frustrating to be criticized by Members who have never come to the floor to offer an amendment, let alone send their staff to meet with the EPW Committee staff to discuss changes or to offer amendments for consideration.

Even more frustrating, the fact that rather than offering suggestions or amendments, we are criticized for deficit spending. I remind my colleagues, the point of order was raised by a colleague who cosponsored an amendment we defeated this morning that would add $7 billion to the cost of the bill. It would add more to his State and several other States. It is beyond what is paid for in the bill. It is beyond what is available in the bill.

There has to be some consistency. People say consistency is the bugaboo of small minds, but when we take a look at budget numbers, we ought to be making adjustments in the numbers based on what is available.

Second, when we are criticized for not being open with our bill, I urge the chairman of the Commerce Committee to bring his substitute for the committee bill to the floor to discuss it, to let us know what is in it so we might make meaningful suggestions and directions.

As I said, we have not been able to review it in detail. It is not the same title as reported out of the Commerce Committee. That Commerce Committee bill which had allocated $4 billion under the budget resolution came in at over $6 billion.

Mr. GREGG. Will the Senator yield?

Mr. BOND. I will yield in a moment. I want to conclude my comments.

I urge my colleagues to waive the provisions of the Budget Act as outlined in the motion to waive previously submitted.

I yield the floor.

Mr. GREGG. Will the Senator yield for a question before he yields the floor?

Mr. BOND. Certainly.

Mr. GREGG. If the Senator could state—since he is moving to waive the Budget Act because the bill exceeds the budget—in his opinion, what dollar amount does this bill exceed the budget?

Mr. BOND. The original proposal in the bill agreed on by the budget conference committee between the House and the Senate was below the Senate number. It came in at $231 billion.

The Finance Committee has fulfilled its obligation to raise enough funds in the highway trust fund to enable us to reach the level of $255 billion, the amount originally adopted by a 79-to-21 vote in the Senate. Rather than argue about that detail and the other details, I want to put the measure to waive that and we can debate the Finance Committee and other questions as they arise.

Mr. GREGG. If the Senator will yield further for a question, that was not necessarily my question. My question was fairly specific. If you accept the number $255 billion as the number you are working from as the budget number that would be defensible, by what amount does this bill exceed the $255 billion number? What is the specific amount?

I presume as one of the managers of the bill that the manager must know that number.

Mr. BOND. I suggest that my colleague ask the Commerce Committee chairman by how much his title exceeds the budget resolution. I believe our number is at $255 billion. I want to help out the Commerce Committee by getting a waiver for what I understand—I cannot be sure—is a 50-percent increase over the budget allowed to the Commerce Committee.

Mr. GREGG. Mr. President, if the Senator will yield further, is the Senator's position that this bill does not exceed the budget, and therefore, if that is the Senator's position, why would the Senator be asking for a waiver of the budget?

Mr. BOND. Mr. President, to answer my colleague, it appears that the Commerce Committee is over the limit and we are going to have this vote at some point. This is a good time to have it. There will be questions raised about the Budget Act. My understanding is that the Commerce Committee is over its $4 billion allocation.

Mr. McCAIN. I would like to respond to the Senator from New Hampshire.

Mr. GREGG. Mr. President, I believe I have the floor and I am happy to yield for a question to the Senator.

Mr. McCAIN. Is the Senator aware that the EPW portion is over, by $24 billion, the budget resolution? The Commerce Committee is over by $2.5 billion. The reason it is over by $2.5 billion is because of administration requests. But I would be more than happy and would vote for removing the $2.5 billion which the Commerce Committee is over and the $24 billion that Environment and Public Works is over. That, it seems to me, would be fair.

Again, I hope the Senator from Missouri would look at the substitute that contains the Commerce Committee's input in title IV. The Senator from Missouri keeps claiming that the Commerce Committee is not in there. Look at title IV of the substitute, I say to the Senator from Missouri, and then you will find out what the Commerce Committee is. I am astonished he does not even know what is in his own substitute.

Mr. GREGG. Mr. President, I appreciate that question from the Senator from Arizona and that answer, both of which were excellent, by the way. I am glad somebody around here—who is not necessarily a member of the committee bringing the bill to the floor—knows the number by which the bill exceeds the budget. I do think that is sort of an elementary item you might want to know when you bring a bill to the floor of the Senate, by what amount do you exceed the budget, especially when you ask to waive the budget.

The Senator from Arizona has answered that question. The bill exceeds the budget by somewhere in the vicinity of $24 billion, I believe was the Senator's statement, on the EPW side, and $2-something billion on the Commerce side. I am not quite sure why we should be waiving the budget on that size number. That is a big number: $24 billion.

Mr. BOND. Mr. President, would the Senator yield for a question?

Mr. GREGG. I would be interested in getting an answer first from the Senator from Missouri, who refused to answer my prior questions with any specificity, before I yield for a question. I will complete my statement and then yield.

Mr. BOND. All right.

Mr. GREGG. The point is, we see a bill which has been brought to us which is dramatically over—dramatically over—the number which was proposed by the President, and then the number that was passed by this House as a budget number, and now, when there is an attempt to bring some fiscal discipline to the bill, we see the committee come forward and say, well, we don't know how much we are over or we are not going to tell you how much we are over, but we want to waive the budget.

At what point does fiscal discipline enter any of the discussion around this Senate? It appears to have become a fantasy land for the purposes of spending, and it is unfortunate because who is going to be paying this bill? Well, it is going to come out of the general fund, which means it will be added to the debt, which means that our children are going to pay for it.

Now, there are ways to fund a highway bill that are appropriate, and it is called going to the highway fund and using the money in the highway fund. This proposal, as it came out of the Budget Committee, as it was presented by the President, represented a 19-percent increase in funding, using dedicated funds. It was a very reasonable approach. But the bill, as it is on the Senate floor today, represents something in the vicinity of a 40-percent increase in cost, and it is not paid for with highway funds. It is paid for by borrowing from the general fund, which means running up the debt, and that is inappropriate.

So the Senator from Arizona has raised a very legitimate point, which is that this bill violates the budget. Then, when he asked and I asked the manager of the bill by how much, they could not answer the question, or they would not answer the question, which is ironic and maybe reflects either their lack of knowledge of the bill or their lack of desire to tell us what the number is.

Now, the Senator from Arizona has put a number on the table. He believes this is $24 billion over the budget. That is a lot of money—a lot of money. I think the Senator is probably right. I certainly cannot understand why we would be waiving the Budget Act when we have those types of dollars being added to the deficit, when the deficit has already ballooned beyond what anybody should reasonably expect a disciplined government would be running.

Mr. President, I have a list of just how much this bill has gone up, and I will put it in the RECORD. I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSPORTATION PROPOSALS RAW NUMBERS

	In billions
(1) TEA-21's Total Cost 1998–2003	$218
Highways	$167
Transit	$41
Safety, Motor Carrier Adm	$10
(2) Straight 6-Year Extension (6 years @ FY03 Funding level of $40.5 million.	$243.4
Highways	$190.8
Transit	$49.2
Safety, Motor Carrier Adm	$3.4
(3) Administration Proposal	$248
Highways	$195
Transit	$50
Safety, Motor Carrier Adm	$3
(4) "SAFE TEA"—EPW's S. 1072	$318.5
Highways	$255 (w/Finance additions)
Transit	$56.5
Safety, Motor Carrier Adm	$7
(5) TEA-LU: House Bill	$375 (w/o Safety Money)
Highways	$293
Transit	$82
Safety, Motor Carrier Adm	Amount not clear at this point

House bill has yet to be marked up. Young is now negotiating w/ Thomas who intends to mark up a $318 billion proposal in Ways and Means that is very close to Inhofe's Senate bill.

Mr. GREGG. The TEA–21 total cost for 1998 to 2003 was a $218 billion bill. That included highways at $167 billion, transit at $41 billion, and safety and motor carriers at $10 billion.

A straight 6-year extension of that would have been a $243 billion bill, with highways at $190 billion, transit at $49 billion, and safety and motor carriers at $3.4 billion.

The administration's proposal was originally a $248 billion bill, with highways at $195 billion.

SAFETEA, which is what is on the floor now, is a $318 billion bill, with highways at $255 billion, transit at $56 billion, and safety and motor carriers at $7 billion.

The House, which is talking about marking up its own bill, is at $375 billion allegedly, with highways at $293 billion, transit at $82 billion—and it is not really clear yet what the safety and motor carrier number is, but it is pretty obvious if the House is over our number as we are taking this bill up on the floor, we are not talking about a conference that is going to come back to the budget number. So our one opportunity to enforce the budget, to have fiscal discipline, and to not significantly aggravate the deficit is this vote that is going to come up on the issue of waiving the budget.

I certainly hope we will stand with the Senator from Arizona as he tries to enforce some fiscal discipline on this bill which, remember, if the budget number is put in place on this bill, it will be a 19-percent increase. We are not talking about cutting spending.

We are talking about cutting spending in a lot of accounts. The President has sent up a freeze budget for domestic, nondefense, and nonnational security issues, so we are going to have to cut some spending around here. This bill is not going to cut spending. If it meets the budget, it is going to be up 19 percent. So it is not like we are asking people to take a hit or to reduce highway construction. In fact, highway construction will increase considerably if we go forward with a bill which is within the budget, and it will also be responsible, which is the key to this exercise.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The junior Senator from Arizona.

Mr. KYL. Mr. President, I think my colleague from Arizona makes a valid point of order. And as the Senator from New Hampshire has just pointed out, the bill clearly exceeds the budget; therefore, a budget point of order is valid and should be supported by the Members of this body. For those who would vote against the budget point of order, they are in effect saying: Throw the budget to the wind; we want to spend more money than is authorized; and we are going to do that.

The response from our side, those people who wish we would stick with the budget, is to vote to sustain the budget point of order so that we can at least try to keep within the bounds we ourselves have set.

The rejoinder of our colleagues who oppose sticking to the budget is: We will fix the bill in conference. But they are never willing to commit they will bring a bill out of conference that does not violate the budget.

That is our problem. That is why we cannot accept the proposition from our colleagues that we will just pass this bill, that it is all going to somehow magically get fixed in the conference. There have been no commitments made that the bill that comes out of conference will be consistent with the budget. This is why the President has also expressed concerns.

In the Statement of Administration Policy, after noting the fact that the bill pending before us is $62 billion above the President's request—which was for $256 billion—the letter reads as follows:

> The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above.

And those are the principles that have been read before that called for a bill which does not raise taxes, which does not use smoke and mirrors, and which does not take money from the general fund to pay for the highways.

The letter goes on to say:

> We support a reasonable [responsible] six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

If we sustain the budget point of order that has been raised by my colleague from Arizona, we will go a long way toward meeting what the President has asked us to do: to stick within the limits that he set and that we set. If, on the other hand, we support the motion to waive the Budget Act of the Senator from Missouri, we have basically said we are not yet prepared to face up to fiscal realities. We are not prepared to show we are going to be fiscally responsible. But trust us, when we get to conference, we might or might not be doing something to bring us back into fiscal balance.

For those reasons, I urge my colleagues to support the budget point of order raised by the Senator from Arizona and to oppose the motion to waive all budget points of order offered by the Senator from Missouri.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I erred on a matter of decorum. I said I would yield to the Senator from Missouri for a question. Unfortunately, I failed to do that. If the Senator from Missouri did have a question, I apologize. He has probably forgotten his question by now. It was a long time ago. I am sure it was going to be a telling question, so it was best that I wait anyway.

Mr. BOND. Mr. President, to answer the question once more, he said how much was it over the budget. As to the original budget passed by this body, it is right at the budget, 255. How much is it over the joint House-Senate budget? It is $24 billion over, but that Budget Act specifically said additional money put in the highway trust fund can be used for trust fund purposes. That is what we have done. The reason we asked to waive the Budget Act points of order is so we can stop the dilatory tactics that have dragged this out without getting a vote for almost 2 weeks.

I would ask the Senator from New Hampshire if he intends to continue to delay, to attempt to prevent votes on the substantive amendments which may be brought to the bill. If he could give us some assurance that he will not continue to use dilatory tactics and raise points of order, should we not waive the budget?

Mr. GREGG. Mr. President, I knew the question was going to be a good one. Let me point out that I offered an amendment 2 weeks ago. I was ready to vote on it at any time over those 2 weeks. It is hardly my dilatory tactics that kept us from going to a vote on that amendment. In fact, it was the manager of the bill who decided to take a parliamentary move which brought down my amendment and made it impossible for me to get to a vote. Why would it be dilatory on my part that the managers brought down my amendment without allowing me a vote?

I guess I would turn the question back to the manager. Is the manager at this point willing to vote on my amendment? In fact, I ask unanimous consent to be allowed to bring forward, recognizing that it is not germane at this time because the manager has positioned the bill so it is not allowed to be voted on, but I ask unanimous consent at this point, because the managers asked for a vote, that I be given a vote on my amendment, which was the amendment dealing with collective bargaining which was pending for a week and a half in this body and on which I was not given a vote.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, we object. It is not a germane amendment. That was the problem.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Mr. President, I think that answers the question. It is not I who has not asked for votes. It is not I who has been dilatory. I have been aggressively pursuing a desire to vote on that very reasonable amendment for a considerable amount of time. I do not wish to waive my rights to maybe raise that issue at some point in the future.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, since the Senator from Missouri is on the Senate floor, I draw his attention to the index of his own substitute which has the commerce provisions of the bill in it in title IV. I wish he would ask to strike his comments if he doesn't know what the Commerce Committee is. I guess I shouldn't be surprised, but I am a little surprised that he doesn't know what is in his own substitute.

The Senate Budget Committee staff tells us that EPW is $24 billion over the budget; Banking, $9 billion over the budget; Commerce, $2.5 billion over the budget—I would be more than happy to erase all of those—for a total of $35.5 billion over the budget. Meanwhile, everybody in America is warning us about running up these huge deficits. The President of the United States, the administration's proposed authorization level was $262 billion on highways and highway safety, $50 billion over the President's request; $56 billion on mass transit, $12 billion over the President's request. In total, the Senate bill authorizes $318 billion in spending on highway safety and mass transit over the next 6 years, a full $62 billion above the President's request for the same period.

The President has guaranteed a veto. He has guaranteed a veto if we go on with this number which the managers of the bill continue to stoutly defend. King Canute had a better idea.

I hope my colleagues will vote to support the point of order which was raised against the Budget Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I believe many questions were raised about financing. I see the Senator from Iowa, the chairman of the Finance Committee, in the Chamber. I will just note that he could answer those questions, if he is recognized.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I want to make a couple comments about the bill in general and spending.

We are debating whether to waive the budget point of order. There is a point of order in order simply because this transportation bill goes way over—tens of billions of dollars over—what we voted on as a body and agreed to last year. That is why a budget point of order stands against this bill.

Transportation spending is one of the most legitimate uses of government dollars. Everybody benefits by it. I don't think there is any question. Anybody you talk to agrees it is a legitimate use of dollars. But there are people who want to go above the budget, who want to spend more than the trust fund brings in. The trust fund is that money that comes in because of user fee taxes paid into a fund that are supposed to build our roads and the like, the rest of the infrastructure.

Instead of putting this tax on our children or on the next Congress because we are deficit spending and passing debt, when you pass debt on to the future, you are going to have to raise taxes in the future. We have seen Congress doesn't cut spending. So because you are passing taxes on to the future, the people who want a higher highway spending bill should have the courage to raise the taxes. I don't believe we should. But if those people want to spend more money, they should at least have the courage not to put it off to the next Congress to raise taxes. That is why this point of order should be sustained.

To put this in the context of the economy and other spending, they are touting the jobs that will be created. Alan Greenspan testified that the biggest threat to our economy and to jobs is runaway Federal spending. The markets are watching us right now. Whether somebody is a supply side economist or a Keynesian economist, it doesn't matter what view they take, the one thing they will all agree on—whatever causes the deficit, they may disagree—is the deficit is a huge threat to the future growth of our economy and jobs in America. And they are all watching us right now. The markets are watching; the Federal Reserve is watching what we are going to do on this very bill right now. That is why it is so critical we exercise some fiscal discipline on such an important issue.

It will help us all by voting for more transportation spending; it helps us all for reelection. That is why this bill is so popular. We politicians can get up here and tout how much money is coming to our States; it is going to help you for reelection. But we have to think about not just our parochial interests in our States but put that into the broader context of the overall economy and also in the context of what we are doing to future generations.

If we keep deficit spending, we are putting taxes on to the future generations. We did the farm bill, the Medicare prescription drug bill, this transportation bill—we have passed so many things, plus all of the other discretionary accounts, on top of a war. And Americans understand that sometimes you have to deficit spend during recession and war. But we are out of the recession now. The war is still there, so we have that aspect of it. But to continue to add to the deficit with all of this other discretionary spending and going above the trust fund I think is wrong.

That is why I call on colleagues, if they really want the $311 billion, or whatever the spending amount is they come up to, not to play games, not do this shadow game being done with a lot of the numbers.

I appreciate what the chairman of the Finance Committee has tried to do. He was given a task and he has done the best he possibly could. I think too many games have been played. We ought to be honest. If we want to spin that number and if people want that number, they ought to vote for a gasoline tax increase to pay for it. That should be the only way we do this.

Mr. President, I will conclude my remarks by saying I hope we act in a more fiscally responsible way than we are doing within this bill. I am applauding the President for putting his foot down and saying enough is enough. We have to get our fiscal house in order.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I spoke, similar to what I am going to say today, last week on the floor of the Senate because I heard these very same considerations and very same criticisms of the Senate Finance Committee bill at that particular time. And at that particular time, I thought for

Senators who don't have time to read legislation, or be advised by their committees or by their staffs on what the committee might be trying to accomplish—I ought to take time to inform colleagues about what my committee actually did.

I can tell by the debate today that either no one was paying any attention to my explanation last week or they forgot or they didn't care, because I am hearing the same criticism this week. I want to state why that criticism is unfounded, and I want to say to my colleagues that what we are doing in this legislation is following precedent and making sure that money that ought to be in the trust fund is in fact in the trust fund, and that any sort of exemption we have is to make all those exemptions and/or subsidies perfectly consistent.

I have found the unfounded criticism of the legislation that has come out of my committee falling into two categories: First, the general fund money is going into the trust fund. In other words, nonroad-related money is going into the road fund and the highway fund, the trust fund, the transportation fund, whatever you might want to call it. Second, the Senate Finance Committee has made changes that are in fact not legitimate changes but are gimmicks.

Let me respond to those. This response is not much different from what I would have stated last week. In response to the argument that general fund money is going into the trust fund, under the Finance Committee amendment no general revenue is transferred to the highway trust fund. We keep hearing this incorrect allegation. I encourage the critics to read the Finance Committee title of the transportation bill.

Under the Finance Committee amendment, the highway trust fund will retain more excise taxes. It is not general fund revenue. That is excise taxes. And excise taxes go into this trust fund. We accomplish this by eliminating the partial exemption for ethanol-blended fuel. Ethanol-blended fuel users will now pay the full excise tax and the trust fund will receive the money. The benefit will be taken as a tax credit against the general fund. And just to verify that this is a totally consistent policy, this is exactly as all other energy production incentives are handled.

Likewise, the trust fund, as a second source of revenue, will retain the excise taxes collected from certain users, such as exemptions that are given to State and local governments. Those vehicles use our highways, use our transportation systems; should they not be paying taxes? Should that money not be going into the road fund?

Under the Finance Committee amendment, the refund is not charged to the highway trust fund, so that every mile that a city of Des Moines vehicle puts on, that money would go into the road fund, just like the gas tax I pay for the car I drive on the highways in the State of Iowa.

Again, this means, then, that the trust fund retains more of the excise taxes. So let's be clear. The Finance Committee amendment does not transfer general revenue to the trust fund.

The second argument is that we have used accounting gimmicks. We hear the allegations that the Finance Committee is doing this many times on the floor of the Senate. It is an unfair, incorrect allegation. What the Finance Committee did in our amendment to this transportation bill was to ensure that the trust fund keeps more of excise taxes that should actually be in the trust fund and should be spent on our transportation system.

The Finance Committee also recognized that the trust fund should earn interest on its balance. You know, just like we are telling our senior citizens all the time, that surplus in the Social Security payroll taxes coming in, that is not being paid out currently, is invested in Treasury bonds. The interest on that is accumulated and accounted to the Social Security trust fund. So doesn't it make sense to ensure that any surplus in the transportation fund—and there must be some surplus to cover shortages after September 11 when people didn't drive as much and not as much road tax money was coming in—for items beyond what we can plan for needs to be accounted? That surplus then earns interest. That hasn't been accounted for in the highway fund. It now will be. These changes align trust fund receipts with spending purposes.

There are policy initiatives that burden the highway trust fund that have nothing to do with highway policy. We are going to unburden the highway fund. These policy initiatives have, in fact, reduced highway trust fund receipts, money that should have been available to build highways, not available because of exemptions. We accommodate those exemptions. Accommodating an exemption, consistent with good accounting practices, is not a gimmick.

The effect is that these policy initiatives are carried in the general fund where they belong. I heard one of my colleagues'—Senator McCAIN—harsh criticism of the Finance Committee. Senator McCAIN's committee, the Commerce Committee, approved new spending of $7 billion in its programs. The Finance Committee didn't question the Commerce Committee's needs and, without reservation, the Finance Committee found a way to fund the needs of this specific committee doing their legitimate work.

The Senator from Arizona legitimately put a burden on the Finance Committee, and we accepted that responsibility within our jurisdiction, within our power, within our responsibility. We bore the Commerce Committee's burden.

Now, after doing their work, the Finance Committee is criticized for what it did. It is easy to put burdens on others. It is easy to criticize those who did the heavy lifting. It is a lot harder to find ways to do the heavy lifting. But that is not their responsibility. They did what they needed to do under the responsibilities of that committee for this transportation bill. I find no fault with what they have done, and I assumed the responsibility as chairman of the Finance Committee, working with my 20 members, to make sure the money was available.

This isn't just because that is something I assumed. This is something that last summer the leader of the Senate, Senator FRIST, asked us to do. He got members of the Commerce Committee, the Banking Committee, the Finance Committee, and the Environment and Public Works Committee together and said that we needed to find something, a common ground we could agree on or he didn't want to bring this bill to the floor. That was last summer.

We didn't have time last year to get it done. We extended it until February 29, but as far as I know, that same collegial assumption of responsibility to produce good transportation policy is still in effect. The three committees decided what those programs should be and the Finance Committee, the committee I chair, met our responsibilities.

Let's deal with reality for a second. As the cloture vote shows, the will of the Senate is to provide resources at the levels provided by these three authorizing committees. The Finance Committee did the job and provided funding at the outlay level. The Finance Committee preserved its role by maintaining the importance of the trust fund.

A week ago, I spoke to these points. I asked the critics, in light of where the Senate was on the numbers, how would you fix it? We have a few vocal people throwing rocks at this bill. None of the rock throwers have accepted my challenge and answered the challenge. What would you do and have it be sustained by the Senate, particularly, as I stated last week and I haven't said yet this week, when we did have that vote of 79 to 21 last year where there was a clear decision made by the Senate to spend a lot more money on transportation.

I was one of the 21 who felt we should not go that far, but how are you going to argue with the Senate making a decision, with only 21 dissenting votes, that the Senate is wrong? I still may think they are wrong, but that doesn't change my responsibility to provide the revenue to meet the needs of the three committees, and I assumed that responsibility. That is what we have done.

It is easy to criticize. It is a lot harder to legislate and do the people's business, and that people's business I think is represented by that 79-to-21 vote last year and by the work of the three authorizing committees—the Environment and Public Works Committee, the Banking Committee, and the Commerce Committee—on how much money needs to be spent. It falls on my shoulders to do it. I have done it in a way that is consistent with the way excise tax money ought to be handled. It is done in a way that any subsidy the Congress thinks ought to be established is done. What do you want me to do? Last week I said if you don't like what we did, I am open to suggestion.

I have one promise that I made to my committee, in the meantime, about the package that is before us. We followed the same policy that we did in the tax bill of 2001, and that was to make some changes in the payment of the corporate tax so that we would have a revenue-neutral bill coming before the committee. At least the leaders of the Budget Committee asked me and Senator BAUCUS during our committee's deliberation to not use that source of revenue, and we are committed to responding to that request. Beyond that, I think the bill voted out of the committee stands, and it is one that meets our responsibility to the Senate, to the leader who asked the four committees to work together, to the transportation needs of our Nation, and, most importantly, in this body doing something in a bipartisan way which, if it isn't done, this body does not have a product for the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, in my view—and I think it is the view of the vast majority of the Members of the Senate and probably the majority of Americans—this highway legislation is critical. It needs passing immediately. It is critical because our country so much depends upon our highways. The past highway legislation spent a good amount of money to help repair our roads, provide for new roads, bridges, and safety. We know the importance of our infrastructure system.

This bill expired. We are now in an extension period. Because it expired, we desperately need to pass replacement legislation.

It is also a jobs bill. This is a no-brainer. If we have lost—and nobody disputes this figure—a couple to 3 million jobs in this country in the last couple of years, we need to pass a bill that creates and provides jobs. That is a highway bill. It does not take much brain power to figure that one out.

I urge our colleagues to get on with it and pass highway legislation. We should not let perfection be the enemy of the good. There may be one or two points—and they are not big points—that individual Senators may want to have in this bill, but we should not let that get in the way. We should pass this legislation.

There are some Senators who say, oh, my gosh, this breaks the bank; it spends too much money. Respectfully, our President has suggested this is too expensive and spends too much money. There is even talk of a potential veto. Well, I doubt seriously that the President of the United States is going to veto this jobs bill. It just is not going to happen. First, the President has not vetoed any bill in his Presidency—none. I doubt that his first veto would be the highway bill, a jobs bill.

Also, importantly, this bill does not increase the debt. It does not increase the deficit. All of the revenue that will be spent for highways is already paid for, except for a small portion of general revenue that goes to pay for a portion of mass transit, but that was in the budget resolution, and the budget resolution with respect to highways does not increase our debt.

I urge my colleagues to think very carefully about that because for those who say it breaks the bank, that is just not accurate. This bill does not do that. I might say, in my State of Montana, this is our jobs bill, this is our economic development bill. This creates and maintains about 17,000 jobs in our State. We are a highway State. We do not have a lot of people in our State compared to others and we have great distances to travel, but we would like to have a highway program that enables us to get around in our State.

That is probably true for all of these folks from all around the country who come and visit Montana. They like to be able to travel on roads that do not have potholes. They want to be able to travel to various resorts in Montana to go skiing in the winter and backpacking and fishing, fly fishing, in the summer. My colleagues would be amazed the number of people I meet who tell me they come to Montana, especially in the summers, to go fishing and just have a good vacation. They want the same highways in Montana that they will find in other States of the Nation.

I just cannot say too strongly how much we need this legislation. I might say, too, this has been a product of bipartisanship, which is so important. We all know that most anything of consequence that gets passed in the Senate is passed only when we work together, Republicans, Democrats, House and Senate. That is this bill. That is this legislation.

I take my hat off to the chairman of the EPW Committee, Senator INHOFE, and to the ranking member, Senator JEFFORDS, who worked very closely together.

I might also say that the money for this bill has to be authorized by the Finance Committee. That is the committee of which I am the ranking member, and the chairman of our committee just spoke preceding me. We have all worked together, all four of us, on a bipartisan basis to get a good highway bill passed. That is the only way we can do legislation, in my view.

The bill also corrects two mistakes. One of them currently—there are a lot of them, but a lot of the money now that goes to the general fund should go to the highway trust fund. For example, interest on the highway trust fund currently goes to the general fund. Well, that does not make any sense. It is interest on the highway trust fund. It should go to the highway program. That is a no-brainer. The same with the ethanol subsidy. There is a 2.5 percent deduction from the ethanol portion of the highway users tax that goes to general revenue. That does not make any sense. Folks who drive cars powered by gasohol drive on highways just like people who drive cars powered by an ordinary gas engine. It seems to me that for anybody who drives on the highway, the excise and gasoline taxes they pay should go to the highway trust fund. A portion of it should not go over to the general revenue. The Finance Committee fixed that and there are some other changes as well.

To summarize, this is a good bill. It is needed. I urge my colleagues to pass it very quickly. The cloture vote was very reassuring. I think only 11 Senators voted against cloture and that was because the remaining Senators who voted for cloture realized we have to proceed. We have to get this bill passed; it is very important. I encourage my colleagues to act accordingly.

I also thank my good friend, Senator REID, from Nevada. He has worked hard on this bill, in a totally bipartisan way, knowing how important it is for Nevada. Nevada is a huge State. A lot of folks in Nevada live in Las Vegas and Reno, but I am sure the Senator would like to get up to the northern part of the State sometime, and this helps him do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I take a brief minute to express my appreciation, as I have done in this Chamber before, to the chairman of the Finance Committee and the ranking member of the Finance Committee, Senators GRASSLEY and BAUCUS, for their outstanding work on this legislation.

For anyone to come to the floor and accuse the senior Senator from Iowa and the senior Senator from Montana of being budget busters simply does not meet the facts of their careers. These two fine Senators are known for pinching pennies. They are known as people who are concerned about taxpayers' dollars, as indicated by the many disputes that have arisen and the fact that we have criticized them a lot of times for not coming up with enough money for different things.

For them to come forward on this bill means so much. It exemplifies their public service and also exemplifies the importance of this legislation.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend from Nevada. I think he is one of the best Senators in this body and I think his statement indicates—if one reads between the lines, listens to the music—why.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Georgia.

(The remarks of Mr. MILLER are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I want to commend Senators GRASSLEY and BAUCUS for the contributions they have made to this very important measure. They worked diligently to come up with the funding to pay for the programs contained in this legislation. The Finance Committee has provided the revenue to meet the needs of the three committees that contributed to this bill. In doing so they protected revenue that deserves to be in the highway trust fund and found appropriate ways to offset these costs. Through their hard work we can report that this bill is paid for.

Technically, a budget point of order can be lodged against this bill because a small amount of general revenue is needed. But I want all my colleagues to remember that we have gone beyond the budget for the war, for defense spending, and for tax cuts. Has the spending contained in these type of measures resulted in the creation of U.S.-based jobs? That is debatable. But this bill is a jobs bill. There is no doubt in anyone's mind that this bill will create many, many jobs. Should we bring this bill down over a small technicality? No. We should pass this bill today.

I yield the floor with full confidence that we will do so.

Thank you, Mr. President.

Mr. NICKLES. Mr. President, I wish to speak on the issue in the highway bill on which Senator McCAIN raised a budget point of order. I am not sure I would have made it at this point, but a point of order is legitimate. Frankly, if you believe in sustaining the budget, if you believe in a budget, this bill isn't paid for, and the budget point of order is well made.

I encourage my colleagues to vote in favor of the budget point of order even though I am relatively certain it will not pass. I have tried to restrain myself on making budget points of order. I think it is important that points of order be sustained. I thank my colleagues because almost every time last year—about 60 times—budget points of order were sustained. As a result, we saved hundreds of billions of dollars in spending. Now we find ourselves confronting a highway bill.

I compliment Senator JEFFORDS and Senator INHOFE for their leadership. They have worked very hard to put together a bill with allocations and formulas which are fair in meeting our Nation's highway and bridge needs. I understand those needs are great, indeed. I understand they want to increase employment. I concur with the objectives. They have worked long and hard to make that happen and to come up with the funding formulas. I don't think Congress has worked as long and hard on how to pay for it. I have heard compliments of our colleagues, the chairman of the Finance Committee and the ranking member. I compliment them as well. But the Finance Committee portion of this bill doesn't pay for this bill that is before us. Those are just the facts.

Somebody can say we think it is paid for, but I can tell you it is not paid for. I will give you a couple of examples. Maybe I don't know how to read, but I happen to be a member of the Finance Committee. The Finance Committee has revenue raisers to replenish the general revenue fund at about $22 billion, over 10 years. This bill is over 6 years. The amount of money raised by this bill to replenish the general revenue fund over 6 years is only $11 billion. It doesn't meet the gap.

If you look at the revenues on the scoring sheet that was handed out by the Joint Committee on Taxation of February 2, the corporate estimated tax payment due July through September of 2009 increased to 119 percent of otherwise required amounts. That moves $11.4 billion from the year 2010 to the year 2009 so they can say we met our targets for the first 6 years of the bill. That is a sham. That is a shell game. To say that pays for this highway bill defies reality.

I told my friends—and they are my friends. Senator GRASSLEY is one of my very best friends. I was elected at the same time Senator GRASSLEY was elected. He and I will be very good friends long after this bill. Senator BAUCUS and I are good friends.

But I think it does not pass the smell test. This shouldn't be enacted into law. They have assured me it won't be, that they will come up with a replacement. I haven't seen the replacement yet. But I just try to look at the numbers and see if it adds up. The fact is right now it doesn't. Maybe there will be an amendment offered later by leadership, or maybe one offered by Senator GRASSLEY and Senator BAUCUS that will pay for it. But right now, it doesn't. Right now, it relies on this shell game of moving $11.4 billion from 2010 to 2009 and saying that helps make it work. It doesn't.

I am amazed people think we are going to be able to get all of this highway spending for nothing. This is a 46-percent increase over the last highway bill, TEA–21. The President proposed 17 percent, but this is 46 percent. The House is proposing 72 percent. They talked about increasing the gasoline tax to pay for it. But they did not. I am guessing they will have to come down. But where is the money coming from for the 46-percent increase? The Federal gasoline tax right now is 18.3 cents. No one here has yet said let us increase the gasoline tax. The President is opposed to that. I happen to agree with him. He thinks if States want to increase their gasoline taxes, let them do it. But right now we are saying we are going to increase Federal contract authority and obligation authority, but we don't have any new money coming in for it.

I looked at what the Finance Committee did. They came up with a bunch of transfers, most of which are taking money from general revenue funds and putting it into highway funds, some of which is sort of related to highway and some not. That totals about $11 billion. It really comes up short. Even if you said this escalating corporate estimated payment in 2009 was legitimate—and it is not, and I wish somebody would come to the floor and say that is very legitimate because it is not legitimate—it is still short. So we are increasing the deficit.

It depends on whose baseline you are using to see how much we are increasing the deficit, but the President forecasted the deficit at $500 billion-plus this year. This will increase that number. The President has deficit figures, estimates for this year $521 billion, $364 billion for the following year, and $268 billion for 2006. This bill is substantially higher than the President's number. Compared to the funding that is actually in the fund, it is about $39 billion shortfall. Compared to the President's number, it is $29 billion. The President was pushing the numbers as far as he thought we could push them without bankrupting the fund and without saying raid the general revenue.

Let's look at what is coming into the fund right now. I mentioned we have an 18.3 cent tax. Some is earmarked for transit, but if you add the total amount of money coming into the fund, it is $228 billion over the next 6 years. This bill would result in estimated outlays of $281 billion. That is a difference of $53 billion. The Finance Committee came up with about $11 billion from general revenue, increasing to $14 billion including fuel fraud receipts to the trust fund, so $14 billion. So there is a shortage. It is not paid for. It will increase the deficit. I hope everyone understands that. I will hear a lot of speeches saying this deficit is too high. I want Members to know this bill will increase the deficit. It is not paid for. If it was paid for, it would not be increasing the deficit. It will increase the deficit. The total amount of money coming under this bill is $242 billion and the outlays are estimated to be $281, and the contracts we are making are greater than $281 billion. The obligation limits are $290 and the total budget authority is $318, and $318 billion is about a 46 percent increase over present law. We did not increase gasoline tax, so that is too big of an increase. It is not paid for.

The point of order made by my colleague from Arizona should be sustained. I am relatively certain it will not be sustained. I hope people understand, in my opinion, we are making a mistake. We should use user fees to pay for the highway program. If we break that link and say highways should be financed out of general revenue funds such as income taxes or payroll taxes, there is almost no limit to how much this bill could cost.

There used to be a limitation on the highway program and the mass transit program. You said users have to pay for the program; when you fill your car with gasoline, you are paying for the roads that you are using. That makes sense. We will be breaking that link under this bill. We are breaking it with general revenue financing and we are not paying for it even at that.

Some Members, Senator CONRAD or others, may have an amendment to pay for it. That would probably be better than just deficit financing.

But we are making a mistake when we break the link between the user pay and paying for highways or not. If people say, I want a 60 or 40-percent increase in gasoline tax, you want a 50-percent increase in the highway program—this is almost 50 percent—you would have to increase the gasoline tax by 9 cents. You want 50 percent more of a program, increase the gasoline tax from 18 cents to 27 cents.

That is not what we are voting on. What we are voting on is increasing the program by 46 percent and we will take some money out of general revenues to pay for it. That puts more pressure on the deficit. I don't diminish for a second the good intentions of the authorizers who are working to help build a national infrastructure that is in desperate need of more resources. I do not denigrate their efforts one iota. I compliment them. They worked a lot longer than we did on the Finance Committee to pay for it. Again, I am not disparaging the work of the chairman and ranking member, but it falls short and it needs to be improved. It will not fund this bill. It relies on a shell game of at least $11.5 billion.

They said they are trying to raise $22 billion to replenish the fund and they do that over 10 years and we find about $11.4 billion is a shell game. It does not meet the needs of financing the bill if people want to say legitimately the bill is paid for.

We have to be honest. We have to say this bill is taking a lot of money out of general revenues and it will increase the deficit to pay for the 46-percent increase in highways. People need to know just the facts. People are always entitled to their own opinion, but I don't think they are entitled to their own facts. The facts are this is a tremendously large increase in the highway program that is not yet paid for and will increase the deficit. Therefore, I urge our colleagues to vote in favor of the budget point of order later this afternoon.

Mr. CRAIG. Will the Senator yield?

Mr. NICKLES. I am happy to yield.

Mr. CRAIG. We are talking about rates of increase from the last transportation bill to this bill, 43 percent. The President is proposing a level of spending. What does this represent as an increase over the last?

Mr. NICKLES. The President's proposal increases from $218 billion to $257 billion, an increase of 17 percent.

Mr. CRAIG. There is a 17-percent growth rate above current levels of expenditures. Is that annualized?

Mr. NICKLES. Over the 6 years, a 17-percent increase. The bill before the Senate in contract authority is an increase of 46 percent.

Mr. CRAIG. That is annualized?

Mr. NICKLES. It is 46 percent over the 6-year period. You have a 6-year bill. The bill that just expired, TEA-21, was $218 billion over 1998-2003. This new bill will be a total of, for contract authority, $308 billion; total budget authority would be $318 billion.

Mr. CRAIG. I thank my colleague.

Mr. NICKLES. I yield the floor.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I was gone during part of the discussion on this issue. I would like to reemphasize a couple points. First of all, when we talk about 40 percent or 43 percent, we are talking about over a 6-year period. Generally we are in the mindset of talking about from year to year down here, and there are people walking around thinking we are talking about a 40-percent increase. We are talking about, if you would amortize it and put it the way we normally discuss things, 6.2 percent a year. This is in infrastructure, things you see out there. I think people need to understand that.

Secondly, those of us who were in the business of putting together this bill over the last year, along with its formula and everything else that is being criticized, considered all these things. Then we went, as we should, to the Finance Committee and said: All right, how are we going to pay for this? And, yes, we can do it. I do not want to get inside the minds of Senator GRASSLEY and Senator BAUCUS as to what considerations they were making during this time, but I will say this, they are the guys who are running the Finance Committee.

They have said this bill is going to be paid for. They have said the three criterion the administration sent down some time ago—that, No. 1, it would not increase gas taxes; No. 2, it would not have any fun-and-games type of bonding fixes; and, No. 3, it would not add to the deficit—is met.

There are 100 people in this Chamber, and I know there can be any number of them who are going to disagree. But I believe if we take this to the committees that have the jurisdiction, have the expertise, have the resources, have the personnel, have the staffers who can put these things together, that is the place it should be, and they have given us the assurance this bill will be paid for.

We just had a vote today. We defeated an amendment that would have increased the amount of money by $7.25 billion in this bill. In other words, the transportation portion of this, the highway portion of this, would go up from $255 billion to $262.25 billion. I think a lot of people who voted in favor of that amendment are the same ones who are talking now about the fact this is too much.

I know we have the genuine division of interpretations as to what the Finance Committee did and how this thing is really going to be paid for. But I have often said—in fact, I said to the administration that, to me, instead of coming down and saying this bill is going to have to be $50 billion less, I would think they would be better off to say: So long as the bill is paid for, does not add to the deficit, does not increase taxes, then we would support it, we would not veto it. I am hoping before this thing is over that is where we will be.

Let's keep in mind one other thing, too. We are sending a bill to conference. In conference all kinds of things happen. I had occasion to speak with the Speaker of the House at length yesterday. We understand when it gets into conference we are going to be able to look at this and take everything into consideration. At that point, we will be able to really evaluate this finance package and see where we are. There is no one out there who is going to say: I want deficit spending. I do not. That has never been my philosophy. I think the senior Senator from Oklahoma has known me well for many years, and he has heard me say for many years that we, who are fiscal conservatives, are big spenders in two particular areas: One is in national defense and the other is in infrastructure.

As I have heard different individuals such as from Arizona and Texas, I am reminded of what happened during the Thanksgiving holidays and the Christmas holidays. We are used to this in Oklahoma. I can remember someone saying: Well, I came from California. As I came across Arizona, they had such great roads. I came across Texas and everything was great. I sure could tell when I got to Oklahoma. They had lousy roads. That is what we have been plagued with for a long time. Our bridges in the State of Oklahoma are dead last of the 50 States.

This is a spending bill that is paid for. It does not increase the deficit, in the opinion of the Finance Committee. I take their word for it, and I know others may not. For that reason I know this discussion is good, but we need to move along.

We are going to be moving along. There is much more cooperation on the floor now. I have to say, this has not been a partisan fight. This has been something where there are honest philosophic disagreements.

I yield the floor.

The PRESIDING OFFICER. The Senator from the great State of Nevada.

Mr. REID. Mr. President, Senator INHOFE and I have been in touch with a number of Senators on the other side. What we would like to do is have anyone who wants to speak on waiving the point of order do that, and then, when that is done, we are going to ask consent to set aside the waiver and go to the next amendment, which would be Senator KYL, who has another amendment.

Mr. NICKLES. Will the Senator yield for a moment?

Mr. REID. I am happy to yield.

Mr. NICKLES. I understand from one of the proponents of the budget point of order they do not wish to concur to setting aside the amendment.

Mr. REID. OK. That settles that. I would advise all Senators, then, we will not be able to vote on this until maybe a little before 2 o'clock. Both leaders have indicated there are people who have problems with being here, and they have agreed to let them not be here, so we will try to speed that up and get to Senator KYL as quickly as we can.

I would say this: If there is no more debate and it is completed on the point of order waiver, rather than sit in a quorum call, I would suggest maybe Senator KYL could talk about his amendment to just speed things up when we finish the point of order vote.

I want to say to everyone here, I think sometimes mornings are a little testy around here. I think, as the day has gone on, we have worked out an arrangement where, to this point at least, we have had up-or-down votes, and we are going to continue to do that for the foreseeable future. The main thing Senator INHOFE and the rest of the managers and I want to do is make sure people feel they have had a fair shake here. We hope we are accomplishing that. We are certainly trying.

I indicated to the Senator from Arizona that at the appropriate time—and probably this is an appropriate time—I would talk publicly about statements I made on the floor yesterday. There was some, I think, very serious debate yesterday, and I indicated during that debate the Senator from Arizona was—I think the words I used were "at the beck and call of the White House." I would like the RECORD to reflect that was a poor choice of words, that the Senator from Arizona on many occasions has been independent on issues the White House has propounded and advocated.

And so without belaboring the point, if there is an apology that is necessary, I am certainly willing to do that and apologize to my friend from Arizona, who I have the highest regard for. If I did anything to hurt his feelings, embarrass him or—in hindsight, it does not make me look very good to be name-calling. That is basically a subtle way of name-calling, and I apologize for that.

The PRESIDING OFFICER. The Senator from the great State of Arizona.

Mr. KYL. Mr. President, I cannot tell you how much I appreciate the words of my colleague from Nevada. I would like to make two points. First of all, when my staff showed me this morning the words of the Senator from Nevada—and they seemed to be very concerned about it—they probably were a little astonished that my reaction was not particularly negative. I said: Look, people say things on the floor not exactly the way they meant to express them, and I simply attribute it to that. Then I chuckled. The Senator from Nevada and I talked a bit about it, because I said: My friends at the White House might wonder what on Earth the Senator from Nevada was talking about when they appreciate the fact that I don't support the amount of funding in the highway bill even that the President supports, that I don't support the amount of the funding in the energy bill, and in some cases I have been kind of a royal pain for folks in the administration.

I try to support the President all I can, and I do support the President a lot, but we all find ourselves sometimes in opposition to the administration, sometimes in support of the administration. But I do appreciate the sentiment of the Senator from Nevada. He certainly did not mean to suggest, I know, that I only do things if the President wishes them. I appreciate his comments just now.

I also appreciate what else he said, which is the debate has been constructive, that there has been a process to try to get amendments to votes. Just to reiterate that, and describe what I think might happen here next, the budget point of order my colleague from Arizona raised a moment ago has been amended by the Senator from Missouri. I checked with the staff for Senator McCAIN, and he has no objection to having that vote at or about 2 o'clock, depending upon what the managers of the bill wish to do in that regard. He would be prepared, as I understand it, to come to the floor just before then to make closing comments about that point of order.

I also know Senator GRAHAM is here and wishes to speak. Rather than lay aside the pending business, my suggestion would be to go ahead with that, have any other people speak on it who wish. The managers should certainly be the ones who determine what time the vote is. I will simply express what Senator McCAIN's staff has told me, which is that he has no objection to voting at or about 2 o'clock and would presume to be here for a few minutes ahead of that time to speak on this budget point of order.

Then presumably following that, if there is not a Democrat who wishes to offer an amendment at that time, I would like to offer an amendment which should not take very long to debate and would be happy to have a vote on that amendment as soon as debate time is concluded. I mean perhaps half an hour or something in that timeframe. I don't know who all might want to speak on it, but I don't have that much time left, and I want to save a little bit of time to speak on other business as well.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I must say this has been a very interesting first year in the Senate. Our country has been challenged in many ways. I have listened to this debate about the highway bill. If I were a citizen of Oklahoma, I would be pretty proud. You have two Senators down here expressing different points of view but in a very articulate way.

The problems Senator INHOFE related in Oklahoma are very real in South Carolina. We are billions short of the money we need for bridges and roads. It is an honest-to-God legitimate problem. This is not about getting reelected. When people say that, I disassociate myself with that. This is about trying to do some good for the country economically.

One good thing about the highway bill that needs to be said more is, it is not just about jobs. That is very important. But another thing for sure, these jobs are going to be here. When you pave these roads and you build these bridges, most of the time, if not all the time, Americans are going to be doing the jobs.

One of the reasons we have had a kind of jobless recovery is that the jobs that are being created are being created overseas. When you look at trying to create a domestic opportunity for somebody to go to work, a bill such as this is an excellent opportunity for people to go to work.

Whether or not it busts the budget, I have had a fascinating opportunity, sitting in the chair for the last hour, to try to figure all that out. Senator NICKLES is going to be sorely missed by this body. I find him to be an extremely smart, capable person. Senator GRASSLEY and Senator NICKLES are very good friends. I like them both. Senator GRASSLEY took the floor about the bill being paid for.

Here is where I come down. The President has made a decision for the first time in his Presidency to threaten to veto a bill if it goes above $256 billion. To the defense of the people in the Senate, there has been a little bit of bait and switch here. The White House at one point in time was not so inflexible in growing the number. I don't know what has happened there, but something has happened. My best guess is that the President sees a trend that is pretty disturbing to our party and maybe the country in general. We have lost sight of our fiscal responsibilities. The deficit is larger than anyone would like. It is going to grow.

The things we have done in the past have all been necessary. A prescription drug benefit can save you money because if you keep people out of the hospital with a prescription drug, that is a lot better than having to treat them in the hospital. But at the end of the day I voted no on that bill because I believed that by the way we set it up, utilization rates would go through the roof.

I am totally convinced that the marketplace works in two ways: It can bring out the best in people or the worst. If you have a dollar copayment, if you make under $12,000 a year as a senior—and a lot of people are in that situation—your payment under the Medicare prescription drug bill is $1. That is it. I just really believe that people are going to start using drugs at a higher rate and that if you are in the middle of the pack, as a middle-income senior, this is not that great a deal. The donut hole will be filled in because of political pressure. The means test is a great idea and the health savings accounts is a great idea, if we can hang on to them.

At the end of day, my fear was that the Medicare bill would not be $395 billion; it would explode. Even in my wildest dreams, I never believed it would explode by some $130 billion in a week. So the estimate of 395 is now 534.

Let me tell people in South Carolina about these estimates. It is a guess at best. It is an educated guess. The deficit is an educated guess. Two years ago we had trillions of dollars of surpluses as far as the eye could see over a 10-year period. The truth is, you really can't govern based on what is going to happen 10 years from now because you really don't know. You can govern pretty well if you will watch every year or every couple years where you are and project down the road and not let this thing get out of hand.

The highway bill is not like the farm bill. The farm bill was special-interest driven even more than the highway bill. I wound up voting for the farm bill. The amount of money we spent on the farm bill was more than I felt comfortable with, but I wound up voting for it because I am trying to get my legs here as a new Senator.

Senator INHOFE and Senator GRASSLEY were the two leading proponents of the tax cuts. I am very glad I voted for the tax cuts because I think they have helped the American economy. But we are going to have to make a decision in light of everything we have done in the last year—the war, the tax cuts, because it does take money away from the budget in the short term, but it has helped the economy—how far do we go down this road, no pun intended.

I guess I have made a decision. I have made a decision that the President's desire to not see this bill grow over 256 is probably a good decision. You hate to do it on a bill where so many people have worked so hard to address legitimate needs and to clean up the mess of highway funding. Senator INHOFE, his colleagues, and his ranking member should take great pride in the fact that they have taken the funding of highways that was kind of a hodgepodge and made it more professional. You brought money back into the highway trust fund that should have been there all along. You have taken interest payments on highway trust fund moneys that went to the general revenue and you have brought them back. I congratulate you for trying to build a stronger fund because we need a stronger fund.

Here is the really hard part for me as a conservative. The average person in my State works until about May, or now almost June, to pay taxes. If you are out there working for a living, when you add up your State tax and local tax and Federal tax and you look at your pay, it takes you almost half the year before you start working for yourself. So the last thing I want to do is come up here and put another burden on people.

The worst thing I could do is come up here and lie to people. This is the truth: Our highway funding needs are far in excess of the money coming in from the gas tax, the mass transit taxes. We are trying to get more money back into the pot, and I don't want to use general revenue.

The reason I don't want to use general revenue is that it would be a bad principle. If you start using general revenue to fund highways, then you will just have total budget chaos. The authors of this bill have tried to avoid that as best they can. They put money back into the fund. In their opinion, it is not enough.

We are at war. The Senate highway bill is increased by 43 percent. I am sure every penny could be used in a legitimate manner. But when you do the family budget and when you do your budget back home at a business entity, to raise one area by 43 percent would be a very difficult task to do to keep the budget balanced. As much as I would like to get money into Oklahoma and South Carolina in a more robust fashion, I don't believe a 43 percent increase, given our financial dilemma up here with the war and other problems, is going to be fiscally sound.

With the President's increase of 18 percent and 43—I hope we can reach a compromise. The House version of 70 percent is not going to happen. The key issue is, how can you get more money in the trust funds without raising taxes? Down the road, I don't see how you do that. So some time in the near future, America is going to have to come to grips with a couple of competing concepts. The war on terrorism was unexpected in many ways, in terms of its scope and cost. Maybe it should not have been, but it was. Every day we are trying to get better in fighting that war. We have spent a lot of money we did not plan to spend but couldn't afford not to spend. That is on the deficit.

The recession is finally over. That has been hurting our revenues. As I see it, as a fairly new Member of this body, future budgeting is going to be tough to get this thing back to balance in my lifetime. We are going to have to do some things we have never done before. I think there have been a lot of creative things done to the trust fund to make it more solvent in the future.

This is a bridge too far for me. I want to build bridges, but there are too many being built given our other needs right now. Probably, over time, conservatives are going to have to come to grips with a gas tax increase, which is going to be the only legitimate and honest way to make up the shortfalls in terms of our highway needs in this country. You can play with the numbers all day long, but a legitimate, honest debate over whether we need new revenue has been had in this bill. The question is how to do it.

I think this bill borrows money. This bill is not paid for. The point of order is legitimate. I am not blaming anybody because the needs are real. But some day, somehow, somewhere, we are going to have to start saying no to something. The President has chosen to say no to this approach to highway funding.

This President has not vetoed a bill since he has been in office. Whether or not he will veto this particular bill, I don't know. But his letter was correct in terms of his concerns about the way we are going as a Nation, in terms of spending. I hope and pray we can work out a compromise between the House and Senate and the President that will do most of the things Senator INHOFE would like to do, because those are legitimate concerns. They will not be able to get everything they want, given the amount of money we have to spend. That is probably true of people in South Carolina who voted for me or did not vote for me. This year, you are not going to get everything you would like because times are tough.

My hope is if we cannot do a 6-year bill we can agree on, which will withstand the highway road building projects in a way that will allow things to go forward, we will come back next year after the election and look at some long-term solutions. That is my hope. At the end of the day, I think the President will veto this bill, and it will be a debate that probably needs to be had about how far you can go before you literally not only break the bank but make it impossible for the bank to be restored.

I know a lot of people have worked long and hard. Senator GRASSLEY was given the job of trying to come up with some offsets, and he is right, it is hard to do. I think Senator INHOFE has looked at the highway trust fund every way you can look at it to try to make it more sound and secure and to get legitimate revenue into the pot. Unfortunately, at the end of the day, the amount of money we are going to spend has a deficit component, in my opinion. I may be wrong. But the President sees it that way. The politics of this bill is probably the most important decision we will make this year in terms of domestic spending. If we can resolve this issue in a way that maintains budget integrity and gets money out into the country to create jobs, we have set a good tone for the rest of the year. But if the political discourse about this bill at the end of the day divides us along many lines, and creates an us-versus-them attitude and we try to say one side is good and the other side is bad—that is about where we are right now—the prospect of a consensus down the road to maintain the fiscal discipline we need to balance the budget one day I think will be lost. I don't know how it happened, but it has happened.

All the forces that are in play post-9/11 and before are coming together on this bill—the obligation of the country to defend itself, the obligation of the country to make itself economically viable by improving infrastructure, the moral duty for one generation not to put so many burdens on the next so that they cannot survive, making hard decisions that are inconsistent with some of the things you have said as a politician in the past, like raising taxes—all of those concepts are coming to bear on this bill. To me, this bill and how we resolve it is a test of character as much as it is of anything else.

Do we have the ability to set aside our individual hopes and dreams, whatever they may be—whether deficit reduction, highway spending, never having a tax increase, whatever drives your train—can we find some common ground? If we leave the playing field having a veto that was overridden, the consequences to this country, not just the Republican Party, are extremely serious because if we cannot control it on highways, as popular as that might be, how will we ever control it when it comes time to repair Social Security?

That trust fund is $5 trillion short of the money it needs to maintain solvency by 2042. By 2075, that trust fund is $75 trillion short of the money it needs to maintain solvency. Those are numbers beyond comprehension. How did we get into that mess? Both parties, in my opinion, have played games with the real problem of Social Security, because nobody in the past has really wanted to embrace the looming problem Social Security faces. Why? It is very hard in any election cycle to talk about Social Security, because people who are on it get scared to death.

I was born in 1955. There were over 16 workers for every retiree when I was born. Today, there are three workers for every retiree. Twenty years from now, there are going to be two workers for every retiree.

The point I am making is Social Security has a problem that is not created by the Republican or Democratic Party. Social Security is funded by payroll taxes. That is the exclusive source of money coming into Social Security. The highway trust fund is funded by gasoline taxes. If you think the highway bill is a problem, trying to live within these numbers, you have not seen anything yet when it comes to Social Security. The consequences of having 2 workers for every retiree versus 16 for every retiree when I was born are huge.

In 2042, which is not that far away, the only way we can keep the checks coming is to reduce benefits across the board by 28 percent or double taxes. To sit on the sidelines for the next 30 years and argue with each other is unacceptable because after 2042, it gets worse. The highway bill has a similar problem but not nearly as dramatic. I think every dollar we will spend in this highway bill has a legitimate purpose.

If we overspend this year, if we go to 43 percent this year and add to the deficit and not have a fiscally sound plan to save the highway trust fund, we set in motion the forces that come back to haunt us. If we could solve the highway problem in a bipartisan fashion, then maybe we will solve Social Security in a bipartisan fashion. But the truth is that the highway needs, the infrastructure needs of this country cannot be maintained at the current rate of revenue flowing into the trust fund. That problem gets worse over time, not better.

I do not want to pass on every problem on my watch to somebody else. I would like to be thought of as somebody who at least embraced a few problems on my watch in a serious way and did things outside the box. There is nothing outside the box about trying to create offsets. We do that all the time. There has been some outside-the-box thinking about this trust fund and recapturing money, and that will make this trust fund more solvent and more sound over time.

At the end of the day, in my humble opinion, we can't afford, at this point in our Nation's history, with a looming deficit that seems to have no end, a nation at war that seems to have no end in the short term, to increase spending on something as meritorious as highways at this level now this way. That is why I think this vote on this bill will define us for the rest of this year and maybe in years to come.

I am totally convinced of the following: That if the leaders of the House and the Senate sat down with the President, we could find a way to put new money into the trust fund, get through this conflict, and next year talk about some new funding that would be permanent over time. I think that is possible. I hope that happens because the quality of the people with whom we are dealing are capable of doing that. I will not be in that room as a junior member.

I just have one vote, and my vote will be cast for a purpose. It is not to deny anybody a chance to improve their State or for us to improve the economy through better infrastructure. I will vote no, and hopefully the President will have some support for his veto threat. That "no" vote is cast to say let's look at a different way, a better way of resolving this issue. This, right now, is sheer, tough politics.

People wonder: If they vote no, will they lose all their highway projects. That won't be up to me. People have to choose the path they think is best to manage their bills and to run the Senate. But I can say for absolute certainty that the best way for me to go home and get reelected is to be me. I am not going to try to change and become something overly opposite of what I ran on. So I believe if I vote no with the proposition that 43 percent is more than the taxpayers can afford right now in terms of retiring the deficit over time, that this is a bridge too far, most people will agree with me.

That is my hope; that is my bet. But if they don't, I am still going to vote no because the reason I was sent here, I assume, was to use the best judgment I can muster. And the best judgment I can muster after having listened to this debate, which I think has been good and healthy, is that this highway bill has been innovative. We have done some things to make the trust fund sound, and the needs are real, but we are going too far. We are putting too much pressure, combined with the other actions that we have taken, on future generations, and somebody sometime has to say: Whoa.

That is what I intend to do—to cast my vote with the idea of let's look at this in a new and different way in light of the rest of our problems.

I yield the floor, Mr. President. I thank you for listening.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair. Mr. President, I compliment the Senator from South Carolina on his comments. I, too, will be voting no on this motion to waive. As a member of the Finance Committee who worked on this legislation, I just want to say that the reports about this bill not being paid for are accurate. There are games clearly being played to try to move money from one year to the next, to cover up money by moving money from the year 2010 to 2009 and pretending this is new money. In fact, this increases the deficit in 2010 because it is outside the window of what this bill deals with; it is only a 6-year bill.

We have provisions that increase taxes in areas that have nothing to do with transportation in order to fund transportation dollars. I know a lot of people don't care about that. Most people in this Chamber, obviously, by their votes are not going to care about that. We increasingly care less and less how things are funded around here. At one time around here we were actually concerned about that.

I admit, I am guilty on my own account having voted for this Medicare bill we just passed where we increasingly, over time—it took us a while—increasingly over time we separated the funding taxes and stream for Medicare from the money we actually spent on Medicare because the demand was so great to provide Medicare services that we decided just to fudge and lose a little general fund revenues, then a little more, a little more, and then a lot more and a lot more, and all of a sudden now the Medicare Program has grown and the vast majority of it is now funded, in large part, by general fund revenues. It has no relation to the Medicare tax that we pay. That is only a small part of the program, as it turns out.

Highways and transit have always been funded historically by user fees. Most of it is gasoline taxes, but there are other excise taxes and special taxes that are put on transportation. Why? Because the concept was we were going to create a Federal gas tax and collect money from the users.

One of the points we hear over and over is this is a user fee. It is not a general tax, but we are going to tie the amount of money we collect to the people who use it, and that makes sense. Those who use the roads should pay for the roads, and the costs should be passed along to those who benefit from the use of the roads, from the businesses that pay the taxes and individuals, for that matter. There was always this nexus, and that stood us in stead.

The argument was made for years around here that we were paying more taxes than we needed to pay because we weren't spending all the money that was coming in, and that was a legitimate complaint we had two transportation bills ago to spend all the money that was coming in and not use some of these gas taxes to pay for other Government spending to hide the real cost of Government.

I supported that because I supported the concept that when someone is being taxed on gasoline and other excise taxes, that money should be used to improve the roads on which they are driving.

We were able to accomplish that 12 years ago. Six years ago we said we not only are going to take all that money, but the money that accumulated over time, we are going to spend that down. I thought: That is really a general fund transfer, but legitimately that money was put in there for that purpose. OK, I will support that.

Now we are saying there is no more money left in the trust fund, there are no more revenues coming, but we still want to spend more. Why? Well, I have developed an axiom in Washington and that is: Never get between a Congressman and asphalt because you are destined to get run over. And that is exactly what is happening in the Senate and the Congress.

There are a few of us who will soon be roadkill on the Senate floor, who are going to try to get between a Congressman and a Senator and the ability to go back home and say look what wonderful road projects I am delivering.

I am for road projects. I am for transit projects. I believe we need to improve our infrastructure. I just think we need to be honest how we are paying for it. So let's be honest about it. We are not paying for it.

Now, if any of my colleagues went home, as I did, over the break, one of the things they probably heard over and over again was the profligate spending that is going on in Washington, DC. Republicans and Democrats alike, there is no difference between us, we are all just spending money like there is no tomorrow and there is no deficit.

So many of us came back saying there is a point where we need to rein this in. We have huge deficits that go off in the future. It is time for us to start drawing the line, and it is important not just because we have huge deficits but it is important to signal to the markets, it is important to signal to those who value our currency, that we are not going to allow this fiscal irresponsibility to continue; that we are not going to continue spending at outrageous rates of growth like the 45 percent increases that are in this bill.

I think it is unfortunate that the highway bill is in the crosshairs because this is a bill that is very important. I understand that. But let's be honest about it. The signal we are sending is; the throttle is still wide open; we are going to spend, spend, spend. Of course, we will justify it by saying a whole host of things about how important this is to our economy and all the other things, but the bottom line is we are spending a ton of money and we are not paying for it. We are adding to the deficit and we are doing something very dangerous, which is taking money from the general fund to fund highway programs.

I think it is wrong. That is why there is a budget point of order against this bill. Now, I understand we are not going to succeed because this amendment or this point of order gets between a Congressman and asphalt. Most amendments will fail when that is the case.

The bottom line is, somebody somewhere in this Senate is going to have to start getting between Members of the Senate and House and the projects they want to deliver back home. Otherwise, this deficit is just the beginning of problems.

I had an opportunity to spend a little time with the President up in Pennsylvania this morning. I had a chance to chat with him just briefly about this legislation. Let me assure my colleagues, any Member of this Senate who thinks they are going to go back home and get a bill that is $290 billion or $318 billion or $375 billion, which is what the House was talking about, they may be able to do it but they are going to have to do it by overriding a veto.

Again, that is the old axiom that maybe the President is going to try to stand between a Congressman and asphalt. The President has a pretty big roadblock that has to be gotten through, and I am one Senator who is going to support that roadblock because I believe we have to at some point start to say fiscal responsibility matters and we are not doing it.

I would rather have us have a vote on the floor of the Senate right now about gas taxes. If my colleagues want to fund this program, fund it by putting a gas tax in place. Where is the courage of the people who say we need more roads to pay for the roads? That is the problem we have. We always want to spend more money, do more things, and we do not want anybody to pay for it today. Whether it is Medicare, highways, or whatever the case may be, it is spend more now, get the political benefit, and pass on the bill to that future generation that, by the way, I do not have to worry about because I am not going to be running when they are voting; I can always give them something and pass it on to the next generation and they will not be mad at me.

At some point, this Ponzi scheme is going to come up. In my mind, this is a Ponzi scheme. It is wrong.

Now, I admit—and I am going to talk about this later, not now, because this is a debate on the budget point of order—this is a bad bill for a lot of reasons. One is because it uses general fund revenues. No. 2, it raises the deficit. It is not paid for. There is also a reason I will talk about later, which is what it does to my State, which is a grave injustice. It is counter to everything.

This entire area of funding transportation projects from Washington, DC, which is a fairly recent phenomenon, the whole idea was to facilitate national security and defense but also interstate commerce.

What does that mean? That means States that shoulder the burden of carrying cross traffic should get paid by other States that do not have that burden but get the benefits of it. I daresay there is no State in the Union that carries more cross traffic than Pennsylvania. Yet we become a donor State under this bill, which is an outrage. That is a parochial interest about which I will talk at another time.

The philosophical and, I believe, fiscal reasons to oppose this bill have been laid out clearly by several people in the Chamber. It is wrong. We will lose, but ultimately the American economy will lose. The impact and ripple effect of this bill, which will send a signal to those who are looking at the Congress of the United States to see whether we are going to constrain spending, will be profound and will multiply innumerable times the number of job losses versus the job creation in this bill. This is a bad jobs bill, and we need to put an end to it.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Arizona.

Mr. McCAIN. Mr. President, I probably will not win this vote since I think the sentiments of many of the Members were expressed in the cloture vote, but I think it is important to point out again that the total spending in this bill exceeds the current budget resolution by $35.5 billion. We are facing a $500 billion deficit for the year 2005. In the Armed Services Committee hearing the other day, the Secretary of Defense pointed out that they will be coming in for a supplemental appropriation, many billions of dollars, after the elections, probably sometime in January. Our service chiefs mentioned that they might be 4 months' short of being able to operate with the funding they have. Our priorities seem to be passing a bill that exceeds the budget resolution by $35.5 billion.

I note the presence of the Budget Committee chairman, who I think does an outstanding job. I appreciate the credible efforts he has made both as chairman and otherwise for fiscal sanity. I wonder if we ought to waste our time this year going through the couple of weeks of trying to come up with a budget, or should we consider, as many House Members have and other Members of this body, that perhaps we should make the budget resolution signed into law by the President of the United States? With all due respect to my dear friend from Oklahoma, who has been here many years, this makes a mockery of the entire budget process.

The distinguished chairman of the Finance Committee came to the floor and raised these old chestnuts as to how we are going to finance it. My all-time favorite is customs user fees. Again, I ask my friend, the chairman of the Budget Committee, how many times have we used customs user fees as a way of paying for something which has now given us a half-trillion-dollar deficit, the party of the balanced budget amendment to the Constitution in 1994?

Mr. President, I ask unanimous consent for the Senator from Oklahoma to respond to my tirade.

Mr. NICKLES. I will respond to the question of my colleague and friend, and the question was how many times we have used customs user fees. They have been used several times, although I do not know that we have passed it. It is used to help pay for more spending in many cases, maybe other tax cuts, but it has not been enacted into law. My guess is it will be at some point, but I think my friend from Arizona is making a very valid point and I appreciate that.

My colleague asked, if we pass this, do we still need to pass a budget? I happen to think we do. Because we passed a budget last year, we saved hundreds of billions of dollars' worth of spending over a 10-year period of time. The budget resolution helped make that possible. So I hope we will still be able to pass a budget resolution in spite of this bill.

Mr. McCAIN. I say to my friend, I thank him for his hard work. Again, I do not look forward to the most unpleasant day we have this year in the Senate, and that is when we all vote every 30 seconds on issues of huge import and none of us have a clue as to what we are voting for when we do it.

Again, I don't think it is through any fault of the chairman of the Budget Committee that this is over the budget resolution by $35.5 billion. But, if this is the process we should go through when we are authorizing or appropriating money—we have a budget resolution. It calls for a certain amount of money to be spent for a certain function. But then we can get the chairman of the Finance Committee to come down and say, Don't worry about what we decided in the budget resolution; we will just find some more money. Usually customs user fees is one of the old chestnuts that are drawn out of the fire to be used over and over again.

The other thing about this, my dear friends, the House of Representatives just decided to delay by 4 months consideration of the transportation bill. Why? Because there is an outright revolt over there, because they are closest to the people, about these totally out-of-control spending practices which have given us these unprecedented high deficits. I hear a rumor that they may do what is probably the right thing to do and just extend for 1 year the existing transportation legislation.

So what do we do? We are passing legislation of which the President of the United States has guaranteed a veto. Again, I like to point out, it is the Republican Party that is the majority. It is the party of the President of the United States that is in the majority here, yet we are pushing a bill to which the President says he is unalterably opposed. What is going on?

I hope my colleagues will consider voting to uphold this budget point of order. It is clearly valid. This budget point of order is clearly valid.

My friend from Oklahoma said he wished I hadn't raised this point of order because he doesn't like to see the budget really overridden. A vote against upholding the budget point of order, to waive the budget point of order, will basically override the work of the Budget Committee. I hope my colleagues will take that into consideration if they vote to waive this and future budget points of order.

It is interesting, on this bill no further budget point of order can be raised, according to the waiver that is before the Senate now. No matter how outrageous, no matter how egregious, we have waived this budget point of order and future points of order.

There is something wrong with this system. Let me remind my colleagues again, we have been on this for 2 weeks. For 1 week we didn't have a single vote. Yes, I oppose unanimous consent agreements. I never ever opposed votes on amendments. I was in favor of those. Why didn't we have a vote on the Gregg amendment? The reasons are obvious: Because they didn't want a vote on it. But that was not a reason to stall any process. But that is behind us.

Now we are faced, as of yesterday, with a veto threat from the President of the United States because of the tremendous $35.5 billion increase in spending over the budget resolution and about $62 billion above the President's request on this legislation.

I urge an affirmative vote, a vote against the motion to waive the budget point of order.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as the ranking member of the Budget Committee. There is no question that this budget point of order is well taken, in the sense that the legislation before us as it is at this moment is not paid for. It is not paid for in any way that is serious.

In the Finance Committee, Senator NICKLES and I raised this point repeatedly and secured a commitment from the chairman and the ranking member that, before this legislation would leave the floor, it would be paid for. I had offered an amendment to pay for this bill in the Finance Committee and only withheld that amendment based on the commitment that we were given by the chairman and ranking member of the Finance Committee that this bill would be fully paid for before it leaves this Chamber. I am trusting in the chairman and the ranking member to keep their word—to keep their word to me, to keep their word to Senator NICKLES—that before this bill is passed, it will be paid for.

It is on that basis that I will vote to waive the Budget Act. But I think it should be abundantly clear Senator MCCAIN is correct in saying that, as it is before us, this bill is not paid for.

I do want my colleagues to know that in the Finance Committee the chairman and the ranking member pledged that before this bill leaves this Chamber, it will be paid for. I trust them at their word. They have made that commitment. I can say that they have kept commitments to me in the past. I am counting on them to keep that commitment that in this Chamber, before this bill leaves the floor, that it will be paid for—and not by any timing changes; not by moving corporate receipts from 2010 to 2009, or any funny-money financing, but really paid for.

I should add, I am disturbed that this waiver takes down other potential budget points of order except out of the conference committee. Out of the conference committee, if it is not paid for, we would still have budget points of order apply. But I must say I am very disturbed that this waiver will be for all budget points of order because there are other legitimate points of order that could be raised unless this problem is fixed, as the chairman and ranking member have promised this will do.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I ask for the yeas and nays on the waiver.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question occurs on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The yeas and nays resulted: yeas 72, nays 24, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—72

Akaka
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bunning
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Feinstein
Frist
Grassley
Harkin
Hatch
Hollings
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—24

Alexander
Allard
Bayh
Brownback
Burns
Chambliss
Craig
Ensign
Enzi
Feingold
Fitzgerald
Graham (SC)
Gregg
Hagel
Hutchison
Kohl
Kyl
Lugar
McCain
Miller
Nickles
Santorum
Sessions
Sununu

NOT VOTING—4

Edwards
Graham (FL)
Kerry
Specter

The PRESIDING OFFICER. On this vote, the yeas are 72, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order is not sustained.

Mr. REID. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2473 TO AMENDMENT NO. 2285

(Purpose: To provide for a substitute to title V)

Mr. KYL. Mr. President, if the managers of the bill have nothing at this point, I have an amendment at the desk which I would like to call forward. The amendment is No. 2473.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Arizona [Mr. KYL] proposes an amendment numbered 2473.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of February 11, 2004, under "Text of Amendments.")

Mr. KYL. Mr. President, let me briefly describe for my colleagues what this amendment does. In simple terms, it reduces the funding we have provided for the transit and highway purposes of this bill from the amount in the substitute offered by the Senator from Oklahoma to the amount requested by the President; namely, $256 billion over the 6-year period.

That is the amendment. There are some features of it we could discuss, if you like, and I would be happy to answer questions from my colleagues. But the gist of this amendment is simply to say, we understand the bill before us is too expensive. The President has said he supports a $256 billion number. The statement of position by the administration would recommend a veto if the bill violates the principles set forth by the President, including specific reference to the substitute that we are considering.

So it seems to me if we want to ensure the bill will not be vetoed, if we want to demonstrate that we are going to begin to spend money wisely here, then we should be willing to support the level requested by the President over 6 years, which is $256 billion.

Now, we have quoted before from the Statement of Administration Policy. What I would like to do is quote from the President's press officer, Scott McClellan, on board Air Force One this morning at just a little after 10 o'clock. After talking about some other things, he had this to say about the question of the highway bill before the Congress. He said:

> This is the first test for the Congress when it comes to spending restraint. And the President's proposal is at $256 billion.

I am reading from the comments this morning of the President's press secretary. He said:

> This is the first test for the Congress when it comes to spending restraint. The President's proposal is at $256 billion. This is for the next 6 years. It's a 21 percent increase above the previous 6 years, and we urge Congress to show spending restraint in moving forward on this legislation.

That is the basis for this amendment, to limit our funding for highway transit purposes for the next 6 years to this level, $256 billion.

Let me get into a little bit of detail about what the Finance Committee did to come up with a larger number. One of the reasons it is important for us to focus on this number is because in all three respects that the President's advisers laid out in the statement of position of the White House, the bill before us violates the principles laid down by the President. Those three principles which caused the advisers to the President to recommend a veto if any of them were violated are as follows: That the transportation infrastructure spending should only rely on gas tax revenues and that there not be any increase in gas tax or other Federal taxes.

This bill raises other Federal taxes. This bill provides new spending that doesn't come out of the highway trust fund but, rather, results from work the Finance Committee has done to close a variety of corporate loopholes. We are familiar with some of the corporate loopholes the Enron executives were able to take advantage of, for example. There are some other provisions we were able to close which represent tax increases for the people who otherwise would have been able to take advantage of those loopholes.

Those tax increases will produce revenue—I have forgotten the exact amount, but in the neighborhood of $50 billion or thereabouts. That was revenue we counted on to use in providing relief to our manufacturing facilities because we are going to be taking away from that some special tax treatment the World Trade Organization held to be impermissible under the WTO principles. Our European trade competitors brought a case against us in the WTO, and we lost that case.

The way in which we gave tax advantages to our manufacturing companies can no longer exist. We have committed to the WTO we will change our tax laws so those advantages no longer exist. However, we recognize we have lost a lot of manufacturing jobs over the last several years. We don't want to simply reduce for those companies the offending provisions. We want to substitute something else so our manufacturing corporations and other corporations will have the tax structure to continue to grow economically, to continue to produce jobs and hopefully create new jobs.

If we use the revenue the Finance Committee came up with for this purpose—and it is called the FSC ETA reforms—if we use those revenues instead to build highways, I don't know where we are going to come up with the money to aid our manufacturing firms. I mean this with all sincerity. It is fine to respond to our general contractors who are great people back in our home States; we are going to be spending a lot of money on highways. We are going to be increasing spending by 21 percent if we just adopt the amendment I have laid forth and the number the President has requested. But I don't know how we are going to look our manufacturing constituents in the eye, and particularly the people who work for them, and say: Gee, we are sorry. We spent the money we would have provided to you on building highways.

I don't know where we are going to get the money to support the tax relief to these manufacturing corporations if we use all of that money for this purpose.

That is exactly what the Finance Committee bill does. The chairman of the committee has said the bill is paid for. This is how the bill is paid for. So we have increased taxes, and we are going to be transferring that revenue from a project we all committed to, and we have to move this forward by March or there will be retaliation by our trading partners in Europe. They have waited patiently for a year and a half or 2 years now. We have to do that. But now we are going to apply those revenues to this bill. Why? Because the chairman of the Finance Committee felt he had an obligation, in view of the Bond amendment that passed last year, to find some way to fund the level the Senate had passed.

It raises taxes. It violates the President's principle. On that alone the President's people would recommend a veto. We should not do it.

Secondly, the President's principle was the bill should not be funded by mechanisms that conceal the true cost to taxpayers. This bill obviously conceals the true cost to taxpayers because it doesn't limit highway and transit spending to revenues we collect in taxes from those revenue sources. The gas tax produces $196 billion in revenue over 6 years. But we don't limit the spending on highways to $196 billion. Instead, we have found other ways to increase that amount of money.

In the Finance Committee we went over all of these various options, and there are some of them that make enough sense that I am willing to support them and say: All right. You could go above the gas tax revenues of 196. You can get up to about 210 to $214 billion and argue with a straight face this is money that is real money and could, in fact, be attributed to the highway trust fund.

But beyond that, we are in fact concealing what we are really doing. That gets into the third principle, which is we should not be funding from the general fund; that we should fund from the revenues we derive from the gas tax and should not take money from the general fund for this purpose. This substitute violates that principle that until now has guided our spending for highway projects. It is there both to protect highway users to make sure the money in the fund will be used for highway purposes—a point that was eloquently spoken to by the chairman of the committee, the Senator from Oklahoma, a day or so ago.

It also protects those people who don't pay a great deal into the fund because they don't drive very much and they don't buy very much gas. It protects them from having to pay income taxes to support roads they never use. We have always had the principle that we are not going to dip into general revenues, because once you begin doing that, there is literally no constraint, up until now. Now for the first time we are going to dip into general revenues.

How does this bill violate that principle and the second principle of concealing from the American people exactly how these revenues are going to be spent? It pretends money is in the trust fund that is not there. By saying that, I don't mean to denigrate the purposes or motives of my colleagues who created this mechanism. But the fact is, no new revenue is being created by the collection of gas tax revenues to be put into the trust fund. We are simply going to deem that money was put there without it ever having been put there through the gas tax.

For example, there is an exemption for schools and churches and States and towns. So when your local school bus drives around and has to refill the gas tank with gas, we don't charge them the Federal gas tax for that. What we are going to do now is pretend as though we did. We are going to say, there is $9 billion that would have been collected if we had done that, so we are going to pretend as though there is $9 billion in the highway trust fund.

The other thing we are going to do is, if you buy ethanol, you get a 5.2 cent exemption. You don't pay the full 18.3 cents. You pay 18.3 minus 5.2. We are going to pretend as though that 5.2 cents was collected and transferred to the highway user fund. When I say that, the mechanism is we are going to actually collect that tax, but then we will rebate it to the taxpayer. So it actually was collected once, but it has also been rebated. So again, no net new money.

Since you have to pay highway contractors in real dollars—they don't pave these highways for nothing, with fake money—how do you do it? That is where this corporate tax increase money comes in. The Finance Committee closed these tax loopholes, raised taxes on these corporations, and produced—again, the number is roughly 50 billion. If one of my colleagues wishes to correct me, I am happy to be corrected, but say it is $50 billion.

That new tax increase from corporations is going to then be taken from the general fund and transferred over to the highway trust fund. That is general revenues.

So all three of the principles that the President laid down will have been violated. We have increased taxes on corporations, we have obscured the fact that the highway trust fund doesn't pay for all of what we are spending here, and we have transferred money from the general fund into the highway trust fund in order to pay for the bill on which we are about to vote.

In all three respects, we have violated the principles that the President's statement of policy laid down. Given the fact that the advisers to the President said they would recommend a veto if we do that, and if we move forward with legislation—I will cite the sentence from the Statement of Administration Policy:

> Accordingly, if legislation that violates these principles, such as this legislation—

These people are saying "this legislation" violates those principles—

> Accordingly, if legislation that violates these principles, such as this legislation, which authorizes $318 billion, were presented to the President, his senior advisers would recommend that he veto the bill.

As that letter says, and as Scott McClellan confirmed, the President's proposal is $256 billion, a 21-percent increase over the previous 6 years. That ought to be enough. That is why I offered as an amendment for colleagues to vote on here the opportunity to support the President and say, enough is enough, a 21-percent increase is enough—we don't need to spend more—and, as a result, we are going to exercise fiscal restraint and pass a bill that is funded at the $256 billion level.

I would like to yield the floor now to any of my colleagues.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I appreciate the opportunity to offer a few observations about my friend's amendment. He has spoken with his usual eloquence. I listened with care to the three points he raised. I say this with entire sincerity, even though I confess that I didn't agree with a word he said.

I was in the Chamber yesterday and had with me the survey of the Department of Transportation on the needs of the United States of America for transportation. It was about the size of this volume I have in my hand. It was an exhaustive survey that concluded we needed a transportation infrastructure bill of around $375 billion to take care of our crumbling transportation infrastructure.

It is a fact that I have not heard contested, much less contested successfully, on this floor, that 32 percent of the roads in the United States are in poor or mediocre condition; 36 percent of the urban roads are in that condition; 28 percent of the bridges are substandard; we lose $65 billion a year in productivity and man-hours because people are trapped on congested roads; there is $50 billion a year in extra maintenance costs that we have to pay because our automobiles have maintenance problems due to the fact that the roads are no good.

Who hasn't been in a situation where they have rolled over a pothole—and not always on some subdivision road but on a highway—and blown out a shock or their tires have gone out of balance? It is because of the road, and you have to pay for that. It is not going to get better if we don't do something to make it better.

This is what I don't understand from the critics of the bill. What do they want to do? Are these roads just magically going to fix themselves? Is there something defective about this survey? That is what the Department says in terms of its academic study, if you will. We all know it is true. We encounter it every day here on the east coast, and we encounter it when we are in our States. My friend from Arizona talked about the bill conceals something. It doesn't conceal something. It is an attempt to meet the problems of transportation infrastructure.

What is concealing things is to pretend that the problem doesn't exist, to set an arbitrary limit for how much we are going to spend and say, based on what we are willing to spend, that is what we need to spend, instead of honestly assessing where we are in terms of transportation infrastructure in this country and coming up with the money one way or another to meet the needs.

The critics are concealing the fact they don't intend to do anything about the problem. This is what they say: Well, OK, you cannot raise taxes to raise money to deal with the problem. You cannot use bonding because we have never done that before. Everybody else in the country does it. I spoke at some length about this yesterday. I will not inflict it anymore on the Senate. Everybody else in the country bonds for roads and highways and bridges, but we cannot do it here. Now we cannot use general revenue either. So go ahead and fix the roads, but you cannot raise taxes, use bonds, or use general revenue. Go ahead and get the $375 billion.

That is concealing the fact that they are not going to do anything about the problem. We are going to continue losing the $65 billion a year in lost productivity, $50 billion in increased maintenance—and what about the people who die because the roads are no good? What about those people? Tell them we don't need to do any more? Tell their families we don't need to do any more for transportation infrastructure?

I hear my friends say it is not fair to use general revenue, not fair to the taxpayers. There are a lot of people in Missouri who get up every day, and they have worked hard and been fortunate enough that their lives are going pretty good. Maybe they are single or they have families. They work and get taxes deducted from their paycheck every week. They pay the taxes at the pump. They pay all the other taxes they have to pay. On April 15, they write another big check. Because their lives are going good and they don't need a lot of extra help, they don't participate in a lot of Federal programs that we have here. They support them. They want people with needs to have access to help. They don't participate in it because they don't need it. If you stopped and asked them, what is it you get directly out of the taxes you send to Washington, and they stop and think about what it is that Washington does that makes a difference for them day to day, about the only thing they would say is the roads. They would say: It would help if I could get to work in the morning.

Sure, we have a problem with the fiscal future of the country. That is not even considering what we have to do with Medicare and Social Security when the baby boomers begin to retire.

Mr. INHOFE. I didn't hear the figures the Senator mentioned that were tied to lost productivity and maintenance. What were the figures?

Mr. TALENT. It is around $65 billion a year in lost productivity because people are trapped in traffic jams.

I say to my friend from Oklahoma, it certainly makes sense. We have the workers of the country every morning going to work—and I see it in Missouri—and they are trapped in traffic jams. That is time they are not spending on the job producing goods and services and wealth for the United States.

Mr. INHOFE. The other figure on maintenance was what?

Mr. TALENT. It is about $49 billion in extra maintenance costs because the roads are not good.

Mr. REID. Will the Senator yield for a question?

Mr. TALENT. Yes.

Mr. REID. My friend's memory is very good. The figure is $67 billion. And people wait in traffic and waste 5.6 billion gallons of gasoline every year.

Mr. TALENT. I appreciate the question of the Senator from Nevada, also.

If you went to that taxpayer and said, what do you get for the money you send to Washington, and they thought about it, they would say, well, the roads.

I have people say to me: We don't really want anything, but it would be nice if you would fix the roads. It would be nice if you had an extra lane on that bridge or it would be nice if I didn't have to, when my kid went out on a date at night, wait up at night, not worrying because I thought the kid would get into trouble but whether my kid was going to get home on those roads.

So I think the people who are paying the income taxes of the country into the general revenue of the United States of America would appreciate it if we used a little bit of that to fix their roads. I don't know whether that fits whatever rules of accounting we have been following in the past. I think it would make a difference for the people of the country.

You know what I don't think is fair—what is not fair is to pass the bill for the Nation's infrastructure on to the next generation, knowing we have not done our part to pay it.

Yes, this highway bill is bigger than the last highway bill. As everybody said, it is about 30 percent bigger. The gap between where it is and where it should be is bigger, too, and what that tells us is with each highway bill, we are failing more and more to get to where we need to be, and it is going to have to get bigger and bigger as time goes on if we are going to make up for this transportation deficit.

I used this example yesterday. You are a homeowner, and you have a hole in the roof. You have to consider what options you are going to use to pay for fixing it. But what isn't an option is not fixing it because if you don't fix it, it doesn't get any better; it just gets worse and eventually the roof collapses. I think we should do our part and face honestly what we need.

I appreciate the managers of the bill getting this bill up to the level they have. I ask them to hang tough. We need a highway bill at that level. I made a point of saying yesterday that we need it more than that. I am hopeful, as this process goes on, that we can persuade those who, with the sincerest of intentions, are concerned about the fiscal state of the country, that we don't improve the fiscal state of the country by undermining the economy that produces the wealth on which this Government depends.

We are going to meet these needs in the future. We are going to meet it through growth. America is going to go out and produce and create jobs and grow and make enough for everybody. America will rescue us from this fiscal situation if America can get to work in the morning, and that is what this bill is about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I wish to speak in opposition to the amendment. The previous speaker has outlined articulately the huge loss in productivity this Nation suffers because of the present situation with respect to our highways, and that if we don't do something about it, we, obviously, are not going to get the productivity we need. With international competition from all over the world now, lost productivity becomes even more important as we go forward.

Many in this body have argued that the level of funding in our bill is too low. In fact, if we look at the transportation needs of the Nation, they may be right. What we have done in this legislation is to follow the will of the Senate.

Last year, during debate on the budget, this body overwhelmingly voted in favor of the budget levels contained in this bill. In addition, our levels are almost $60 billion less than the House proposal—again, $60 billion below the House. In fact, our bill falls right between what the President wants and what the House wants. We are in the right place. I could be wrong—maybe I am—that we should accept that low a level, but we will never get this bill to the President's level. And without a bill, we risk missing out on the creation of many jobs.

The American people need these jobs. The biggest problem we have right now is the lack of effort to pull forward and increase productivity and to increase the number of available jobs. This bill will do it. It will create thousands of new jobs, and it will create them within proper areas of expenditure.

This is a good bill. I would like to see it a little bigger. Maybe we will get it a little bigger. The House is certainly going to give us that opportunity. Right now what we should do is pass this bill and get it on to the President.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, this will be brief because I think we are getting redundant in some of the things we are saying. I do find it a little bit puzzling that the people who are promoting this type of an approach—whether it is temporary extension or a narrowed-down version and spending less—are the same ones who were willing to spend $7.25 billion more just a few minutes ago.

On the issue of amount, the 40 percent we keep battering around, we have to remind ourselves that when we look at Government programs that are worthwhile Government programs, it is not unusual to have an increase of 6 percent a year. I draw a distinction between this and a lot of programs we have—I have a long list I could read about foolish things we do around here wasting money.

As a fiscal conservative, I believe in spending more in certain areas. One area is national defense and another area is infrastructure. I know that is what we are supposed to be doing here. In fact, the Senator from Missouri has access to a survey that shows that 69 percent of the people in America, as opposed to 22 percent against it, favor spending more money right now in this climate on infrastructure—roads and bridges. That is what we are here for.

I do want to say again—and I am sorry about being redundant, but it is very important—the President sent over three criteria. I think the first two we can't even argue about. We are not talking about raising gas taxes. He wasn't talking about plugging corporate tax loopholes. He was talking about increasing gas taxes. We don't do that.

Secondly, some of the things he considered to be gimmicks, we are not doing. I know the Senator from Missouri would like to approach the more creative types of financing.

In the third area where he talks about taking out of the general fund, that is one that could be debated. I am fully willing to take money out of the general fund if it got to the general fund from the highway trust fund. And it never should have.

One sentence out of the Finance Committee says:

> In the view of the tax committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund.

In other words, if you are going to pass something having to do with vehicles that use less fuel, or something similar to that, that is policy and has nothing to do with traveling on roads. Because those vehicles travel on the same roads as other vehicles, why have the highway trust fund pay for that? I think that is absurd.

I was here in 1997 when we had a balance of $16 billion in the trust fund. The previous administration wanted $8 billion. We said let's take half out of the $16 billion. So they took that out of the highway trust fund and put it in the general fund. That ought to go back. That is a policy of being honest with the people. I think it is a moral issue, in a way, because 99.9 percent of the people who pay their taxes are willing to do that, assuming that goes to building roads and repairing bridges, and it is not because we have been raiding the trust fund over and over for the 18 years I have been here.

That is what this is all about. The Senator from Missouri is exactly right. We can't continue to do nothing. We are going to have to rebuild our bridges and roads.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, first I wish to correct something I said. I was trying to estimate the amount of money the Finance Committee has come up with in corporate loophole closings. That is a gross way of saying what we did. We have changed several provisions of law that are going to raise revenue. It amounts to a tax increase on certain kinds of businesses, but it represents good policy. Some of this follows the Enron scandal.

I thought we had gotten up to about roughly $50 billion. Actually, the amount is $22 billion. I stand corrected on that. That would be a $22 billion tax increase if you want to put it that way.

Second, there are two things to which I want to respond. My colleague from Missouri basically made the argument: But our needs are great; we have a great need to rebuild our highway system.

First, I don't want my views to be characterized as I don't care about building highways; that I don't think we have needs. Of course we have needs. We have all kinds of needs. If the Congress responded to every need that every Member brought forth, we would have a budget that is five times as big as it is right now. We can't possibly satisfy all of the needs of all of the people all of the time with the revenues we have, and it is probably a good thing because it does force us to set priorities.

That is what this amendment does. It says we would like to have maybe a 42-percent or 41-percent increase over the last 6 years in highway spending, but everything else in the budget is going to be less than 1 percent, except for homeland security and defense.

If we can set a priority with health, education, welfare, and justice and all of the other activities we do, if we can create a budget that has growth of less than 1 percent for those activities, then why do we have to have more than a 21-percent increase in highway funding, which is the amount that $256 billion finances?

That is the amount the President will support. I do not want my colleagues to characterize this amendment as against highway funding. It is a 21-percent increase. Is that not enough? No, my colleagues say it needs to be 41 percent. Well, that is a legitimate argument, a difference of opinion: Do we need to increase it 41 percent or 21 percent? But do not mischaracterize the argument that those of us who think 21 percent is enough are somehow against doing something about our infrastructure.

The final point I want to make is to respond to the Senator from Oklahoma. As to the rationale used, and he characterized it correctly a moment ago, in the Finance Committee by those people who say this money ought to be attributed to the highway trust fund, we only raised $196 billion in gas tax revenues, but we have made some public policy decisions, the results of which have denied money to the highway trust fund and because of that we ought to attribute those funds to the highway trust fund.

One public policy decision is that schools, towns, and churches should not pay the gas tax. That is a legitimate public policy decision. So we do not collect the gas tax. But the logic is stood on its head to say but because that is a decision that denies funds from the trust fund we should pretend as though we put the money in the trust fund.

The bottom line is, the general revenues of the country are paying for that policy decision, and the same thing is true with respect to the ethanol tax. We do not collect 5.2 cents of it. Now we are going to collect it and rebate it, and they say that hurts the highway trust fund. Fine. Then charge the tax. Do not pretend as though we charge the tax and say that justifies attributing that money to the highway trust fund when, in fact, there is no money, and the only way one gets the actual money in the highway trust fund is going over to this $22 billion in new corporate taxes, taking it from the general revenues and then putting it in the highway trust fund.

That is why I think we should limit this funding to $256 billion, a 21-percent increase. The President says that ought to be enough. I agree with the President.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, from time to time I say nice things about Senators on this side of the aisle, and I do not often enough say nice things about those on the other side of the aisle. I want to say the presentation made by the junior Senator from Missouri is one of the finest presentations I have heard in many years in the Senate. It was logical. It was to the point. It laid out what we, the four managers of this bill, have been trying to do, and how difficult it was to arrive at the point where we are. I want to express my appreciation to the Senator from Missouri for an outstanding statement. It was well delivered and had a lot of substance.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in support of the amendment. This is an opportunity for the supporters of this legislation to avoid a Presidential veto, in two ways. One, bring it down to the President's number and, two, the criteria established by the statement of administration policy highway spending should be financed from the highway trust fund, not from the general fund of the Treasury. All spending for highways should be authorized and appropriated from the trust fund and derived from taxes imposed on highway use. It says the administration supports an authorization level of $256 billion. So to avoid a Presidential veto, I think the Kyl amendment is very important.

I do not want to comment on the statement of the Senator from Missouri, but I was entertained by his comments about the hole in the roof. I will tell the Senator from Missouri, there is actually a hole in the net, there is a hole in the safety net. Maybe highways are more important than people's Social Security and health care to the Senator from Missouri, but the fact is, and ask any expert, including testimony by Alan Greenspan just yesterday, this deficit is going to destroy America, and the first casualties will be Social Security and Medicare because they are unfunded mandates to which we just added, with the support of the Senator from Missouri, a $400 billion and now $543 billion debt on the taxpayers of America.

So if he is worried about a hole in the roof, I hope we are worried about a hole in the net, the safety net, the guarantee that we have made to people who are the least able to defend themselves and help themselves in our society. Those are recipients of Social Security and Medicare. Both systems are going bankrupt while we spend 60-some billion dollars more than the President wants and $35 billion more than the budget resolution we passed calls for.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. KYL. If the Senator from Nevada would permit the Senator from New Hampshire to speak, then I am happy to let the vote go forward after he has concluded.

The PRESIDING OFFICER. Is there further debate? The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise to speak a few moments in support of the amendment, and perhaps to address some of the issues and concerns that have been raised as well. I begin with the points made by the Senator from Arizona about the overall size of the bill. This amendment, if and when adopted, would certainly reduce the total amount of funds available in the bill, but the increase in highway spending relative to the last 6-year bill would still be 21 percent. To suggest that somehow the supporters and proponents of this amendment do not want to invest in infrastructure, do not want to improve the safety of our highways, do not want to improve the quality of our bridges, do not want to expand in some cases the existing interstate highway system, is simply not correct.

We are not engaged in a debate about the value of infrastructure. We are engaged in an important debate and discussion about how much is enough and about how much we can afford and, as Senator MCCAIN of Arizona pointed out, what our overall priorities are going to be.

I understand for some a 20 or 30 or 35-percent increase in spending is not enough. I certainly believe it is enough, given that the President has pledged to veto a bill that is at that level, given that we have other pressing national security issues, Social Security modernization questions, a Medicare bill that was passed last year that is going to be far more expensive than even the supporters of that bill suggested. We do have other priorities among which we are going to have to choose.

I think it is very misleading to suggest the supporters of this amendment do not care or are not willing to commit that money we are collecting in excise taxes, gasoline taxes, to this kind of investment. This bill as it is currently written breaks the budget. It violates the budget resolution. We just had a vote to waive the budget requirements, to waive a budget point of order so this bill could go forward, because it violates the budget resolution, because it breaks the bank, because it is far more than was prescribed in that budget resolution. As a result, it is going to significantly increase the deficit.

In addition, the legislation contains financing mechanisms that are disingenuous at best, and phony at worst. We are diverting general revenue funds that were never intended to go into the highway trust fund into the highway trust fund, and we are doing it by crediting money to the highway trust fund that is never collected. We say, well, if we had excise taxes that applied to States, cities, and towns, we would collect more in excise taxes, so let's pretend we collected those taxes and put them in the highway trust fund. That is simply wrong.

When that money is credited to the highway trust fund, it has to be taken from somewhere else and it is being taken from general revenues. I think it is instructive to go back to the last debate we had when we wrote a highway bill—in fact, in 1998—and the proponents of a very large highway bill at that time said the only thing we are asking for, and the only thing we ever will ask for, is that all of the money we collect in gas taxes go to highways. That was essentially accomplished with the writing of that bill.

Today we are listening to a debate that pretends that commitment was never even made.

The goal seems to be to scrape every penny possible into the highway trust fund in order to pass a bill that is as large as it could possibly be. That certainly is not OK by me.

I am sure there are some people here who would like to raise gasoline taxes. I am certainly willing to have that vote. There are some people who would like to pass bonding authority. I am certainly willing to have that vote. But somehow the supporters of those ideas, while they want to talk about those ideas and suggest there is a conspiracy to prevent them from doing those things, don't really want to have those votes because they know they would not win.

This bill adds to the deficit, and we do have an extraordinarily high deficit right now. Our economy is just beginning to grow. It is certainly not the right time to raise taxes, but I think it is the right time to begin to exercise some fiscal restraint.

Another question that I think is begged by some of the claims thrown around in this debate is, What is the role of States in highway and infrastructure—transportation spending? There is certainly a tone that suggests the State of Missouri, or the State of Texas, or the State of New Hampshire, or California somehow do not have the wherewithal to design and build a decent road; they don't have the commitment or the foresight to levy excise taxes, collect those taxes, hire good people to run departments of transportation, and invest in maintenance or safety, bridge management, or new highways.

I think that is simply wrong. States are not incapable. States certainly care every bit as much as any Member of this Senate about the safety of their roads, and about their potential for economic growth.

If you look at the highway fatality rates of the different States, some States have done a much better job than other States in dealing with the safety issues that were discussed earlier by some Senators. I think States have not just an important role but a leading role to play here. Certainly in my experience they set better priorities. They tend to spend the money a little more efficiently.

That brings me to my final point. Ultimately, what we are really talking about is a redistribution of funds. If you think literally about what we are doing, the Federal Government is collecting 18.4 cents for each gallon of gasoline sold in the State of New Hampshire or the State of Missouri, or Oklahoma, literally bringing that money here to Washington, and then we are engaging in a debate as to how to divide up that money to send it back to the States. It makes you wonder what the purpose of this diversion is in the first place because I can assure you, the laws of physics, finance, or nature result in less money ultimately going back to invest in pavement or bridges or transit at the local level than ever came to Washington in the first place—unless you believe all the administration, oversight, and regulation that comes from Washington with regard to transportation is free.

It is not. Ask any worker at the Department of Transportation. They may wish they were earning a better wage but they are certainly not working for free. There is a significant overhead cost. That does not mean there is no Federal role at all in these programs or projects or investments, but I think we need to be a little more careful in our debate and discussion. Certainly we need to be a little more careful with the use of the moneys we are collecting, and be more careful in the debate or discussion than to somehow suggest the Federal Government is the only entity that has the ability to make a good decision about which 5- or 10- or 50- or 100-mile stretch of pavement ought to be dealt with first and foremost in our States.

If you don't think we are just talking about a redistribution of money, take a look at the tables that are part and parcel of this legislation. The percentage redistributed to each State is spelled out in excruciating detail, year after year. You can see one State has 102.5 percent of what was collected from that State in gas taxes in year 1. Then it might go to 104.8 percent and then 95.4 percent and then 93.2 percent. The only reason to calculate such specific statistics is that ultimately this is a vote and a battle over a formula for redistributing the money we took from our States and our consumers in the first place.

I think there is some value in a discussion about whether we should leave more of that money at the State level in the first place. Certainly we could give the opportunity to those States that would like to collect that excise tax in the State to spend it locally, and I believe a little bit more efficiently than Congress might do here in Washington.

That is not part of this debate, empowering States, empowering consumers, empowering local officials to collect and invest a little more of their share of these excise taxes, but perhaps in the future it will be. But at the very least, we can take up and support the amendment before us today that will bring this bill into compliance with the budget, that will bring this bill to a level that will not be vetoed by the President, that will bring this bill up to a level that will ensure we do not have to raid the general fund; that we don't have to raid taxpayers' funding that they are sending for programs other than laying pavement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 20, nays 78, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—20

Alexander
Allard
Bennett
Brownback
Chambliss
Craig
Ensign
Enzi
Feingold
Graham (SC)
Gregg
Hatch
Hutchison
Kyl
McCain
Miller
Nickles
Santorum
Specter
Sununu

NAYS—78

Akaka
Allen
Baucus
Bayh
Biden
Bingaman

Bond
Boxer
Breaux
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Feinstein
Fitzgerald
Frist
Graham (FL)
Grassley
Hagel
Harkin
Hollings
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—2

Edwards
Kerry

The amendment (No. 2473) was rejected.

Mr. REID. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, may I make a suggestion. This last vote took 35 minutes. We have people who have been waiting to offer amendments all day. We have a number of amendments lined up for people to offer. I would hope the leadership would call a halt to these votes after a reasonable period of time.

There are people who have already come to me, there are people who have come to Senator INHOFE and the two leaders, about how long this is going to take. It could take a long, long time, but it is going to take a lot longer time if these votes go on endlessly. So I would hope we could terminate these votes more quickly.

If people miss a vote now and then, it is not the end of the world. I hope everyone would be in agreement. People feel very strongly about these amendments, and they have a right to offer them. The decision has been made today by the managers of the bill to let them offer them, to have up-or-down votes on them. Until there is some change, that is what we are going to continue to do. But everyone should not be punished by the dilatory nature of Senators for whom we wait around endlessly. I hope the next vote will be 20 minutes and then we will call it quits.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2430 TO AMENDMENT NO. 2285

Mr. DORGAN. Mr. President, I call up amendment No. 2430.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2430 to amendment No. 2285.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the penalty for nonenforcement of open container requirements)

On page 147, after the item following line 24, add the following:

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

"For:	The applicable percentage is:
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	2 percent.

"(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.".

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this is an amendment about which I have spoken previously. It deals with the subject of drunk driving. More specifically, this amendment deals with the issue of open containers of alcohol in vehicles. It is similar to an amendment that was voted on and approved by the Senate when we passed the previous highway bill 6 years ago. I would like the opportunity to explain what this amendment does and what it means.

Let me describe to my colleagues an organization that most of them know well, Mothers Against Drunk Driving, a wonderful organization that sprang up over recent years dealing with the issue of drunk driving.

Every 30 minutes someone gets a call that their loved one has been killed by a drunk driver. That is a relentless number of deaths caused by something that can be avoided and can be dealt with, if we get tough dealing with drunk drivers. The scourge on American highways from drunk driving is not some mysterious illness for which we don't have a cure. We know what causes it. We know what cures it.

Let me offer some statistics: Of the children from birth to 14 years of age who were killed in alcohol-related crashes in 2001, more than half were passengers in vehicles with drivers who had been drinking; 23 percent of the children under 15 years of age who were killed in motor vehicle crashes were killed in alcohol-related crashes in 2001; the leading cause of death for children 4 to 14 years of age is motor vehicle crashes, too many of them, far too many, as a result of alcohol.

During the year 2001, 8,054 passenger vehicle occupants under 15 were involved in fatal crashes. It is estimated that 269 children under age 5 were saved as a result of child restraint. The statistics about safety issues with children are really quite remarkable. It is especially compelling to take a look at what is happening with respect to drunk driving. It is important to understand what we can do about it.

The amendment I have offered is very simple and would be hard to oppose. It says that nowhere in this country should you, driving a vehicle, come to an intersection and meet someone else driving another vehicle who is drinking while they are driving. It ought not be legal anywhere in this country to drink and drive. It ought not be legal in this country anywhere for there to be open containers of alcohol in moving vehicles.

Some say: Well, but that is the State's decision. That is a decision the States ought to make.

Thirty-six States have already made that judgment. Thirty-six States have said they agree, under no condition should there be open containers of alcohol in passenger vehicles on the roads.

There are 14 States, however, that don't make that same judgment. There are some that prohibit consumption by the driver but say it is fine if others in the car are drinking alcohol. There are some that say it is OK to have open containers of alcohol, but you can't have it when the car is in motion. You just have to pull off to the side of the road. There are others that have prohibitions on open containers that apply only to drivers. But one State has an exception for frozen daiquiris. Sound goofy? It does to me. Let me say that again.

We have 14 States that do not comply with the requirement that would prohibit alcohol in a moving vehicle on America's roads. There are several States in which there are no laws at all with respect to alcohol in vehicles. You may, in some of those jurisdictions, put one hand around the neck of a bottle of Jack Daniels, put the other hand on the steering wheel, start your car, begin to move, and you are perfectly legal. You may drink and you may drive. That is unforgivable.

Nowhere in this country should we have laws that permit drinking and driving or drinking in vehicles that are on American highways. This is not rocket science. We know how to prevent this, and 36 States do.

Six years ago, when we passed the legislation creating the highway bill, we had a vote on this. It was a tougher amendment that I offered then. It would have imposed a penalty that 5 percent of the highway funds that were going to a State be withheld unless that State complied with the requirements to prohibit open containers of alcohol in vehicles. That passed the Senate 52 to 47. The first year it was losing 5 percent; the second year and thereafter, losing 10 percent of the highway funds. That was tougher than this amendment.

This amendment provides that if States do not comply with a prohibition on alcohol in passenger vehicles, then they will lose 2 percent of their highway funds each year during the 6 years. The amendment that passed the Senate 6 years ago—an amendment I offered and one that was supported by a majority of my colleagues—was watered down in conference. The requirement still existed, but it was a requirement that said, in effect, you better watch it. It said if you don't comply, some of your highway funds, a small amount, will go to hazard mitigation or safety programs. Money is fungible, so these 14 States that have not complied have not minded that because they have to use money for hazard mitigation in any event. So we have 14 States that have decided it is all right in some circumstance or in some form to have alcohol in your moving vehicles.

I mentioned that one State does actually have a small prohibition against this practice, saying that apparently drivers only cannot drink, with the exception of a frozen daiquiri. There is actually a frozen daiquiri exception.

I think I have the exception here. In this particular State, just to show you the extent to which States have gone to produce their own version of whether you ought to be able to drink and drive: It shall be unlawful for the operator of a motor vehicle, when the vehicle is on the public highway or right of way, to possess an open alcoholic beverage or container or consume an alcoholic beverage in the passenger area of a vehicle.

Then it describes alcoholic beverage: Beer, ale, port, or stout, so on, wine, distilled spirits. Open container means any bottle, can, or other receptacle—(B) except open alcoholic beverage container shall not mean any bottle, can, or other receptacle that contains any amount of frozen alcohol beverage unless the lid is removed and a straw protrudes.

I don't think there ought to be a State in this country where you ought to be able to drink and drive. It is as simple as that.

It is a fact that conditions have changed dramatically in this country, and thank God they have. It wasn't too many years ago when a drunk driving arrest produced a slap on the back and a knowing grin—well, you got caught, did you, old buddy? These days, it is far more serious than that.

A wonderful organization called Mothers Against Drunk Driving decided to stop the carnage on America's roads. They have had a dramatic impact in Congress and in State after State. I have met most of the presidents of that organization in recent years. All of them have lost children to drunk driving accidents. They are all passionately committed to stopping this. Again, there is no mystery to this. We understand what causes these deaths, and we understand how to stop it.

I have told my colleagues before that, at 10:30 at night, I received a call that my mother had been killed by a drunk driver. I will not describe that except to say the horror of that call, that happens over and over and over again in this country, is a horror you never forget. It is so tragic because none of it has to happen. All we have to do is get serious about drunk driving and enforcing our laws and having the right laws.

I wish we were as tough and serious as Europe is. In most of Europe, your attitude had better be that you will not even think about doing this. You don't dare get caught in Europe drunk driving. The consequences and penalties are far too great. That is what I wish we would do in this country.

For about 12 years now, I have been unable to successfully persuade the entire Congress that there ought to be such penalties to require every State in this country to make a very simple statement with their law, and that would be that, in no circumstance, at no intersection, at no time shall anybody be driving a vehicle in this country and drinking at the same time and be perfectly legal. It is nuts, in my judgment, to have laws that allow that to happen—and not just drivers. Yes, there are circumstances where drivers can drink and it is legal in this country—in addition to others in moving vehicles who are consuming spirits and wine, beer, liquor. It is not the right thing to happen in this country. We have gone well past the time when this ought to be debatable.

My colleague, Senator DEWINE—who, incidentally, supports my effort here—offered an amendment dealing with drunk driving which I supported. My colleagues in this Chamber know this is an important and serious issue. They also know that this is the place to address it. If you were going to address the issue of drunk driving, it seems to me you would address it in this venue, right here on this bill.

We spent a great deal of money putting together a piece of legislation using Federal revenue that we collect and send back to the States. We have every right to impose a restriction that says we expect the States to have a prohibition on open containers of alcohol. As I have indicated to you, 36 States have such a prohibition. This relatively small map shows, in dark green, all of the States that already have legislation that causes a complete prohibition on the consumption of alcohol in a moving vehicle.

The legislation I offer would simply require the other 14 States to comply. In fact, a fair number of the 14 are close to complying. I believe it would not be much effort for them to do so. Only those few States that are remaining, where they insist on some sort of personal right to allow people to drink and drive, would object. There is no justification for that objection.

When someone turns an automobile into an instrument of murder because they decide to get drunk and drive, then there need to be consequences. One of the consequences, in my judgment, is not only to get tough with drunk driving, as Mothers Against Drunk Driving have all across the country—they have gone to court and they have represented victims and they have insisted on changing State laws. They have been here in the Congress and have been very successful in dealing with Federal law changes.

In addition to that, they support this, and I believe we ought to change Federal law one more time to make this prohibition on open containers stick across the country. Once again, there is no justification to say that anywhere, anytime, under any circumstance, someone ought to be able to drink and drive. Too many of us—many in this Chamber, in fact—have experienced a phone call and that phone call is one we never, ever forget because it is such a senseless tragedy and needless death when someone gets drunk and decides to get into a vehicle and it results in the death of another American.

Let me make a couple of additional comments and then I will complete my presentation. We know from studies that have been done that prohibitions on open containers of alcohol in vehicles—the laws that exist—have made a difference. They have deterred both moderate and heavy drinkers from driving. We know those laws are successful. In fact, some States have had the laws for many years, and there are a good many studies that describe that success. States with prohibitions on open containers in vehicles have had significantly lower rates of alcohol-related fatalities than States without. States with open container prohibitions have had lower numbers of hit-and-run crashes than States without such laws.

In every single State in this country, the majority, by far—80 percent, 90 percent, 76 percent, 91 percent—of the people say they support passing legislation prohibiting the open container of alcohol in vehicles.

My amendment is not hard to understand. It is simply written. It is a short amendment. The objective of it is quite clear, and the passion with which I have, for 12 years, worked to try to effect this change remains. I don't know how the vote will occur today. I regret that some will decide we cannot take the simple step of saying to the American people that nowhere in this country should you be able to drink and drive. I regret that some will oppose that. My hope is that perhaps the Senate once again today will decide, on this issue, to do what is right. If so, perhaps we can go to conference and do what is right.

We won't know the names of those whose lives we saved, but I can tell you they are young children, high school students, babies, senior citizens, workers, moms, and they are grandpas. A lot of people's lives will be saved if we take this step, pass this requirement, and get people off America's roads who now drink and drive and, in some parts of the country, who drink and drive legally. In my judgment, that is unforgivable. I don't want any American, under any circumstance, to come to any intersection at anyplace in this country and meet someone driving another vehicle who is driving with one hand on the steering wheel and the other hand on the neck of a bottle of Jack Daniels, drinking whiskey, and it is legal. That situation exists in this country and it ought not to.

If this Senate doesn't have the stomach to take that simple step, I wonder whether we have the capability to legislate on much of anything.

That completes my remarks. I don't know what the procedure might be. I expect we will have a vote on that. I suggested that the manager of the legislation, the chairman, accept it by unanimous consent or by a voice vote, or at least vote for it. I don't know what the chairman intends to do.

Mr. INHOFE. Mr. President, I appreciate the choices, but it is going to be none of the above. I know the Senator is very passionate about this issue. I also know that currently in title 23 there is this 1.5 percent that is taken out of the programs it is designed to be used for and put into other programs, such as the section 402—the alcohol-impaired driver countermeasures and all that. Now, this is different in that it takes money away—well, look at it this way. The States pay the taxes that go into the Federal Government, and then we take those and go back to the individuals and say: Unless you do something in the wisdom of us here in Washington, even though your State does not agree with it, we are going to withhold your money.

Let me share a short story with my friend from North Dakota. Many years ago, I was elected to the State legislature. My first trip to Washington was 1967. Do you know what it was for? To testify before the Environment and Public Works Committee protesting Lady Bird's Highway Beautification Act of 1965 because of this very reason: philosophically using money that comes from the State to blackmail them to do something, however good the cause.

I was sympathetic with Senator WARNER on his seatbelt amendment, but I had the same objections. I think the Senator is going to find some philosophical objections to his amendment. Yet I assure everyone within earshot, the Senator from North Dakota is very passionate about this issue, he believes in it, but I will respectfully vote against it.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this most surely is a mandate, and those who believe no mandate is worthy ought to oppose this.

I say to the Senator from Oklahoma, the proposal that has existed now for some years in which we have tried to encourage the States to comply is a very simple proposition that has not worked.

The encouragement has been to say you will lose highway construction money that will go into hazard mitigation if you don't comply. Fourteen States have not complied. In some States, it is legal to drink and drive. I say this to my friend from Oklahoma, if ever there is a case for a mandate, it ought to be to say that, as a nation, we have a national purpose and a national interest in deciding that nowhere in this country on no public highway shall it be legal to drink and drive at the same time. I think there are enough Americans who understand the consequences of this and the tragedy of it to understand why it is necessary for us to be aggressive.

We can decide that we don't like mandates. That is perfectly acceptable. But that then will not solve this problem. I guarantee, if we pass this legislation and the other 14 States comply, lives will be saved.

In any event, aside from the mandate issue, I don't expect there is one person in the Senate who will come to the Chamber and say: I really think it is good public policy to allow people the choice, to let people choose whether they want to drink while they drive. If someone has a hankering thirst for whiskey and a powerful need to drive at the same time, God bless them, get them on the road. There is not one Senator who will come to the Chamber and say that because that is nuts and we know it.

There is no justification for allowing anybody in this country to drink and drive. None, none at all. If this Congress cannot take baby steps in the right direction dealing with public safety, then a lot more lives will be lost. This is not radical. This is easy. This is not complicated. This is simple.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I do not wish to speak on the amendment. I wish to speak on the bill.

First, I have great respect for the chairman of the committee and the ranking member. I understand this is one of the toughest jobs we have, trying to draft a highway bill which everybody thinks is fair. I suggest it is an impossible task because someone is going to benefit and someone is not. All we can do as Members is try to make our case as to why our respective States should be treated in a manner that befits its condition.

In the Commonwealth of Pennsylvania, we have historically benefited from the Federal highway program. We have benefited in the sense that more money comes to our State than we have paid in taxes to the Federal highway fund.

I would make the argument that is as it should be. Of course, every Senator will stand up and say that is as it should be, everyone should be a donee State and, of course, that is impossible to do.

The question is, Why should States be donor States and why should States be donee States? I will give my rationale, which I think is the rationale underpinning the whole reason the Federal Government gets involved with highway programs.

Of course, all of our States have highway departments. All of our States have departments of transportation. All of them have gas taxes, excise taxes that raise money for the purpose of providing roads. The question is, Why does the Federal Government do what is already being done by the States? There is one overriding reason.

Originally, the Interstate System was designed for moving defense items around in times of war. That was the Interstate System. The reason for the Federal Government's involvement has to do with interstate commerce. And the reason for a Federal gas tax is to make sure there is a network of highways that facilitates interstate commerce.

For example—and I use the example of Florida—you want to make sure, if you are an orange grower in Florida, that you get your products before they perish to market over a system of roads. So you are willing in Florida, which has virtually no interstate traffic, to pay a little bit more for Georgia, South Carolina, North Carolina, Virginia, Maryland, and Pennsylvania to have good roads so you can get your products up to New York, Boston, and places such as that.

The idea is that States that may not have a lot of cross-traffic are willing to pay other States that do to facilitate commerce on behalf of that State. That, to me, is a very logical reason for there to be a Federal gas tax.

That being the premise of my discussion, I want to get to my State. One additional premise. What causes a lot of trouble for roads? There are two major causes that I can think of—there may be more and I will be happy to hear them. The two major causes are weather—and I challenge anybody to go out in the DC area and drive around, now that we have had a lot of freezing, thawing, snow, and ice, and look at all the potholes. It is not a common occurrence in this area because we don't have a lot of thawing and freezing generally. We do now. We are having weather like Pennsylvania.

A lot of freezing and thawing beats up the roads in combination with what? Really the biggest thing that beats up roads is weight, heavy trucks—heavy trucks pounding and beating up roads. Heavy trucks, in combination with freezing and thawing, really kick a lot out of the roads.

A premise of my discussion is, No. 1, what is the purpose of this bill? The purpose of a Federal tax is to facilitate interstate commerce in those States that benefit from the cross-traffic that occurs in other States that don't get an economic benefit. I remind my colleagues, if a heavy shipment is going from Florida to New York and it goes through the State of Pennsylvania, Pennsylvania gets all of the aggrieved road problems and none of the economic benefit.

Weather and heavy truck traffic. Let's look at the situation in my State. Why do I bring up my State? Because my State historically has been a donee State. Historically, we have benefited from the Federal program. Why?

The reason we benefited, based on the premises I laid out before, is because we get a heck of a lot of cross-State traffic, heavy truck traffic that neither originates nor is destined for our State. In other words, our State gets no economic benefit from heavy trucks in large numbers rolling through our State.

Let me give you the numbers. As far as ton miles—what am I talking about here? Heavy trucks, weight that hurts highways weight that destroys highways, disproportionately to car traffic.

As far as ton miles, we are fifth in the country in ton miles—fifth in the country in ton miles in our State.

Now, that does not necessarily say Pennsylvania deserves more money because we get all of this heavy traffic. Let's look at an additional factor which I think is vitally important—in fact, more important when it comes to this formula—and that is how much of that heavy traffic is just going through our State and does not stop, how much of that traffic gives no economic benefit to our State.

We are third in the percentage of heavy truck traffic going through our State that does not stop. Forty-seven percent of the heavy truck traffic going through our State does not stop in my State. Our State gets no benefit from these heavy trucks beating up our roads and rolling through our State. There are only two States that have a higher percentage, and that is Indiana and Ohio. Which States have more heavy truck traffic than Pennsylvania? Well, Texas does. They are No. 1. Texas, obviously, is a much bigger State than Pennsylvania, but only 15 percent of the traffic going through Texas is not originating or destined for Texas. So they do not get near the amount of cross-traffic that we do. So most of the heavy truck traffic is to some economic benefit either to someone who is getting shipped the goods or shipping the goods.

What is the second one? California. Only 2 percent of the heavy truck traffic going through California is just going through California and not stopping there. So my colleagues can see what I am talking about. It is not just that we get heavy truck traffic.

What is the point of this tax? What is the point of this formula? To compensate States that are what we call in the airline business fly-over States. Well, we are a crossover State. Vermont happens to send a lot of stuff through our State—ice cream and milk and all that kind of good stuff. But the fact is, the reason I have not been happy with this bill and have been critical of it and have voted to try to change it is because I believe if we look at the numbers and look at the weather factors we have to deal with, which a lot of the country does not have to deal with, particularly the South, and look at the number of vehicle miles—I mean, look at this. Here is Pennsylvania. These are all the interstates that go through Pennsylvania: I–70, I–76, I–78, I–79, I–80, I–81, I–83, I–84, I–90, I–95, I–476. I–99 is an interstate—but it is not interstate—that is just in Pennsylvania. Look at all of these interstates where heavy truck traffic is trundling through, beating up our highways, with no economic benefit to our State.

What is this Federal tax intended to do? It is to say to States that get no economic benefit from having that traffic go through those States that we are going to compensate them. But what happens in this bill? We actually contribute to other States that do not have near the traffic we do coming through our State for no benefit.

One of those States—and I do not want to pick on a particular State, but to me it is the most dramatic example because a lot of traffic for that State goes through Pennsylvania—is Florida. How many interstates does Florida have? Really three: I–95, I–10, and I–75. I–4 is an interstate but it goes from Daytona to Tampa, so it is not really an interstate. The fact is, there are three.

And by the way, less than 3 percent of the traffic that goes through Florida is originating somewhere else and destined somewhere else—3 percent of all the traffic. In our State, 47 percent of the truck traffic is neither originating in our State nor is destined for our State; Florida, 3 percent. Yet look at what happens. Florida—yes, it is a bigger State. It has more people. I understand that. Do they have ice, snow, and freezing rain in Florida? Do they have heavy trucks running over their roads? Do they service other economies and do other States benefit from the traffic going through Florida? The answer is, no, no, and no. Yet over the 6 years of this bill they are going to get a billion dollars more than a State that is shouldering the burden of trying to keep this economy up and going by carrying truck traffic, heavy destructive truck traffic, through our State.

So one might ask, and I know several have: Senator, why are you so upset about the way this bill is put together? Again, I am not being critical of the chairman or the ranking member. They have a tough job. I am focusing on one aspect. I happen to believe it is a very important aspect of why highway formulas are put together. I am sure the Senator from Oklahoma will tell me, well, there are other factors where Pennsylvania does not stack up. Pennsylvania is a State that does not have as many people as Florida, or is not as big geographically as California or Montana. I understand those are all factors.

Again, if we look at the central premise of why we are here, why do we have a Federal tax program for highways, we have to ask that question. It is not because we want to raise money and just turn it back to the States. I hear it said on this issue that every State deserves 95 cents on the dollar. Let me just say something very clear. Why? Why does every State deserve 95 cents back on the dollar? Why does the State of Florida, with only 3 percent of its traffic is cross-traffic, deserve money from a Federal program that is designed to help facilitate interstate commerce? They are the beneficiary of all of the other States when a truck runs from Florida or to Florida, and the roads get the heck beat out of them. They do not originate in my State. So I am not picking on Florida, but that is the most dramatic example.

The fact is, if this program is designed to help States that are carrying the burden of other States and getting no economic benefit, if that is the reason we have a Federal highway program—and I would argue that is the principal reason we should have a Federal highway program—then States such as Pennsylvania and Ohio—and my sympathy goes to Ohio. I know Senators DEWINE and VOINOVICH are enthusiastic about the improvements in this bill, and they should be improved. They have been on the short end of the stick for a long time. Indiana and Illinois, the States that are sort of the freeway of the heavy trucks and the bad weather, those are the States that the rest of the States in this country, particularly in the region, should be helping out because they benefit economically by having good roads going through those States.

I think I have a valid complaint. That complaint will go on deaf ears today because this bill will pass and instead of Pennsylvania being a donee State to help compensate us for the 47 percent of heavy truck traffic that goes through our State, for which we get no economic benefit, now we are going to contribute to other States and have the blessing of carrying their truck traffic on top of it. To me, that is unfair. It is an injustice to the people of Pennsylvania who are going to be driving on those pothole-filled roads that are going to be pothole filled because of heavy trucks going through our State, beating them up, and providing no jobs except crews running around trying to fill potholes with tax dollars from Pennsylvania residents.

That is not what interstate commerce is all about. That is not what this tax was designed to do. It is an outrage that the Commonwealth of Pennsylvania is being treated in this fashion. I am hopeful that after my explanation those who are in authority, who can look at this and hopefully fix this problem, will see that we have a legitimate complaint, and we will have an opportunity in conference to try to address an issue which I think is going to hurt interstate commerce and job creation because we are not going to have the quality of roads in Pennsylvania to shoulder that 47 percent of the truck traffic that goes through our State of which we get no economic benefit.

It will hurt my State because in my State the quality of roads will decline. I understand some will say the money goes up in this bill. Yes, the money goes up. That is assuming we get a bill at this level, which is looking increasingly uncertain given the President's comments. So the money probably is not going to go up as much as this bill suggests it will. So keeping the same formula, our increases are going to look less and less, as will every other State.

This bill spends about a 45-percent increase in highway funding. We get a 19-percent increase. Finally, I make the argument that this premise that every State is entitled to 95 cents back on the dollar is what happens in Washington all the time. We set forth a goal and purpose for legislation which is we are putting this bill forward, and we are putting this system forward to help facilitate the interstate commerce of America. That is what it was designed to do. But what we turn it into is: No, this is money coming from my State and I deserve it back.

If that is the case, if that is what this is for, I am for repealing the whole thing and just letting the States raise the money. If that is what we are going to do, let's not bother. If this is all just about raising the level on the Federal level and giving it back in the percentage which they raised it, why are we here? We are here because we wanted to help those States that carry the disproportionate burden of making the economy of the rest of the country work and getting no economic benefit from it. That is what originally, I would argue, the highway formulas have accomplished, at least for my State.

I can stand up and say for Ohio it didn't work that way, and it should have. I don't know what happened that it didn't. I understand for other States it didn't work that way. At least it did for mine, and I hope we can have it work more equitably for the purpose for which this legislation was originally intended.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I commend my colleague from Pennsylvania, Senator SANTORUM, for his very cogent remarks about the highway bill and its effects on Pennsylvania. I associate myself with what my colleague from Pennsylvania has said.

I think it is unfortunate we have a bill which appears to be heading for a Presidential veto. We have a bill which quite a number of States find unsatisfactory.

I compliment the Senator from Oklahoma, Senator INHOFE, the chairman of the committee, and Senator JEFFORDS, the ranking member of the committee, as a whole, for their very strenuous efforts. But I do believe Pennsylvania is not being treated fairly. Senator SANTORUM has gone over the specifics about our State, which has very heavy traffic going through the State, the third heaviest truck traffic State in the Nation. Almost half of the trucks which go into Pennsylvania do not stop in Pennsylvania. There are very difficult problems of weather, potholes, and highway deterioration that require Pennsylvania be granted more of the funding.

Pennsylvania has traditionally been a donee State, which means Pennsylvania receives more than the funds which Pennsylvania contributes to the trust fund. Now Pennsylvania, for the first time, was turned into a donor State, so Pennsylvania is contributing more to the trust fund than Pennsylvania is receiving. I think that just is not appropriate.

I have also expressed my concern earlier in voting against cloture, on the first cloture vote earlier in the week, about the concerns I have for the size of the budget. There has been a clear-cut statement from the White House that the President is not going to agree with the figure present in the Senate bill. That is why I voted against cutting off debate, because I think to be fruitful in what we are doing here we are going to have to work with the President's figure.

We all know about the ballooning deficit, in the range of $500 billion. We all know about the national debt. We have very heavy expenditures in many areas. We have a budget that has been submitted which grants a very small allocation for discretionary spending. In the context of where we are with the deficit, it seems to me the President is correct, that this bill ought to be pared, at least to some extent.

The bill is ultimately going to have to be signed by the President, although it is a matter of speculation as to whether there are enough votes to override a Presidential veto. But I am not prepared to override a Presidential veto and I am not prepared to support a bill with this funding flow, where there has not been some accommodation with the White House, some accommodation with the President.

There are many steps before the matter comes to a final determination. There will be final action taken by the Senate, which appears to be passage. We will have to see whether there are more than 67 votes in favor of the bill. There will be a conference. Senator SANTORUM and I are continuing to talk with the chairman of the committee and the ranking member and others on the committee to try to get a more equitable share for Pennsylvania. But on this state of the record, I cannot support this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I understand there is a pending amendment, the Dorgan amendment?

The PRESIDING OFFICER. The Senator is correct.

Ms. LANDRIEU. I wish to set that amendment aside temporarily and speak on an amendment which I intend to withdraw.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. INHOFE. I have no objection.

The PRESIDING OFFICER. No objection is heard. The Senator from Louisiana.

AMENDMENT NO. 2615 TO AMENDMENT NO. 2285

Ms. LANDRIEU. I send this amendment to the desk for its consideration, but my intention is to speak for about 10 or 15 minutes and then I am going to ask to withdraw the amendment because, unfortunately, even though this is an extremely meritorious concept, I am not certain we have the votes for it at this time, but I thought I should take some time to talk about it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] for herself, Mr. BREAUX, Mrs. LINCOLN, and Mr. PRYOR, proposes an amendment numbered 2615 to amendment No. 2885.

Ms. LANDRIEU. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish a program to apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects)

On page 39, between lines 22 and 23, insert the following:

(17) FINISH PROGRAM.—For the FINISH program under section 178 of that title, for each of fiscal years 2004 through 2009, an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. FINISH PROGRAM.

(a) IN GENERAL.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. FINISH program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

"(b) ELIGIBLE PROJECTS.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

"(c) APPORTIONMENT.—For each of fiscal years 2004 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

"(1) the estimated amount that may be obligated in the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

"(2) the total estimated amount that may be obligated in the fiscal year for the completion of eligible projects described in subsection (b) in all States.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2004 through 2009, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. FINISH program.".

Ms. LANDRIEU. Mr. President, I offer this amendment on behalf of myself and Senator BREAUX, Senator PRYOR, and Senator LINCOLN from Arkansas—the two Senators from Arkansas and Louisiana. There are other Senators who are very interested and have given us a lot of encouragement as we moved forward with this concept.

I first want to thank the leaders of this bill for their tremendous work in putting a very balanced transportation bill together. You can see how controversial and emotional some of this debate is regarding highways and jobs. Highways, if not built correctly or built in the right way, or if rail or mass transit isn't provided, if the trade burden is too heavy on one area, can cost jobs, as you just heard the Senator from Pennsylvania speak.

This is a very complicated and very big bill and a very expensive bill, but one we certainly have to find a way to afford because it is the infrastructure on which our economy in large measure is built. It is not the only infrastructure. I would like to remind everyone that schools and education are just as important, but our highways, our rail, and our Interstate System particularly are the foundation for jobs and economic growth.

The concept of the amendment I talk about—again, I am going to withdraw it—is to pull a few percentage points of dollars away from the general program and direct it to the completion of major interstate routes that are in desperate need in order to handle the new international trade and the increased truck traffic and the increased moveable inventories that are in large measure traveling by truck on our highways because of policies we have as a Congress put into place over the last couple of years.

We have an Interstate System to be proud of. We have made mistakes over the decades as we have constructed it. Obviously we have not been as sensitive to the environment when we began this several decades ago as we are today. But it has been a remarkable achievement of the American people, to dedicate their tax revenues and their gasoline tax revenues and general tax revenues. It is a true partnership between the Federal Government and local governments, as we built this Interstate System, primarily built by the Federal Government.

As you can see, these are the major corridors throughout our country. In the early days of the country, as trade was more east-west, as we traded more with Europe and with the Pacific rim, our highways have had to move across the country and of course the whole Nation has been on a westward expansion. It started on the east coast and then moved westward.

The problem now is States such as Louisiana and Texas and in large measure Pennsylvania, Indiana, Michigan, Missouri—the heartland States, these States right here in the middle of the country—are under a tremendous burden as the population has increased. I realize two-thirds of our population lives within 50 miles of a coast. I am from a coastal State so I understand the populations are very heavy. But the populations are also very heavy right here in the heartland and there simply are not enough interstates moving north-south.

That is what this amendment attempts to do, to say to those writing these policies—and all of us have an input in that—let us pay attention to finishing some of these interstate corridors. From Louisiana, the corridors that are most important to us are I–49 and I–69. I will talk about that in just a minute.

Again, the map shows the concentration of interstates is east of the Mississippi River, not west. The Western States, particularly those in the center, need to have additional interstates that are completed. I–49 would affect Louisiana, Arkansas, Mississippi, and others; I–69 which is not completed, Texas, Louisiana, Arkansas, Tennessee, Kentucky, Indiana, and Michigan; I–35, which is not completed, Iowa and Minnesota; the CANAMEX interstate, which is not yet completed, Arizona, Nevada, Utah, Idaho; and ports to plains, Texas, Oklahoma, and Colorado.

Although I did mention Pennsylvania, I want to put up another map. I know the chairman has worked very hard. I am sure he and the staff know these numbers, but 46.6 percent of the truckborne traffic that comes from Canada comes through this entrance right here, and 49 percent that comes from Mexico or through Mexico comes through this point.

The I–69 corridor, which is not finished, is a very important corridor to be completed because other corridors that do exist—there are probably one or two others in this section—are not enough to handle the percentage of the traffic.

The Senators from Pennsylvania, Senator SPECTER and Senator SANTORUM, with New York and Pennsylvania right here, are feeling the sting of a lot of those trucks coming through, not stopping, not delivering goods, not delivering jobs, but creating a lot of traffic, havoc, a lot of potholes, and accidents are coming through these corridors because of the way our economic system is developing.

Do we want to stop the economic growth? Absolutely not. But we have to provide for it. That is basically what our amendment attempted to do.

I wish to speak for a few more minutes about it, but I am hoping as we draw some attention to this corridor and the percentages of trade that come through on a north-south direction we can get more help and more support.

I think the committee has done a beautiful job. I have worked with the chairmen on both sides. Louisiana has been treated fairly. This is not a complaint from the State of Louisiana. I like the idea that our State, along with many others, is getting a bit more money under the new formula.

I think it sounds very fair when you say every State should get at least 95 percent of what they put in. But the problem with that is it sort of takes away a bit from our concept of interstates and completing interstates. Whether it helps Louisiana or not, ultimately, when these corridors are completed, it helps every State. In this case, two of the corridors I am speaking about would cut through Louisiana, and would be a great help to us, and also to the whole Nation and our metropolitan areas.

That is the underlying concept of the amendment. Again, to generally describe it, it would take a small percentage—6 percent—which equates to about a $16 billion commitment over the next 6 years to finishing anywhere from four to five of the major corridors through the middle part of the country. This is only one. There would be others that would fall into this concept and this amendment.

Let me keep the I–69 chart up for 1 minute and talk about one of five that will be completed in the middle part of the country.

I–69 will serve the Nation's top 25 seaports, 13 inland waterway ports, and 15 of the Nation's top air cargo ports. One of the reasons we need to finish I–69 is because it helps to link our seaports, our waterways, and our airports. That is true for every one of these corridors that would be proposed in this plan.

When I–49 is complete—hopefully one day soon—it will extend from New Orleans to Kansas City, but it benefits the whole Midwest part of the country, from the great port of New Orleans, the port of Houston, the port of Mobile, with huge amounts of trade and traffic which are goods imported and exported moving through these ports. They need north-south corridors. We simply don't have enough north-south corridors. We have a lot of east-west corridors but not north-south corridors.

Once completed, the I–49, I–29, and I–35 corridors will intersect with nine other east-west interstates, including I–94, I–190, I–80, I–70, I–44, I–40, I–30, I–20, and I–10. Building the north-south corridors connects them to the east-west to make this grid workable and helps all of us to be more efficient and profitable as we move goods and services around and through this great Nation.

There is one final point I want to show a picture of. This is a hard picture for me to look at, but the ranking Member from Vermont, Senator JEFFORDS, has actually seen this with his own eyes. He was gracious enough to come down to Louisiana. We were literally standing there looking at a bridge, which is not in this picture frame. The Senator asked me what would happen to the bridge if there was an accident. At that point, a large shrimp trawler literally hit the bridge, knocking the mast of the trawler off and knocking the nets down. The bridge was out of commission for several hours. The Senator witnessed that himself. There is only one way in and one way out.

But the frightening thing for people who are observing and listening to this today is this is the main highway for offshore oil and gas revenues coming into the continental United States. This is LA–1. Eighteen percent of the imports and a majority of the offshore oil and gas drilling that is done happens at the end of this road. With a heavy rain, it goes under water. This road needs to be elevated and protected. The marshlands need to be restored. All of that can be done with the right kind of investment.

This is probably one of the worst examples of not using our Federal resources directly and well, in the sense that $6 billion is produced from the Treasury off the shores of this highway, but we can't get one penny to broaden or fix this highway—that is not true. We have, through the generosity of the chairman, gotten some money to fix and designate this highway. But this is one of the corridors that could be greatly improved by a commitment to finish the major economic corridors we rely on for our security and which give us energy security—but also in the middle part of the country to help us move oil and gas off our shores to light up Chicago, New York, or places in Pennsylvania and Vermont, and move goods through the Gulf of Mexico. This is a major corridor.

My amendment seeks to re-focus only a small percentage—6.4 percent—of our Federal highway spending on finishing our network.

My proposal calls for creating a finish program. The finish program would provide enough funds to finish or substantially finish a few highways of international significance.

In 1995, we dissolved the interstate program and left behind a few major uncompleted segments. From its founding by President Eisenhower until its dissolution in 1995, the Federal interstate program provided a dedicated stream of funds to build our system of interstate highways.

This map of completed interstate's shows the concentration of interstates east of the Mississippi River and the great gaps in the network that exists west of the Mississippi River, particularly north-south interstates.

ISTEA and TEA–21 provided a new program that listed a number of high priority corridors that are vital to national economic development, but did not provide the funding to construct these highways.

The proposed finish program would provide the necessary funding to finish or substantially finish the most significant of these Congressionally designated high priority corridors so that we can begin closing the remaining gaps in our national network.

All of the proposed roads for the FINISH program have already been Congressionally designated high priority corridors, yet we haven't given them priority funding. Many segments of these roads do not exist. Some of these roads exist but are inadequate and are awaiting improvements. All of these proposed road projects link our borders north and south. All of these proposed road projects will bring tremendous social and economic benefits for both their regions and for the Nation.

Of the six corridors that I propose be included in the FINISH program, I want to focus on three specific corridors that I know best because they directly impact Louisiana. These three specific corridors are: I–69, I–49 and LA–1.

When completed, this will span the Nation's heartland, connecting Canada and Mexico through the States of Michigan, Illinois, Indiana, Kentucky, Tennessee, Mississippi, Arkansas, Louisiana and Texas.

Since the passage of NAFTA, Canada and Mexico are now the U.S.'s major trading partners. In 2001, 80 percent of U.S. trade with Mexico and 67 percent of U.S. trade with Canada was transported by truck. The I–69 corridor accounts for over 63 percent of the Nation's truck-borne trade with Canada and Mexico. This map of the I–69 corridor shows that the Michigan border points of Detroit and Port Huron account for over 46 percent of the Nation's truck-borne trade with Canada. The Texas border between Laredo and the Lower Rio Grande Valley accounts for over 49 percent of the Nation's truck-borne trade with Mexico.

I–69 will serve the Nation's top 25 seaports, 13 inland waterway ports and 15 of the Nation's top air cargo airports. This corridor would directly serve 25 million people. I–69 will provide economic development in some of the Nation's most impoverished regions, including the Mississippi Delta and the lower Rio Grande Valley.

In the I–69 corridor States, there are over 9.1 million people living below the poverty level. In 6 of the 9 corridor States, the population in poverty exceeds the U.S. average. Currently, only two sections of this corridor—Interstate 69 from Port Huron, MI to Indianapolis and Interstate 94 from Port Huron to Detroit and west to Chicago—are complete and open to traffic. However, these sections are in need of upgrading. The remainder of I–69, from Indianapolis south to the Mexican border, is in varying stages of completion.

Location and environmental studies are near completion and many sections are under design work and construction.

When completed, I–49 will extend from New Orleans to Kansas City. When completed, it will provide a continuous trade highway from Canada through the Midwest and New Orleans to Latin America.

Major portions of the route are already constructed: In Louisiana, from Lafayette to Shreveport as well as other sections in Arkansas and Missouri. Environmental work has been completed for every unconstructed section of the roadway. Records of decision for every one of these sections have been signed by the Federal Highway Administration. Project funding is the only remaining obstacle to the completion of the Interstate.

I–49 is a nationally significant freight distribution and inter-modal corridor that will service the deepwater ports of South Louisiana, New Orleans, Houston, Beaumont—four of the top five ports in the Nation by tonnage—the Great Lakes ports of Duluth, Superior, Chicago, Gary and Milwaukee, as well as numerous other inland waterway ports throughout the Midwest and plains States.

The I–49 corridor bisects a 420-mile north-south gap in what is potentially one of the most agriculturally and industrially productive regions of our country between I–55 to the east and I–35 to the west. Once complete, the I–49/I–29/I–35 corridor will intersect with nine other east-west interstate highways including: I–94, I–190, I–80, I–70, I–44, I–40, I–30, I–20 and I–10.

With existing rail facilities along the corridor including BNSF, KCS—now NAFTA Rail—and Union Pacific, completion of I–49 will spur the creation and expansion of major inter-modal facilities from Canada to the Gulf of Mexico. Once complete, I–49 will provide $817 million in annual savings to the Nation's economy by reducing travel time, transportation costs and congestion. Over 6 years, these savings will total over $4.9 billion. Coincidentally, the total remaining cost to construct I–49 is estimated at about $4.9 billion. Construction and completion of I–49 will support the creation of up to 206,290 new jobs.

I thank the chairman from Oklahoma and the ranking member from Vermont. Of course, the Senator from Nevada had a great deal to do with this bill. I thank them for their balanced approach. But I suggest to them if we could accelerate the completion of some of our major interstates in the middle part of this country, it would help everyone. It is desperately needed from an economic, security, and safety standpoint for the 30 or 40 States that are tremendously affected by the lack of this kind of infrastructure.

AMENDMENT NO. 2615 WITHDRAWN

Ms. LANDRIEU. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2615), to amendment numbered 2285, was withdrawn.

Mr. REID. Mr. President, I have just spoken to Senator DORGAN. He is in the cloakroom and he wishes to speak for a few minutes prior to the vote on his amendment. We should advise the Senate there should be another vote in the next 10 minutes or so. Does the chairman agree with that?

Mr. INHOFE. If the Senator will yield, we should emphasize we will not have more 38-minute votes. It could help the situation to be prepared for perhaps two more votes, if that is necessary.

Mr. REID. I appreciate my chairman acknowledging the fact at this stage—things could happen later on—we have another amendment on our side and two more amendments on the other side, and that is all we know of on this bill. There may be other things come up but that is what the managers have been told.

I underline and underscore what the chairman of the committee has said. It is not right to have these votes go 38 minutes. People have other things to do. It is unfair to the Members here, voting on time, to nonchalantly walk in, knowing the vote has been held up. These are not close votes. There is nothing that will be damaged by someone missing a vote. If you have an important engagement, tell that to your constituents. It is unreasonable to do this. I hope later we will acknowledge that and help move the bill forward.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. REID. I am happy to yield.

Ms. LANDRIEU. Is there any way the votes could be stacked at a set time so we would know about votes later tonight?

Mr. REID. I say to my friend, the junior Senator from Louisiana, we have tried that today and we have had objections to stacking votes. We will continue to try. We would be elated to do that. We know the schedule is extremely difficult for everyone but it is especially difficult for a mother of two children at home.

Ms. LANDRIEU. Senator BREAUX and I are entertaining for Mardi Gras this weekend. We are honored to have 2,000 of our friends in town. But he will have a good time anyway.

Mr. REID. Knowing Senator BREAUX—and this is directed toward him—we hope he does not have too good of a time.

Mr. INHOFE. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. INHOFE. It is my understanding Senator DORGAN is here and will speak. If he could confine his remarks to less than 10 minutes, we would have no objection to accepting his amendment.

Mr. DORGAN. Mr. President, my understanding is we could dispose of the amendment I have offered in a moment.

Let me again explain this amendment. Six years ago, the Senate did pass an amendment that is slightly tougher than the one I now offer dealing with the issue of drunk driving. It specifically deals with the issue of open containers of alcohol in vehicles.

We understand that nowhere in this country should someone be able to drink and drive at the same time. Yet there are still jurisdictions where that exists. The Senate has had a vote on this. When we previously considered this legislation 6 years ago, the Senate voted in favor of my amendment. It did get watered down in conference. My understanding is that the amendment would now be accepted, and I appreciate that. I have spoken twice on it and have fully explained it. I feel passionately about this piece of public policy.

I thank Mothers Against Drunk Driving and all of the other Senators across this country who dedicate their time and commit their lives to try to do something to make a difference about drunk driving and save the lives of so many in this country who are at risk as long as there are people who are drinking and driving in the United States.

I thank the two managers of the bill.

I yield the floor with the understanding the amendment is accepted.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. May I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is my amendment will be cleared by an approval of a voice vote and I ask that that occur.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2430) was agreed to.

Mr. DORGAN. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I would like my fellow Senators to learn of some of the tremendous advances we have been able to make under this bill in the past relative to the changing needs of our Nation. I am going to spend just a few minutes on the North Street Revitalization Project.

This effort is an innovative transportation project in Vermont that demonstrates the value of the Transportation and Community and System Preservation Program, also know as the TCSP.

When the TCSP was authorized in TEA-21, the city of Burlington quickly realized that this innovative program could be used to revitalize a blighted neighborhood called the Old North End.

North Street is located in the heart of Burlington's Old North End.

The North Street revitalization project was born of a need to reinvigorate one of Burlington's oldest and most densely populated neighborhoods, a neighborhood where nearly a third of the inhabitants fall below Federal poverty levels, where over 85 percent of elementary school children receive free and reduced price lunches.

It has been a wonderful example of a community using transportation funds to fight sprawl by investing in an older urban neighborhood.

I do not exaggerate when I say that efforts to revitalize the Old North End have been underway for over 20 years. The early TCSP Program grant for North Street has been the single most important factor in the success that the project is finally achieving.

I am pleased to report that the project is out to bid and construction will commence this spring. In addition, business activity in the neighborhood is way up and housing investment is increasing. The optimism is infectious and the infrastructure work has barely just begun.

As you can tell, I am very excited by this project. But I have chosen to highlight the project for another reason.

The North Street revitalization project is an excellent example of the benefits of the TCSP. The TCSP allows projects such as this one to develop all over this country. It encourages communities to consider the ways in which transportation investment can improve mobility, economic vitality, and quality of life.

I am pleased to say that we have continued this program in our reauthorization package and increased the funding associated with it. This is only one of the many excellent programs that this bill authorizes.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I just want to speak briefly because there has been some talk and discussion floating around the Chamber that one of the proposals that is being considered is to use customs fees to try to fill the failure of this bill to meet its budget obligations.

As we have discussed earlier, the bill is about $24 billion over budget, minimum. I think that is a conservative figure, but that is the number that is being accepted as the number that is given.

Unfortunately, a lot of the additional spending in the bill, rather than coming from the highway trust fund, which is where it logically should come from because the highways should be paid for by the highway trust fund, comes from a variety of movements of dollars, which essentially ends up with the general fund funding the highway trust fund from between about $226 billion up to about $255 billion, I believe. Off the top of my head, I think those are the numbers that are picked up by general fund activity that is now alleged to be highway fund activity, which is inappropriate. We should pay for roads with highway fund activity.

But I just want to put a marker down that if we—on top of all this other gamesmanship as to how this is being paid for, and the deficit, which is being added to by this bill—move to try to use customs fees to give a figleaf of financial correctness to this bill, we would be making a serious and inappropriate error.

First off, the use of customs fees would be a direct raid on the general fund because it would mean that fees, which are dedicated and which go into the general fund and would support the Customs Service, and anything else the general fund needs to spend them on, would then be moved over to the highway fund. That would be inappropriate because that would mean, yes, it might fill up the highway fund with more money, but it would take money out of the general fund, and you would have to borrow to cover that and you would end up aggravating the deficit to the extent you did that.

So it would not accomplish anything other than to give you a figleaf approach to fiscal responsibility. But even more importantly, this whole issue of customs fees has been around the track so many times. It has been used so many times here that I would think people would start feeling a little reticent about trying to use it again. Literally, customs fees have gone around the track probably more times than Seabiscuit.

I just want to list a few times we have used customs fees—the same customs fees, by the way.

We used customs fees to pay for H.R. 7 in the 107th Congress, which was the Community Solutions Act. We used customs fees to justify—we never used them. We use them to justify that the bills are within the budget. That is what this whole exercise is about. We used them again in the 107th Congress on the Bipartisan Patient Protection Act. We used them again in the 107th Congress for the Personal Responsibility, Work, and Family Promotion Act. We used them again in the 107th Congress for the American Competitiveness and Corporate Accountability Act. We used them again in the 107th Congress for the Trade Adjustment Assistance Improvement Act. We used them again in the 107th Congress for the Servicemembers' Tax Assistance for Noteworthy Duty Act.

That was the 107th Congress. We used the same custom fees six times in the 107th Congress. That is amazing, gamesmanship at a new level.

Then we move to the 108th Congress. How many times have we used custom fees so far in the 108th Congress? Well, it was used for the Prescription Drug and Medicare Improvement Act; the jobs and growth tax relief reconciliation bill. It was used for the Relief for Working Families Tax Act. It was used for the Relief for Working Families Tax Act twice, in fact. It was used for the Rebuild America Act by the House. It was used for the Health Care Coverage Expansion and Quality Improvement Act. And, of course, we are considering using it for this act.

At some point we have to have some modicum of fairness and forthrightness about what we are doing around here. I will strongly resist using custom fees as a vehicle for giving a figleaf of fiscal accountability to this bill because that is all it is. It is not legitimate to use it. We know it won't be used. Its only purpose would be so that people could come to the floor and argue that they somehow paid for this bill when, in fact, the practical effect of it is that it will never be used. It has not been used yet in the prior 13 instances I have cited. And if it were used, it would mean a direct shift of funds out of the general fund into the highway fund, creating a deficit situation in the general fund, aggravating the deficit to the extent that it was scored as being used in the highway fund.

It is bad policy. I wanted to lay down an early marker that this should not be a manner in which we proceed on this bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2502 TO AMENDMENT NO. 2285

Mr. BOND. Mr. President, I have at the desk amendment No. 2502. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2502.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the highway stormwater discharge mitigation program)

Beginning on page 876, strike line 12 and all that follows through the matter between lines 6 and 7 on page 880.

Mr. BOND. Mr. President, this amendment to S. 1072 preserves the basic expansion of eligibility for storm water mitigation projects but removes a mandatory 2 percent set-aside for storm water which was added in committee. While I protect storm water mitigation project eligibility for funding from highway programs, I oppose sending another Federal Government mandate to the States, telling States they must set aside 2 percent of their surface transportation programs for storm water activities regardless of the actual need in the State.

There are few greater champions of Federal funding for water quality and drinking water in the Senate than myself and my colleague from the State of Maryland with whom I chair and serve as ranking member—depending upon who is in control—of the appropriations subcommittee which funds water projects and programs in the EPA budget. Senator MIKULSKI and I year after year have squeezed the rest of the budget to put badly needed funding for clean water and safe drinking water measures into our bill because we know there are great needs. Every year we have to restore hundreds of millions of dollars that OMB, on a bipartisan basis, always takes out of the State revolving fund.

Last year we appropriated $1.35 billion to States for the clean water funds and $850 million to States for their drinking water funds. Every year we appropriate millions of dollars to protect, sustain, and restore the health of our Nation's water habitat and ecosystems.

We spend millions of dollars funding water programs for the Chesapeake Bay, the Gulf of Mexico, Lake Champlain, Long Island Sound, and the Great Lakes. Last year we sent hundreds of millions of dollars more to member States for targeted investments in their water infrastructure. We do that every year for our colleagues because we believe so much in providing clean and safe drinking water for our families and local communities.

In this highway bill, I was also proud to join my colleagues, Senators INHOFE, JEFFORDS, and REID, in expanding the eligibility for storm water mitigation projects. Current law allows States to spend surface transportation program funds on storm water mitigation needs. In S. 1072, section 1601, we expand storm water eligibility to allow States to spend National Highway System funds on storm water mitigation needs. States can spend up to 20 percent of a project's cost on environmental restoration or pollution abatement such as storm water mitigation. However, that amount will be left up to the State and the individual conditions at the site of each project. We should not set an arbitrary number in Washington and force States to set aside that amount.

We are not talking about a small amount of money. A mandatory 2 percent set-aside equals almost $1 billion over 6 years. That is $1 billion States must divert from their surface transportation programs regardless of need. By now, many of you have heard from State DOTs that they oppose a mandatory set-aside. Almost none of them, and nobody who is running highway programs, likes to have mandatory set-asides. Our States certainly do not appreciate mandatory set-asides from Washington.

We also must remember that not every State has the same environmental conditions or needs. A State's need to spend highway funds on storm water will differ depending on the individual conditions in each State or each part of the State. States in the upper Midwest, States in the West, States in the Great Plains will not see the same rainfall nor storm conditions as States in the East. Nonetheless, all States will be forced to set aside 2 percent of their STP funds for storm water unless this section is struck.

What sense does it make for a State which has tremendous highway needs but relatively few storm water needs to set aside 2 percent? Let me repeat, with my amendment, storm water mitigation projects are still eligible for funding from highway programs. We preserve and expand storm water funding eligibility. States will be free to spend the amount of money they believe necessary to address storm water needs in their State. There may be years in which Missouri spends more than 2 percent on storm water needs. But our State has heavy rainfalls.

This vote is about whether we want to impose another mandate on our States. I urge my colleagues to turn back this Federal Government mandate to say what the needs of every State are. There may be many States for which this is not appropriate. I urge my colleagues to let States decide how best to spend their highway dollars, and I urge support of my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. If the Senator will yield, the four of us—the chairman, ranking member, chairman, and ranking member—have worked tirelessly to arrive at a point where we can complete this bill. This is an important amendment.

The Senator from Missouri has worked with us, the three managers—if I said weeks, it would not be valid; it is months. We are at a point where we simply cannot do this. I will make a commitment to my friend from Missouri that when we get to conference or when we work on this or do our deal with the House, I will personally be involved in this and try to work out something that would be satisfactory to the Senator from Missouri. It simply won't work at this stage. I ask that the Senator withdraw the amendment at this time.

AMENDMENT NO. 2502 WITHDRAWN

Mr. BOND. Mr. President, I appreciate the words of my cohort on the Surface Transportation Subcommittee. We have worked together over the years. I raise this point for the entire Senate so they know we are going to have to address it in the Congress, because there are many States that I am sure we will hear from that do not need this. In order to move the bill along and to avoid causing our colleagues to have another vote—perhaps those who need to get away—I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am pleased the Senator did that because it was to strike a provision I worked on in the bill.

Mr. President, I rise to express my opposition to the amendment offered by my colleague Senator BOND to strike the Committee's stormwater mitigation program.

The full committee adopted an amendment I offered with many of my colleagues to begin to address—for the first time—an unfunded Federal mandate on our localities.

I regret that my colleague opposes helping our localities with the serious financial burdens imposed by the Clean Water Act to correct stormwater runoff problems. I have heard him tell the Senate that this stormwater provision is a mandate on our state highway departments, but he has not told you the rest of the story.

The rest of the story is that the existing Clean Water Act regulatory program requires all of our communities to obtain a permit for their stormwater discharges and flood control projects. According to many organizations who are on the front lines in dealing with this problem, they strongly support this modest provision to begin to address pollution problems from existing highways.

This modest program of $160 million annually is a very small part of this massive $311 billion bill. It begins to fund an unfunded Federal mandate. Most importantly, our states want this program.

The Association of State and Interstate Water Pollution Control Administrators—our state officials responsible for improving the water quality of our rivers, lakes and streams—have written urging that the Senate retain this small program.

For the benefit of my colleagues, I refer to a portion of the State officials letter:

> Communities throughout the nation, including numerous smaller towns and counties are required under the Clean Water Act to obtain discharge permits for stormwater. Even those communities, which have long understood the value of protecting their drinking sources and recreational waters from stormwater impacts, are already hard-pressed to cope with the cost, as they have been absorbing the costs of discharges from highways. This represents an unfair burden to these communities and we believe it is fair for the transportation funding system to remedy this problem where existing highways and other roads cause significant runoff problems.

The Association of Metropolitan Sewerage Agencies has written that "This amendment marks a crucial step toward addressing the billions of dollars in expenditures that state and local governments are required to make in controlling stormwater generated by our nation's highways. . . .

Similar letters of strong support have come from the Association of Metropolitan Sewerage Agencies, the Association of Metropolitan Water Agencies, the American Water Works Association, and the Association of State Floodplain Managers, and numerous other groups.

The support for the Committee's provision is strong because everyone recognizes that stormwater runoff from highways is a known impediment to good water quality. Some have calculated that this runoff is the leading cause of pollution for nearly 50 percent of our national rivers, lakes and streams.

Roads collect pollutants from tailpipe emissions, brake linings, oils and other sources. During storms they mix with other contaminants of heavy metals and road salts that wash into our waters. This result is seriously degraded water quality of our rivers, lakes and streams.

Today, every new highway must include methods to control this runoff. But, there is a large need for our states and local governments to construct stormwater mitigation projects on existing roadways to meet the requirements of the Clean Water Act. Under federal regulations, even our smallest communities and counties will be required to implement projects to control stormwater runoff.

The modest program in the Committee bill requires States to dedicate 2 percent within the Surface Transportation program—one category of highway funding—to control stormwater runoff from our roads.

It is true that stormwater mitigation projects are eligible for funding under the NHS and Transportation Enhancements program. However, the funding demand for these programs is great.

I have also heard the author of this amendment that will punish our local governments say that we will work to fund these stormwater activities under the Clean Water Act. The Environment and Public Works Committee, however, has struggled unsuccessfully with financing our Nation's multi-billion dollar water infrastructure needs. We've come to no consensus or new financing package.

In 2000, EPA estimated at least $8.3 billion over 20 years in local funding needs to address stormwater requirements. The modest program in the bill before us provides approximately $958 million over 6 years. This is simply some small relief to our localities to address pollution from existing highways.

Our States want this program. Our communities deserve to have some relief from this unfunded Federal mandate.

For the benefit of all of my colleagues—make no mistake—this is not the only requirement on how States spend Federal highway dollars. The bill before us is full of mandates on our States. Even the proponent of the amendment has offered his own mandate in the bill. It requires that States divert 2 percent of the National Highway System funding to connector roads that are not even on the National Highway System map. Perhaps this is a worthy goal, but again, it is a mandate on our States on how they use their Federal highway funds.

I ask my colleagues to carefully consider this amendment and ask that they not move to take away this critically needed funding from our localities and work to meet unfunded mandates.

The PRESIDING OFFICER. The Democratic whip is recognized.

Mr. REID. This has been a long, arduous 2 weeks for me and the other managers. We are at the point now that I understand we can soon go to final passage. If there is something to the contrary, I would certainly like to know about that.

Prior to final passage, the chairman of the committee has some matters that need to be disposed of. I wanted to alert everybody we are getting close to the end of this matter.

Mr. INHOFE. Mr. President, we have the managers' amendments that we have talked about for a long period. I ask unanimous consent that they be agreed to.

Mr. WARNER. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor and cannot suggest the absence of a quorum.

The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, yesterday, I filed an amendment with Senator ALLEN and Senator BURNS to the Household Goods Moving portion of SAFE–TEA. Under the circumstances, I will not call it up. The amendment's purpose is to enact meaningful consumer protections that also safeguard small businesses and their employees.

Each year 1.5 million households hire commercial moving companies to move their household goods to another state. There are almost 3,000 federally registered motor carriers who transport household goods across state lines. Most of these moving companies are small businesses—Mom and Pop family-owned businesses.

In addition to the thousands of licensed small business movers, there are countless unlicensed and unregistered movers. Everyone agrees that the vast majority of movers provide quality service in an ethical manner, but there are some "bad apples" that don't follow the rules to the detriment of consumers and other reputable small businesses. These "bad apples" take advantage of consumers with misleading estimates, baiting them with deals that are "too good to be true." They're also known to hold customers' household goods hostage while they demand higher fees.

The predatory tactics of these "bad apples" give the entire moving industry a bad name. They hurt consumers and they threaten thousands of legitimate small business moving companies, endangering the jobs of the tens of thousands of employees and the families that depend on them. Congress needs to commit itself to enacting reforms that will help stop unscrupulous movers and their predatory tactics and protect consumers and the small business jobs in the moving industry.

I appreciate Senator MCCAIN and his staff's efforts in this area. Many of the reforms in the Household Goods Moving portion of SAFE–TEA accomplish these goals. I believe that Congress can enact legislation that will protect consumers, small businesses and the thousands of jobs in the household good moving industry. My amendment works to punish "bad apples," protect consumers, safeguard the thousands of legitimate small businesses, and sustain the good jobs in the moving industry.

When I was Chairman of the Small Business Committee in the House, I learned that sometimes regulation offered even with the greatest of intentions could unfortunately have an opposite and devastating impact on the people it intended to protect. It is clear that some of the provisions in the underlying bill will not hinder unscrupulous "bad apples," but instead seriously harm legitimate small businesses and endanger American jobs and the families that depend on them.

I have some concerns about the consumer protections that were attached, because some of them operate in a way where they burden the honest businesses and do not stop the dishonest ones. That is always the nightmare with regulation when we do it. Sometimes they end up making it difficult for the people who are trying to comply with the law, and the corner cutters still cut corners and we end up with the worst of both worlds.

There is a provision in the bill that was added in the Commerce Committee, for example, that would allow lawsuits against movers who don't use the absolute shortest route to get the household goods from one place to another. That is very understandable because some of the bad apples will drive around town in order to build up the price and get a higher fee for the moving.

At the same time, they are very legitimate reasons why a business may not take the shortest route—safety reasons, for example. What I am saying is we need to look at the provisions that were enacted in committee in conference to make certain that we do the best job we can do of protecting consumers while partnering with the legitimate small businesses, because they want the bad apples out of the business as well. All of us have had an experience or we know of friends who had experience with these businesses that want to hurt everybody.

We want to protect consumers. We have to do it in a way that partners with the good companies. We don't want to drive their costs up, which will then be passed along to consumers. Worst case, some of these legitimate small businesses will have to go out of business. These issues deserve further consideration in the conference.

Our amendment offers commonsense solutions.

My amendment protects a legitimate small business mover's right to collect for additional work requested by the customer at the time when his or her goods are delivered.

My amendment enhances consumer protections. State enforcement laws should strictly protect consumers by prohibiting movers from holding a customer's goods hostage.

My amendment defends legitimate small businesses' right to recoup attorneys fees if they are determined to be "in the right" by a court.

My amendment also addresses provisions in the underlying bill that have little to do with consumer protection.

For example, if the underlying bill is passed as written, attorneys could legislate through prosecution the route a legitimate small business mover must take when delivering household goods.

Admittedly, this provision was designed to protect consumers from "bad apples" that literally take their customers for a ride, using longer routes and charging higher fees.

But, unfortunately, the way the provision is written, mom and pop small business moving companies would also suffer and be exposed to lawsuits and fines that will threaten their business and the jobs of their employees. Attorneys should not determine the fate of legitimate small business movers.

Small business movers are experienced and they know which highways to take in traffic and in bad weather. In St. Louis, Missouri, we have two central highways: highway 40 and 44. It's clear to anybody who travels on those highways that 44 is often the quicker route in rush-hour traffic. But, this provision would take away an experienced drivers right to choose. It could be mandated that he use only highway 40.

Legitimate movers don't make their money scamming customers; they make their money getting shipments on and off, on-time.

Despite the fact that this provision is intended to protect consumers, it could have the opposite effect, requiring movers to take less efficient routes; routes they knew were slower because they drive on those roads everyday; and all because an attorney decided it was quickest.

As a result, the longer shipment times would translate into higher costs for consumers since carriers would be forced to petition for higher fuel tax surcharges, a cost born by consumers.

I believe that it's important in situations like these to reach out to the stakeholders in the community of legitimate small business movers those who are affected by these provisions and partner with them to determine the proper solution. Everybody wants to stop the "bad apples."

This list goes on and on. Many of the provisions do not protect consumers and force unnecessary and burdensome regulations on mom and pop small businesses across all 50 States; possibly causing an increase in carrier rates across the country; harming legitimate small businesses—and not the "bad apples"; and threatening the jobs and livelihoods of the thousands of employees in the moving industry. These issues deserve further consideration in conference and I urge my colleagues to continue their good work; and to partner with the small business moving community to punish the "bad apples" and enact meaningful consumer protections, safeguard small businesses and protect the jobs of the tens of thousands of employees and families that depend on them.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, earlier today the Chairman of the Senate Commerce Committee was here on the floor charging Chairman INHOFE and our EPW Committee with inserting Amtrak legislation into our highway bill. Shortly thereafter, I was glad to see that same Senator rise to apologize for this incorrect statement. Because the truth is, that the provisions the Senator was talking about are actually in his own committee's title of this bill.

So now that it is established not even the Chairman of the Commerce Committee knows what is in his title. I think it is only appropriate to address some of the problems in that title.

Earlier today I discussed a few of the problems I have seen in that title. At that time, I pointed out that we still have not heard from the Commerce Committee Chairman what is in his title. Well, we still haven't had an explanation . . . and if that committee's chairman didn't know that the Amtrak provisions were actually in his own title, it makes me wonder if anyone actually knows what is in the Commerce Committee title of this bill.

That said, I am back here again to briefly address a few more problems with the Safety Title of this bill. And in an effort to safe time, I will not call up amendments to fix these problems, but I hope that these concerns can be addressed in Conference.

I am concerned that certain provisions in the Commerce Committee's Title go a little too far in specifically directing the National Highway Traffic Safety Administration to publish final rules on a wide variety of new vehicle safety requirements. I am all for highway safety, but to assume that today, we know enough to tell NHTSA exactly when it must promulgate over a dozen rules, covering many elements of vehicle design to crash testing, over the next few years, seems disruptive to NHTSA's safety priorities. I am not an expert in this area, but let me read what the administration thinks of this amendment. I remind my colleagues that earlier today we were told by the Commerce Committee Chairman that none of the statements in the SAp were in relation to his committee's title.

Well, this if from the statement of administration position on this provision issued February 11.

"The administration strongly opposes mandate rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety."

My main concern is that these mandates disrupt NHTSA's safety priorities and might not be the best use of its resources. We have passed laws that govern the issuance of motor vehicle safety standards requiring NHTSA to consider all available safety data when setting new standards and that those new standards must meet the need for highway safety, as well as be reasonable, practicable and appropriate for the vehicles to which they apply. This amendment, by telling NHTSA it must promulgate certain standards, is inconsistent with existing law and has the potential to require NHTSA to publish standards that might not be in the best interest of highway safety. I hope that the sponsor of the amendment will agree to work with me, and others, to ensure that we actually improve highway safety and not do harm by requiring the experts at DOT to divert valuable and limited resources from their true safety mission.

Mr. President, this debate is not personal. But I cannot stand idly by and have one Member or a handful of Members tell us all that the EPW Committee is a budget buster, or is the only part of this package that carries a veto threat, or that Amtrak provisions are in our title, or on and on.

The truth, Mr. President, is that this bill is paid for, is budget neutral based on the Finance Committee title which pays for increases over the budget resolution. For the Record, of all the titles above the budget resolution (though paid for), it's the Commerce Committee title that is the highest increase over their allocation. In fact, that title is a 50-percent increase over the budget allocation.

Mr. President, it is also true that the Commerce Committee title is new. It is not what was reported out of Committee, and it was not altered by the amendment process here on the floor. Instead, it was changed by the Commerce Committee staff, and apparently not even the Chairman knows what is in it.

I want a good highway bill. There are some real problems with this title, and I urge my colleagues to take a close look at it. And I hope we can address some of these harmful mandates in Conference.

We had thorough discussions when other safety provisions had come forward. This one has been slipped into the commerce title. There are some real problems. Earlier today, we were told by the Commerce Committee that none of the statements in the Statement of Administration Policy were in relation to the committee title. Let me read from the Statement of Administration Policy on this provision issued February 11:

> The administration strongly opposes the numerous mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering, and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety.

I think this provision disrupts NHTSA's safety priorities. We passed laws that govern the issuance of motor vehicle safety standards. Unfortunately, they are not going to be able to use the full scientific and engineering information they wish to if they are forced to take the provisions in this amendment.

This is inconsistent with existing law. I hope in the conference we will work to change these so we do not foul up the efforts of NHTSA to use the best safety and engineering to achieve goals that have not been discussed or debated on this floor. I hope we can change that part.

Finally, the truth is, this bill is paid for. It is budget neutral based on the Finance Committee title. For the record, all of the titles in the budget resolution are paid for. It is the Commerce Committee title that is the highest increase over the allocation. It is 50 percent over the allocation. These are problems we are going to have to deal with in the conference. I assure my colleagues we need to address all of these issues.

I close my comments by thanking the chairman, Senator INHOFE, the ranking member, Senator JEFFORDS, and my good friend and colleague, Senator REID of Nevada, for the cooperative way we have worked through this bill. There is a long way to go before we get to a conference agreement with the House that we hope will be able to include concerns by the administration so we will be able to move quickly to get a good highway bill which will deal with our tremendous overwhelming transportation safety problems in the United States and put people to work sooner rather than later.

Finally, as I said, I support the proposal raised by my colleague from Missouri, and I hope that can be included in the conference.

I urge my colleagues to support passage of this bill to move the highway and transportation bill forward and get a good bill that can make a great deal of difference for the economy, for jobs, long-term economic growth and, most of all, for the safety of transportation in the United States.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2333 TO AMENDMENT NO. 2285

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for Mr. HARKIN, proposes an amendment numbered 2333 to amendment No. 2285.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinate physical activity or healthy lifestyles program)

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

"(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.".

Mr. HARKIN. Mr. President, my amendment concerns transportation enhancement projects, and the need to promote physical activity and healthy lifestyles. In particular, my amendment gives priority to transportation enhancement projects that include a coordinated physical activity plan.

Over the last 20 years, new public health threats have emerged—obesity and the chronic diseases associated with poor nutrition and lack of physical activity. In fact, chronic diseases now account for 75 percent of our Nation's $1 trillion annual health care costs.

The health statistics on obesity are staggering. According to the Centers for Disease Control and Prevention, two-thirds of Americans over overweight or obese, and the rates of obesity have doubled in children and tripled among teenagers since 1980.

Obesity also increases the risk of diabetes, heart disease, stroke, several kinds of cancer, and other health problems. Approximately 300,000 deaths a year in the United States are associated with obesity and being overweight.

Spiraling rates of obesity don't just affect individuals, they place a burden on the average taxpayer and on the Federal Government. The U.S. Surgeon General estimates that obesity costs the Nation $117 billion a year in health care and related costs. Physical activity alone costs over $75 billion per year.

There is no single solution to the problem of obesity and overweight. This is a complex problem, and it must be addressed creatively and comprehensively. One opportunity is before us today in the transportation bill.

The amendment that I am proposing today concerns transportation enhancement projects, a long standing transportation program under which a large share of our hiking and bike trails on non-Federal lands are built.

Such trails, paths, and projects can play an important role in promoting physical exercise in our communities. My amendment seeks to encourage transportation trail enhancement projects to include physical activity and healthy lifestyle programs. Very simply, within the applications a State or planning organization receive for trail or bike path funding, it gives priority to trail projects that encourage coordinated physical activity or healthy lifestyle programs. It does not shift the balance of funding to trail enhancement projects from other allowable categories. It certainly has no impact on the total dollars that go to enhancement projects.

This amendment does not micromanage funds or tie the hands of States seeking to make choices that are most appropriate to their needs. I believe individual States and local planning organizations should have flexibility to make decisions about their transportation priorities. And my amendment preserves that flexibility.

Possible examples of such efforts might include an exercise course on the side of a trail; or perhaps an exercise program run by a local recreation department. We have had tremendous success with local trails and bikeways.

If we do not start seeking out opportunities to encourage healthier lifestyles for Americans, whether it be in an obvious place such as a child nutrition or health care bill, or in a less obvious bill such as this transportation bill, we will all pay the price—both in our health and in our budgets. I ask for the support of my colleagues on this commonsense amendment.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. I have an amendment filed at the desk on behalf of Mr. WYDEN and myself. I think we have had it cleared, and I was going to ask unanimous consent that it be adopted. It is amendment No. 2482.

The PRESIDING OFFICER. There is an amendment pending. Is this a second degree?

Mr. TALENT. There is an amendment pending?

The PRESIDING OFFICER. There is.

Mr. TALENT. I will wait until that amendment has been resolved.

I ask unanimous consent that the pending amendment be set aside while I offer this amendment.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I object.

The PRESIDING OFFICER. The objection is heard.

The Democratic whip.

Mr. REID. Are we in a quorum call?

The PRESIDING OFFICER. We are not.

Mr. REID. What is the matter pending before the Senate?

The PRESIDING OFFICER. Harkin amendment No. 2333.

Mr. REID. To my understanding, there is no further debate on that amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2333.

The amendment (No. 2333) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

Mr. TALENT. Mr. President, will the Senator from Nevada withhold?

The PRESIDING OFFICER. The Senator from Nevada suggested the absence of a quorum. Does he withhold?

Mr. REID. I withhold.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2482 TO AMENDMENT NO. 2285

Mr. TALENT. Mr. President, I send amendment No. 2482 to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. TALENT], for himself and Mr. WYDEN, proposes an amendment numbered 2482 to amendment No. 2285.

Mr. TALENT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to allow tax-exempt private activity bonds to be issued for highway projects and rail-truck transfer facilities)

On page 1298, after line 24, add insert the following:

Subtitle H—Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities

SEC. 5671. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (12), by striking the period at the end of paragraph (13), and by adding at the end the following:

"(14) qualified highway facilities, or

"(15) qualified surface freight transfer facilities.".

(b) QUALIFIED HIGHWAY FACILITIES AND QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:

"(l) QUALIFIED HIGHWAY AND SURFACE FREIGHT TRANSFER FACILITIES.—

"(1) QUALIFIED HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'qualified highway facilities' means—

"(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

"(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

"(2) QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

"(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—

"(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(14) or (a)(15) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

"(B) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(14) and (a)(15) in such manner as the Secretary determines appropriate.".

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "or (13)" and all that follows through the end of the paragraph and inserting "(13), (14), or (15) of section 142(a), and".

(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5672. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5674. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by section 5673 of this Act, is amended by adding at the end the following new subparagraph:

"(N) Any trivalent vaccine against influenza.".

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5675. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

Mr. TALENT. Mr. President, the time is short. This amendment would allow private activity bonds. It has been cleared on both sides. The President supports it. It has been fully offset and I ask that it be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2482.

The amendment (No. 2482) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALENT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I know there are discussions going on, but I would like, if at all possible, to begin to bring matters to a close in the next several minutes. While some final decisions are made on this important bill, I will make a closing statement and then we will see what the outcome is on the remaining amendments.

The transportation bill that we have been considering for the last 2 weeks is one of the most important pieces of legislation that we will consider in this second session. It is important not only for maintaining and improving our transportation infrastructure system—something that we talked a lot about over the last 2 weeks—but it is also important, as has been discussed, for creating jobs.

Conservative estimates are that this legislation would create as many as 1.6 million jobs over the life of the bill, and some analysts now believe it can create as many as 2 million new jobs.

This legislation is also important for our Federal-State partnership. The bulk of expenditures in this country for our public infrastructure programs, for building, for expanding and maintaining transportation systems is not Federal dollars but State and local expenditures. The Federal share from all public infrastructure spending in this country averages about one-quarter or 25 percent. That is the Federal share.

Further, at the Federal level annual spending for ground transportation programs represents less than 2 percent of all Federal spending. But this important spending serves as a catalyst for economic growth. I believe it is a small investment we can make in our economy. It is an essential investment in moving our economy forward while also making it safe for us to use our highways and our intercity rail systems.

The funding for our Federal highway and mass transit infrastructure system is complex, it is obscure, and I freely admit that it is confusing. Here in the Senate, the legislation involves at least six standing committees, sometimes with overlapping jurisdiction.

The financing of our Federal highway system includes spending subject to annual appropriations. It also includes automatic or mandatory spending. The financing of these expenditures comes from many sources—from gas taxes, from excise taxes, from user fees, and from general revenues.

But this afternoon, I would like to address in as simple a way as I can my understanding of the Federal spending issue that clearly has frustrated both ends of Pennsylvania Avenue.

Several points: First, this is a 6-year authorization and spending bill. The administration supports enactment of a 6-year bill. While they do not support the level of resources this bill devotes to transportation spending, I hope we will be able to find a compromise with the House of Representatives and the administration that will meet all concerns.

We are currently operating all these programs under a temporary extension that expires on February 29. Before the end of the month, we will have to once again temporarily extend the expiring authorities.

Funds have already been provided for the programs this year in the Omnibus appropriations bill that we enacted last month, but authorization to expend those funds will lapse at the end of this month.

Point No. 2: The bill—or I should say more precisely the four bills—highways, mass transit, safety programs, and financing—establish an overall level of "contract authority." For the next 6 years, this contract authority is estimated to total $318 billion.

What is contract authority? There has been a lot of confusion. I was on the Senate floor as we talked about this bill in the last several weeks. And, indeed, throughout Capitol Hill, people do not fully understand what contract authority is.

Contract authority is created in law, authorizing the Federal Government to enter into contracts and incur obligations in the future but in advance of, or even in excess of, funds available for that purpose.

The funds actually necessary to carry out that contract authority must be provided later—usually later in the appropriations bill—and it is called liquidating appropriations.

Point No. 3: How will this bill before us today, if enacted, impact Federal spending in the future? There has been a lot of focus on spending today, and a lot of fracturing of the discussions on this spending.

Interestingly, the bill also includes language that limits the amount of this $318 billion in contract authority that can be obligated or liquidated over the next 6 years. This bill sets that limit to be $290 billion, which is nearly $28 billion less than the level at which the contract can be set.

If one is concerned about spending, it is this so-called obligation limit that really matters—not the contract authority. Therefore, when I compare what the Senate bill proposes to spend versus the President's budget request, it is a difference of about $6 billion a year.

I am committed to resolving this difference as this legislation works its way in regular order through the Senate and conference with the House.

Fourth and last point: Since this bill limits the amount of contract authority that can be obligated over the next 6 years, one possible solution might be to reduce the higher contract level to a level that we actually believe will be obligated and spent. There may be some who can explain the difference, but simplistically I think that those two—the obligation limit and the contract authority—should be the same.

Indeed, the President's budget sets both the contract authority and the obligation limit at identical levels. Therefore, I suggest that we all remain flexible on this spending issue, and that as this bill goes forth we give consideration to reducing the contract authority level down to what we truly expect to spend.

Today, even before this bill ever becomes law, the Federal aid to the highway trust fund is estimated by the administration to have $25.6 billion in unobligated balances. This is in unobligated contract authority.

Let me repeat. Today, we have put on the books $25.6 billion in contracts that we have not fulfilled and are not likely to honor because we have been limited—or will be limited—by previous legislation to the level of these obligations.

Thus, I am convinced that as this bill proceeds we can find ways to reduce its costs and address the concerns raised by the President.

This is a very difficult and complicated legislative issue. I congratulate all the committees involved, especially the committee chairmen and ranking members and their staffs who have brought this legislation to the Senate for consideration. Indeed, it is because of all the complexities involved that they are to be truly congratulated for even getting this far.

In closing, just as an aside, let me conclude that one lesson that we might learn from these legislative exercises surrounding the highway bills over the last several weeks—indeed months—is as we look to the future, we may want to rethink the structure of our committees in this area. We may want to find ways that could streamline this overall legislative process to make funding more transparent and to improve the overall oversight of these various transportation programs.

I probably would find that restructuring of committees and how we consider major infrastructure legislation in the Congress even more difficult than just passing a highway bill. But I think we need to start thinking about this for the future.

Mr. INHOFE. Mr. President, we would like to at this point yield for a unanimous consent request of the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2396 TO AMENDMENT NO. 2285

Mr. DEWINE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 2396 to amendment No. 2285.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DEWINE. Mr. President, I ask unanimous consent that amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 2396) was agreed to.

AMENDMENT NO. 2308 TO AMENDMENT NO. 2285

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator CORZINE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. CORZINE, proposes an amendment numbered 2308 to amendment No. 2285.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit funds to be used for programs to impound the vehicles of drunk or impaired drivers)

On page 762, between lines 12 and 13 insert the following new paragraph:

"(6) The costs of operating programs that impound the vehicle of an individual arrested as an impaired operator of a motor vehicle for not less than 12 hours after the operator is arrested.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 2308) was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2312 TO AMENDMENT NO. 2285

Mr. REID. Mr. President, I call up amendment No. 2312.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. CORZINE, proposes an amendment numbered 2312 to amendment No. 2285.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require additional programs and activities to address distracted, inattentive, and fatigued drivers)

On page 724, strike line 19 and all that follows through page 725, line 2, and insert the following:

(A) by redesignating clause (6) as clause (8);

(B) by inserting after "involving school buses," at the end of clause (5) the following: "(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,"; and

(C) by inserting "aggressive driving, distracted driving," after "school bus accidents,".

On page 731, between lines 12 and 13, insert the following:

"(5) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under subsection (a)(3), the Secretary shall carry out not less than 5 demonstration projects to evaluate new and innovative means of combatting traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

On page 770, between lines 7 and 8, insert the following:

"(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

On page 770, line 8, strike "(2)" and insert "(3)".

On page 770, line 19, strike "(3)" and insert "(4)".

On page 770, line 23, strike "(4)" and insert "(5)".

Mr. REID. I ask the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 2312) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2498 AND 2532, AS MODIFIED, TO AMENDMENT NO. 2285

Mr. BOND. Mr. President. I have an amendment for Senator MURKOWSKI relating to Denali and a second-degree amendment of Senator SHELBY, No. 2532. I ask unanimous consent to call these up, as modified, and ask they be accepted. The modifications are on the amendments.

The PRESIDING OFFICER. Without objection, the amendments will be so modified and agreed to.

The amendments (Nos. 2498 and 2532), as modified, are as follows:

(Purpose: To establish the Denali Access System in the State of Alaska)

On page 39, between lines 22 and 23, insert the following:

General Fund Authorization.—

(17) Denali access system.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105-277), $30,000,000 for each of fiscal years 2004 through 2009.

AMENDMENT NO. 2532, AS MODIFIED

At the appropriate place, insert:

"SEC. . THE DELTA REGIONAL AUTHORITY.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"178. Delta Region transportation development program

"(a) In General.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) Eligible Recipients.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

"(c) Eligible Activities.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) Other Provisions Regarding Eligibility.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) Selection Criteria.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) Program Priorities.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) Federal Share.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) Availability of Funds.—Amounts made available to carry out this section shall remain available until expended.".

"(b) Conforming Amendment.—The analysis for chapter I of title 23, United States Code (as amended by section 1841 (b)), is amended by adding at the end the following:

"178. Delta Region transportation development program.".

On page 678, after line 5, insert:

General Fund Authorization.—

(16) Delta region transportation development program.—For planning and construction activities authorized under the Delta Regional Authority, $80,000,000 for each of fiscal years 2004 through 2009.

Ms. MURKOWSKI. Mr. President, one of the amendments I filed yesterday, along with Senator STEVENS, was in relation to what I am calling the Denali Transportation System. I am disappointed the full amendment will not be part of the bill, but I am grateful for the efforts Senator INHOFE and others who were able to accommodate even part of it.

As my colleagues know, the National Highway System we established in the 1950s not only brought benefits to individual States but to the country as a whole. It has more than lived up to its promise of greater access, an improved quality of life, and increased wealth for all Americans. Throughout the United States, a modern highway system connects virtually every single community in every single State—except one.

The majority of Alaskan communities remain unconnected. Alaska has been left far behind the rest of the Nation, with a road system that is no system at all. If the highway system is the Nation's skeleton, Alaska is still missing its arms and legs.

As a result, many Alaskan communities are punished with third-world conditions and an extraordinarily high cost of living, and the Nation as a whole is that much poorer because Alaska's tremendous natural wealth cannot be shared.

This is not the first time that Congress has dealt with a similar problem. When the Appalachia region needed extra assistance, Congress responded to the call by providing $450 million per year for the Appalachia commission to construct the Appalachia Transportation System. The bill before us proposes to increase that sum even further, to $590 million per year.

A 1998 Congressional Research Service report reads as follows:

> In 1964, a Presidential commission on Appalachian region reported that "geographic isolation" was the very basis of its development lag. The commission argued that development "could not proceed until its regional isolation was overcome by its penetration by an adequate transportation network."
>
> Further, they said, a system was needed "to and from the rest of the nation and within the region itself."
>
> Their core argument: "before development could take place in Appalachia, major investments had to be made in basic public facilities." This was coupled with a belief that the "barrier-effect of Appalachia's mountain-chains was a major cause of underdevelopment" and led to a proposal that a development highway system be built "to break the isolation of Appalachia's economically depressed regions."
>
> Importantly they noted, "that the routes not be chosen to ease congestion or upgrade heavily traveled areas but to stimulate traffic through remote areas that have a development potential."

My amendment would allow the Denali Commission to begin doing for roadless areas of Alaska what Congress authorized for Appalachia. However, there are some critical differences. I want to emphasize that word "roadless."

In the Appalachia region, communities were isolated by poor roads. In Alaska, they are isolated by no roads. We are not asking for an entire network of major highways, only for the simple ability to move people and goods overland from one place to another. The dirt roads Appalachia started with would be regarded as a blessing in Alaska.

Second, we are proposing only to construct connections for communities that have no current access—no highway, no rural two-lane road, no dirt road, or improvements to the internal roads in these same isolated communities. The latter is critical for residents to get to their schools, to clean water sources, to clinics and stores and garbage dumps.

Third, and most important, we are not asking for similar funding. I understand the fiscal realities before us today. The amendment I filed asked for only $50 million per year for Alaska. As revised, it will provide $30 million.

The increase this bill contains for Appalachia is almost three times that sum. In all, the Appalachia system will receive almost 12 times what we are asking.

I do not object to spending money in Appalachia. I think that money has gone to good use. I simply believe we would get even greater value from a modest investment in the 49th State.

Alaska is rich in resources that can and should be a driving force for the Nation's economy, stimulating hundreds of thousands of jobs throughout the country. It is in an ideal location to be a crossroad for international trade, both by air and by sea, especially if you believe predictions that warming trends will open up a northern sea route to Europe in a few short years.

Yet we remain poor both in population and in highway miles. The formula funds we receive through the highway bill are not sufficient to allow the construction of new links between communities, no matter how badly they are needed.

I also understand some of my colleagues wish to create a new Appalachia-style system for the lower Mississippi area. I noted some pictures of a bridge were displayed on the floor yesterday, and it was suggested that that bridge was inadequate. At least the citizens of that area have bridges to complain about. My constituents do not.

It is important to make the point that this is not just about Alaska's needs. We all expect and demand certain basics for our constituents: clean water and food, warmth, shelter, schools and medical services.

In my State, because of the isolation of so many communities, all these services have to be duplicated over and over again, because the Native people of these isolated communities are eligible for and receive Federal assistance to ensure they have access to those services.

I have heard some of my colleagues suggest that Alaska demands a great deal. Let me suggest that we would be happy to demand less, if we were in less desperate need. No State—or its citizens—can prosper without adequate transportation systems. In much of the country, such systems have been in place since before the American Revolution, and have been constantly changing, adapting and being upgraded ever since. In much of Alaska, in contrast, residents are still forced to travel between communities by boat, or on frozen rivers, just as they did when the Territory of Alaska was first purchased from Imperial Russia. In this day and age, such a situation is completely unacceptable. It is a lasting mark of neglect, and it is past time to rectify it.

The Denali Transportation System will provide far greater benefits than costs. As we enter an era where gigantic natural changes are occurring in the Arctic environment, and ice-free maritime transportation through the Arctic Ocean is expected to become a reality within decades, it is critical that we begin to prepare ourselves for those changes. Adequate transportation connections to—and within—America's only Arctic State are imperative.

This is a time for foresight. The key to long-term prosperity is wise investment. Investing in Alaska is investing wisely for the future of the entire nation, just as investing in Appalachia was a wise choice. We have incomparable resources and vigorous citizens. It is time we have the transportation system that will allow those assets to be used as they should be.

Mr. BOND. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INHOFE. Mr. President, I ask unanimous consent to vitiate the cloture motion on the bill and then ask the bill be read for a third time.

Mr. LAUTENBERG. I object.

Mr. INHOFE. I withdraw the previous unanimous consent request and now send the managers' amendment to the desk. We have no further debate on the managers' amendment.

The PRESIDING OFFICER. The managers' amendment is not yet pending.

AMENDMENT NO. 2616 TO AMENDMENT NO. 2285

The PRESIDING OFFICER. Is there objection to considering the managers' amendment?

The Chair hears none, and it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. JEFFORDS, proposes an amendment numbered 2616 to amendment No. 2285.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the managers' amendment?

If not, the question is on agreeing to the managers' amendment.

The amendment (No. 2616) was agreed to.

AMENDMENT NO. 2285, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the substitute, as amended.

The amendment (No. 2285), as amended, was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I now ask unanimous consent to vitiate cloture on the bill and then ask that the bill be read a third time and the Senate proceed to a vote on passage of the measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GRASSLEY. Mr. President, I would like to say a word about tax provisions being included in non-tax titles. The Finance Committee has sole jurisdiction over tax matters. The reasons for this are rooted in the U.S. Constitution. As a committee, it is imperative that we weigh in on all tax matters. This is particularly true with the provision included in the EPW Committee Substitute. We have heard from the Justice Department that this provision, as drafted, could jeopardize law enforcement efforts against organized crime and money laundering. The provision did not have the benefit of committee review or process. I appreciate the sponsor's interest in this issue. But I would remind Members that the chairman and ranking member take the responsibilities of the Finance Committee seriously. When we go to conference, I also want to ensure that regardless of the fact that the provision is included in the EPW title, the tax-writers are given responsibility to oversee the provision.

Mr. BAUCUS. I thank the Chairman for his comments, and I look forward to working with him to resolve this matter.

PRESERVING PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES

Mr. INHOFE. I would like to engage the Senator from Ohio, Mr. VOINOVICH, on the intent of his amendment regarding the preservation of parks, recreation areas, wildlife and waterfowl refuges, and historic sites. The amendment would require the Secretary, when making a finding of de minimis impact, to consider all "avoidance, minimization, mitigation, and enhancement measures" that have been incorporated into the project. Could you explain how this provision would be implemented?

Mr. VOINOVICH. This language serves an important function: it builds in an incentive for project sponsors to incorporate environmentally protective measures into a project from the beginning in order to support a finding of de minimis impact.

Obviously, there will be projects whose impacts will exceed the de minimis threshold even when mitigation measures are taken into account. For those projects the traditional Section 4(f) requirements will apply. But there also are many projects that could meet the de minimis impact standard if the project sponsor commits to take specific actions to reduce or offset the project's impacts on Section 4(f) resources. This amendment will make it possible for a finding of de minimis impact to be made in those situations.

REVENUE PROVISIONS

Mr. CONRAD. Mr. President, during the Finance Committee consideration of the tax title of this bill, there was significant debate on the provision in the bill that would shift a portion of corporate estimated tax payments from 2010 into 2009. This provision raises $11.4 billion in the year 2009, but loses $11.4 billion in the year 2010. The Chairman included this provision in his bill in response to concerns raised by me and the Chairman of the Budget Committee that the highway spending is not fully paid for over six years. I appreciate his sensitivity to my concerns. I believe that the spending in this bill, which occurs over six years, should be fully paid for over the same six year period. However, I do not believe that the shift in corporate estimated tax payments in the most appropriate way to achieve the goal of fully funding this bill over six years. The provision proposed by the Chairman shifts a hole in general revenues from one year into another.

In lieu of me offering an amendment during the Finance Committee mark up to replace the shift in corporate estimated tax payments with different revenue offsets, the Chairman and the Ranking Member of the Committee made a commitment to work with me to find new offsets before the highway bill is voted off the Senate floor. The second degree amendment that I have filed to the amendment by the Senator from Oklahoma, Mr. NICKLES, would have executed the commitment that was made to members of the Committee during the Finance mark up.

Mr. NICKLES. Mr. President, I appreciate the opportunity to work with my colleague on the Budget Committee, Senator CONRAD, and with the Chairman and Ranking Member of the Finance Committee on this matter. I share the concern of the Senator from North Dakota about using a timing shift in the corporate estimated tax payments as a way to pay for the spending in this bill. Although I realize that this payment shift has been used as an offset previously by the Finance Committee and this body, I do not support using the provision in the legislation before us today. I agree with my friend from North Dakota that real spending should be offset with real revenues. Senator CONRAD's second degree amendment to my amendment striking the shift in corporate estimated tax payments would replace the $11.4 billion that is shifted into 2009 with real revenue over the six year period of the bill.

Mr. CONRAD. My friend from Oklahoma is correct. My amendment would have replaced the provision shifting corporate estimated tax receipts with an extension of IRS and Customs User fees, and with several tax loophole closers that are included in S. 1637, the JOBS Act. These measures have already been reported by the Senate Finance Committee. I thank the Senator from Iowa for trying to include our amendments in his package of technical tax measures. Unfortunately, because certain provisions of my amendment are considered non-germane, we were unable to consider it on the floor today. I hope that the chairman and ranking member of the Committee will continue working with me as the legislative process moves forward to address my concerns.

Mr. NICKLES. I, too, am disappointed that we were unable to consider the amendment of the Senator from North Dakota. I look forward to working with him and the Chairman and Ranking Member of the Finance Committee to find a way to fulfill the commitment that was made during the Finance Committee mark up of the highway bill.

Mr. GRASSLEY. I support the amendments offered by my colleagues from North Dakota and Oklahoma. I want to assure them that I fully intend to make good on the promise made in the Committee mark up. In a separate statement I made today, I laid out for the Senate the history of the use of the corporate shift. It has been used in varying forms on a number of tax bills that have been enacted. In making this agreement, I do not concede that it is an improper provision for the tax writing committees to use. As the legistlative process moves forward, I pledge that I will continue working to address their concerns.

Mr. BAUCUS. I concur with the statement of the Chairman of the Finance Committee, and pledge to continue working to address the concerns of my colleagues from Oklahoma and North Dakota.

TRANSIT FUNDING FOR MICHIGAN

Ms. STABENOW. Mr. President, I rise to engage in a colloquy with the distinguished chairman and ranking member of the Banking Committee. The SAFETEA bill provides over $656 million in transit formula funding to the State of Michigan and while this represents a 53 percent increase over our funding under TEA–21, it still falls short of our transit needs. The Michigan Department of Transportation, MDOT, estimates that their routine Federal capital needs over the next 6 years just to maintain existing systems and services would exceed $1 billion. This comes at a time when Michigan's ridership continues to grow. Over the life of TEA–21, Michigan's transit ridership has grown from 81.6 million passengers in 1997 to over 89 million passengers in 2002—close to a 10 percent increase. The Senior Senator from Michigan and I have submitted a request on behalf of MDOT to help close this funding gap. The request would provide MDOT with $120 million in the 5309 Bus Discretionary account over the next 6 years. Would the chairman and ranking member work with us in conference to provide MDOT with this necessary funding to support Michigan's transit needs?

Mr. LEVIN. Mr. President, I join my colleague from Michigan in making this request. Michigan has tremendous transit needs. There are bus systems operating in every one of Michigan's 83 counties, from the urban Wayne County to rural counties in the Upper Peninsula. Despite covering all counties, service in many areas is minimal, creating a real hardship for working families who cannot afford to own a car. This shortfall exists despite the significant contribution by Michigan taxpayers. Michigan ranks sixth, behind five States with rail, in direct support for its public transit systems. Under TEA–21, Michigan ranked last in Federal transit funding among the Great Lakes States, and only received 43 cents back on every transit dollar it contributed to the highway trust fund. To help close this equity gap, I would also urge the chairman and ranking member to work with us in conference to provide these critical transit funds for Michigan.

Mr. SHELBY. Mr. President, I will work with my colleagues from Michigan to address this issue in conference and provide this critical funding for their transit systems.

Mr. SARBANES. I, too, will do everything I can to support funding in Michigan in conference.

Ms. STABENOW. We thank the chairman and ranking member.

GOLDEN GATE BRIDGE

Mrs. BOXER. Mr. President, I wanted to discuss the importance of the seismic retrofit project for the Golden Gate Bridge.

The Golden Gate Bridge is an internationally known landmark. The bridge was constructed with local funding and opened in 1937, serving as a critical link in California's highway system.

The Golden Gate Bridge now carries 40 million vehicles a year and is visited by more than 10 million people annually. However, retrofitting this bridge to withstand an earthquake with a magnitude of 8.3 is an expensive undertaking, with a total cost of $392 million.

The Golden Gate Bridge District paid for the first part of the retrofit—$71 million—with tolls. But, tolls will never raise enough money. Federal assistance is needed to protect this national treasure.

In TEA–21, I was able to obtain $50 million for the seismic retrofit of the Golden Gate Bridge. I would like to be able to provide funding for this project in SAFETEA.

Mr. REID. I agree with the Senator from California on the importance of the Golden Gate Bridge for the State's highway system. I support working with you during conference to ensure that the Golden Gate Bridge District can receive funding for seismic retrofit.

Mr. INHOFE. I also agree with my colleagues from California and Nevada that the Golden Gate Bridge is very important for the State. I also support working with the Senator from California in conference to provide funding for the Golden Gate Bridge District.

Mrs. BOXER. Thank you for your support.

SPIRIT HIGH PRIORITY CORRIDOR

Mr. BINGAMAN. Mr. President, I thank the chairman of the Environment and Public Works Committee for all of his fine work on this highway bill the Senate is now considering. I know he has had a very difficult task to balance the infrastructure needs of each state, and I appreciate the excellent job he and his staff have done.

If I could, I ask the chairman if he is familiar with the proposal to designate U.S. Highway 54 in the States of Texas, New Mexico, Oklahoma, and Kansas as the SPIRIT high priority corridor on the National Highway System?

Mr. INHOFE. Yes, I am familiar with the proposal and am pleased to be a sponsor of the bill of the senator from New Mexico to designate U.S. 54 as a high priority corridor.

Mr. BINGAMAN. I know the chairman is aware that community leaders in the four states have been working for 9 years to focus attention on the SPIRIT corridor because of the heavy truck traffic on the route and the important role that transportation plays in economic development. Is the chairman aware that Senators ROBERTS, DOMENICI, and I have offered an amendment to the highway bill to designate the SPIRIT corridor as a high priority corridor, but the managers of the bill have stated they prefer to consider it during the conference with the House?

Mr. INHOFE. Yes, the Senator is correct. I am aware of the amendment and will do my best to consider including the SPIRIT corridor designation in the conference report on the highway bill.

Mr. BINGAMAN. I thank the chairman for his consideration of my amendment in the conference.

PROTECTING HISTORY AND NATURAL BEAUTY

Mr. WARNER. Mr. President, I want to commend the Senator from Ohio, Mr. VOINOVICH, for his hard work, fairness, and responsiveness that he showed to me as he worked to resolve issues involving the preservation of parks, recreation areas, waterfowl and wildlife refuges, and historic sites.

In 1970, it was a privilege for me to serve as the chairman of America's Bicentennial Celebration. During that time I had an opportunity to visit many historic sites across this country. In Virginia we have a proud heritage that is enriched by the preservation of hundreds of historic properties. These sites have witnessed the shaping of our Nation. Today, they serve as our outdoor classrooms that bring alive the history of our democracy and our communities. They are living treasures of our past and are the foundations for our future.

For these reasons, I would like to enter into a colloquy with my colleague on the intent of his amendment. I understand that the amendment directs the Secretary of Transportation to issue regulations clarifying the factors to be considered and the standards to be applied in determining whether alternatives are "prudent and feasible" under section 138 of title 23 and section 303 of title 49. Would the amendment by my colleague that is included in the managers substitute alter or weaken the standards established in the Supreme Court's 1971 decision in the Overton Park case?

Mr. VOINOVICH. This amendment does not alter or weaken the Overton Park standards for determining what constitutes prudent and feasible alternatives. In authorizing this rulemaking, it is our clear intention that Overton Park will continue to serve as the lodestar—the fundamental legal standard—for defining and evaluating feasible and prudent alternatives. Under this standard, an alternative is considered "not prudent" if it would result in cost or community disruption of extraordinary magnitude, and is considered "not feasible" if it cannot be constructed as a matter of sound engineering. This amendment would not change those long-standing definitions of "prudence" and "feasibility."

The basic problem we face today is the gradual accumulation of different interpretations of the Overton Park standards over the past 30 years. In particular, the lower Federal courts' interpretations of the Overton Park standards have resulted in considerable confusion and uncertainty about how to determine the "prudence" of alternatives. The net result is that Section 4(f) is sometimes viewed as an inflexible prohibition—an "avoid at all costs" requirement. That mistaken interpretation of Section 4(f) leads to many of the so-called horror stories that we hear so much about.

With this amendment, we are directing the Secretary of Transportation to issue regulations clarifying the application of the "prudent and feasible" test in a variety of circumstances. For example, it is only common sense to recognize that the "prudence" of an avoidance alternative depends in part on what you're avoiding, and how hard it is to avoid it. Are we dealing with a major part of great significance to the community—such as the famous Overton Park in Memphis, Tennessee? Or are we dealing with an easily replaceable ball field in an area where a replacement can be located without detriment to the interests of the affected users? Both of these parks receive a substantial degree of protection under Section 4(f). But what's prudent in one situation is different from what's prudent in the other, depending on a range of factors, including the degree of harm and the consequences to other resources from avoiding it. Those are the kinds of distinctions that need to be clarified in the regulations.

In short, the sole purpose of this amendment is to require the Secretary of Transportation to issue regulations that provide more detailed guidance on applying the Overton Park standards on a case-by-case basis. The result will be greater consistency in the application of the standard throughout the country.

Mr. INHOFE. I would also like to assure the Senator from Virginia that I concur with the explanation provided by the Senator from Ohio that it is our intent to retain the Overton Park standards as the fundamental legal standards to be applied in determining prudent and feasible alternatives.

Mr. JEFFORDS. I would concur with the comments of my colleagues and join Senator WARNER by reiterating the need to preserve our history.

In my state of Vermont, we have a wealth of history and natural beauty. To see the wildlife that populates the Missisquoi Wildlife Refuge or the covered bridges used by our forefathers is to experience a heritage that we all want preserved for future generations.

Section 4(f) has helped preserve these treasures. The Revolutionary War site at Fort Venegence on Route 7 in Pittsford, Vermont, was avoided as a result of 4(f).

An excellent collection of historic metal truss bridges across the Connecticut River was rehabilitated, not replaced, as a result of 4(f).

A road in the Danville Historic District was narrowed in order to keep the historic characteristics of the historic village because of 4(f).

Section 4(f) protections have served us well and will continue to safeguard our precious resources in the future.

Ms. MURKOWSKI. Mr. President, those of my colleagues who have Native American tribes located in their States will understand the importance of the Indian Reservation Road funding authorized as part of the our highway program. However, they may not be aware that the Indian reservation roads program does not treat all States equally. There are serious deficiencies in the inventory of road miles eligible for funding under the Indian Reservation Road—IRR—program.

Yesterday, I filed an amendment intended to address this issue. I understand the National Congress of American Indians and other groups favor action on this matter, and I would certainly be willing to entertain any suggestions for improving the current amendment. Unfortunately, it appears the present situation may make it impossible for the Senate to deal appropriately with this important matter.

In most areas of the country, the BIA had a reasonably complete inventory of roads and road needs by 1993, and these were incorporated into the IRR inventory. In Alaska that is not the case. The inventory numbers for Alaska are in no way complete, nor are they based on an actual count of road miles. They are based instead on a 1993 document that was never intended to serve as a complete inventory. The document was essentially a list of specific project requests known at that time. As a result, it omitted even core infrastructure in many villages, and completely overlooked approximately one-third of the villages in Alaska that should have been included.

Furthermore, BIA policy does not allow the situation to be corrected, as it arbitrarily limits increases in the inventory to 2 percent per year. While this may be appropriate in areas for which an accurate inventory was available in 1993, it is by no means equitable for Alaska's Native villages. In addition to missing entire Native communities, the BIA's inventory data has other flaws such as simply not having complete or current construction cost data for large parts of Alaska.

Let me add also that Alaska is not the only State where inventory deficiencies are a problem. Around the Nation, there are 93 to 99 tribes, depending on how you count, that have zero recorded inventory. By far the greatest numbers are in Alaska and California, but there are affected tribes in the East, the Midwest, the Southwest, the Pacific Northwest, and the Plains States—in short, throughout the country. If the Indian Reservation Roads program is to function the way it was intended to function, a new national inventory must be completed and it must be completed fairly. Congress must act to ensure that the absence of information on roads is not treated as the absence of need.

In recent years, our Native communities have themselves attempted to begin the planning and inventory process needed to develop a true inventory or a long-range transportation plan.

However, very little of this work product has actually been accepted by the BIA. Once inventory updates began to be submitted to BIA on a large scale, we found that the BIA was applying a "2 percent" limit to inventory increases. In Alaska we were limited to 365 miles in the 2001 update—2 percent accumulated from 1993—and since then, the limit has been about 45 miles per year. For a State with 229 tribes, a tragically deficient BIA inventory, and a transportation need that is second to none, the current policy is an absolute travesty of mismanagement.

Legislation would not be necessary if the BIA were willing to correct its own mistakes, but it has not done so. The inventory updating process has been a nightmare for Alaska Natives. BIA has changed the rules every year, has imposed requirements over and above what is contained in its own guidance manuals, and on occasion has changed the rules so close to the deadline for submittals that compliance is virtually impossible

In my opinion, the current formula and inventory system is based on an implicit BIA policy decision to focus future funds on the existing incomplete system, rather than on creating a system that serves all of the Nation's tribes equally. That is not BIA's decision to make, and it is not the process required by the law, but it is the apparent reality—and it badly needs to change.

Mr. President, among the amendments I filed for this bill is one to encourage additional motorcyclist training, which was cosponsored by Senators INHOFE, STEVENS, and CAMPBELL. This matter is in the jurisdiction of the Commerce Committee. It is deeply disappointing to think that the Senate may not act on it. Lives will be lost as a result.

My amendment has the full support of the American Motorcyclist Association, the Motorcycle Riders Foundation, the National Association of State Motorcycle Safety Administrators, regional and local riders groups throughout the country, and many others.

The single best way to prevent accidents is to provide better training.

A study of the California Motorcyclist Safety Program designed by Dr. John Billheimer and completed in 1996 found that rider training dramatically reduces accidents, and thus eliminates injuries and fatalities. Specifically, the study stated.

> Analyses of statewide accident trends show that total motorcycle accidents have dropped 67 percent since the introduction of the California Motorcyclist Safety Program, with a drop of 88 percent among the under-18 riders.

Current statistics from the Commonwealth of Virginia are equally amazing. Virginia has approximately 110,000 registered motorcycles. Since 1998, there have been 7,099 motorcycle crashes in Virginia and 222 of those crashes have been fatal. Yet out of all those accidents, trained riders were involved in less than 4 percent of the total, and the number of fatal accidents involving trained riders is just 1.8 percent.

What this tells us is that the vast majority of motorcycle accidents involve riders who have not received proper training, and that when riders do receive training, the accident rate will drop dramatically.

My amendment is simply intended to encourage States to support motorcycle rider training and to adopt other important measures to save lives and prevent injuries. A State which demonstrates that it is making improvements in motorcycle safety would qualify for a grant of $100,000 per year, which is to be used to further improve and expand formal training for motorcyclists and for programs to improve driver awareness of motorcyclists.

Let me also stress that participation in this program is voluntary. No State is being forced to comply, and the amendment contains no sanctions for those which do not. This is strictly an incentive to do a better job at saving lives.

Why is this important? I have addressed this issue in detail in a previous statement, but let me recap some of the key points.

There are almost 5 million motorcycles operating on America's roadways, covering almost 17 million miles per year. Many more are used off-road, and some estimates put the actual number of riders at up to 20 million. The number of riders is steadily increasing every year, and as that number increases, so do accidents. At the same time, we are falling farther and farther behind in training people to ride safely.

The single best way to avoid injuries, fatalities, high insurance costs, lawsuits, medical costs and all the other factors that come into play is by avoiding the accidents in the first place.

The authors of the "National Agenda for Motorcycle Safety" agree. The "National Agenda," published by the National Highway Traffic Safety Administration, was a cooperative effort of that agency, along with the Motorcycle Safety Foundation, the National Association of State Motorcycle Safety Administrators, and a host of others representing the insurance industry, law enforcement, riders, traffic safety experts and others.

The National Agenda identified a number of steps needed to reduce the tragic rate of motorcycle accidents. Rider education was one of its "essential" recommendations.

Unfortunately, there is currently no uniform process for providing such training. Although many, if not all, State provide at least moral support, most training is funded almost entirely by the students themselves, who pay up to $300 per person for the privilege. Many States also collect additional fees—often a nominal charge of $5.00

for a motorcycle operator's license—but it doesn't always go toward training programs.

That means there are more people who need and want training than there are programs to deliver it. Throughout the country, the waiting list for training class ranges from several weeks to several months.

In California, which has one of the oldest and strongest programs, it may take as long as 3 months. In Wisconsin, motorcyclist groups self-fund training classes, but the waiting list may be as large as 7,000 people. In Illinois, almost 11,000 people were trained last year, but nearly 4,000 were turned away for lack of space. That is happening in State after State.

The number of untrained riders is increasing, and we urgently need to reverse that trend. If you can pass your State's operator test, you can ride. And if you just spent thousands of dollars on a new motorcycle, the chances are you won't be letting that new motorcycle license go to waste. But passing a test doesn't make you a safe rider—that takes either years of experience—or it takes formal training.

The longer we ignore this issue, the more lives will be lost, the more injuries will be suffered, the more insurance rates for both drivers and riders will go up, and the more families will be harmed. This body should be acting, not avoiding.

Mr. JOHNSON. Mr. President, I want to take a few minutes to speak in support of the transportation bill now pending before the Senate and urge my colleagues to support final passage of the legislation.

This is an important bill that will create thousands of wellpaying jobs, make needed investments to the Nation's bridge, highway, and mass transit infrastructure while injecting billions of dollars a year into the economy and saving commuters millions of hours on the roads. The chairman and subcommittee chairman along with the ranking member and the senior Senator from Nevada have worked hard to craft a highway bill that balances the often conflicting needs of the States. Similarly, as a member of the Banking Committee, I want to recognize the bipartisan manner in which the chairman and ranking member worked with all colleagues to craft a transit package that meets the varying transit and bus service needs for our constituents.

In my remarks, I follow a host of other Senators who have come to the floor over the past week to highlight the importance of passing a robust transportation bill. In many respects, the matter we are debating has a more direct and daily impact on our constituents than just about any issue the Congress considers. Reducing accidents through increased road safety, replacing and refurbishing aging infrastructure, and moving people more efficiently and effectively go directly toward improving the quality of life throughout the Nation.

South Dakota is a large State and its citizens often time have to travel extraordinary distances to visit friends and family, receive medical care, or connect to major economic markets. With thousands of miles of roads, efficient, reliable, and dependable transportation is directly linked to the prosperity of rural America and our quality of life. The first emphasis of a transportation bill should be on a robust highway program. Without a comprehensive Interstate Highway System and secondary feeder roads it would be very difficult for the constituents of my state and those in other rural places to travel and earn a living. The bill before the Senate recognizes the national interest in transportation in and across rural America.

Passing a highway bill is also good for our economy. The jobs created through this legislation are permanent, high-paying jobs that will spur further economic development and put people to work in what has largely been a jobless economic recovery. According to the South Dakota Association of General Contractors, if the Congress passes this highway bill over 20,000 new jobs will be created in my State in the next 6 years. The importance of passing the bill goes beyond job creation. Good highways in rural areas also enable agricultural products and natural resources to get from source to market. The farm-to-market road system developed by the State depends upon a vast and reliable network of interstate highways, in good condition, to move products throughout the country and grow the economy.

As a member of the Senate Banking, Housing, and Urban Affairs Committee with jurisdiction over bus and transit programs, I believe that the transportation bill makes important investments in rural and urban transit. Transit and especially bus service; however, is an important link in rural America where social service providers, local governments, and state agencies struggle to provide reliable bus service. Federal aid to transit and buses is the crucial link ensuring that reliable and dependable service exists throughout many communities.

In meeting with transit providers across South Dakota, I fully understand the unique challenges toward providing reliable and dependable bus service over longer traveling distances. Although routes are more heavily used in urban areas, certain basic needs for public transit remain constant in urban and rural areas: there must be a driver, parts must be purchased, and costly, but necessary, insurance obtained. The transit title considered by the Senate recognizes for the first time these unique challenges in constructing a financing mechanism that will grow rural transit and enhance service. Chairman SHELBY and Senator SARBANES deserve much of the credit for working with rural state Senators on the committee to incorporate this provision in the final bill.

It is vitally important that the Senate pass the transportation, transit and road safety bill pending before the Senate. As a member of the Senate Budget Committee, I am pleased that the committees constructing this bill did so within the budget framework this body adopted last year. The Senate-passed Fiscal Year 2004 Budget Resolution called for a six-year transit program totaling $56.5 billion. The Senate Finance and Banking Committees have worked diligently to construct a comprehensive and forward-looking bill that stays within the budget while addressing the Nation's critical infrastructure needs.

Mr. President, as the Senate considers legislation to reauthorize Federal transportation programs, I want to take a few minutes to address the transit programs authorized in the bill. As a member of the Senate Banking, Housing, and Urban Affairs Committee with jurisdiction over bus and transit programs, I believe that the transportation bill makes important investments in rural and urban transit. Chairman SHELBY and Senator SARBANES have performed an admirable job in constructing a transit title that enhances bus and transit service in large metropolitan areas, as well as rural States like mine.

South Dakota is a large State and its citizens oftentimes have to travel extraordinary distances to visit friends and family, receive medical care, or connect to major economic markets. With thousands of miles of roads, efficient, reliable, and dependable transportation is directly linked to the prosperity of rural America and our quality of life. The first emphasis of a transportation bill should be on a robust highway program. The bill before the Senate recognizes the national interest in transportation in and across rural America. Transit and especially bus service, however, is an important link in rural America where social service providers, local governments, and State agencies struggle to provide reliable bus service. Federal aid to transit and buses is the crucial link ensuring that reliable and dependable service exists throughout many communities.

In meeting with transit providers across South Dakota, I fully understand the unique challenges toward providing reliable and dependable bus service over longer traveling distances. Although routes are more heavily used in urban areas, certain basic needs for public transit remain constant in urban and rural areas: there must be a driver, parts must be purchased, and costly, but necessary, insurance obtained. The transit title considered by the Senate recognizes for the first time these unique challenges in constructing a financing mechanism that will grow rural transit and enhance service. The transit title recognizes the special challenges facing low density states by creating a new rural density program for rural transit and elderly and disabled transit. By calculating the population density of a State along with the size of the State, the program ensures that rural States with demonstrated transit needs will receive a fair share of the billions of dollars in new transit spending over the next 6 years.

As a proponent of the new rural program it is necessary to recognize the indispensable role of Chairman SHELBY and Senator SARBANES toward ensuring that this program was included in the transit mark. Senators from both sides of the aisle worked in a constructive and bipartisan manner that produced a product that was unanimously supported by the Banking Committee. The consequences of our actions mean that transit providers in Pierre, Huron, Aberdeen, and other South Dakota communities will be able to expand service at a time when the demand for rural bus service is increasing. Connecting people in rural America to medical care, jobs, and family and friends is the legacy of this bill.

Therefore, it is vitally important that the Senate pass a transportation bill and incorporate the transit title into the broader transportation and road safety legislation pending before the Senate. As a member of the Senate Budget Committee, I am pleased that the various committees constructing this bill did so within the budget framework this body adopted last year. The Senate-passed Fiscal Year 2004 Budget Resolution called for a 6-year transit program totaling $56.5 billion. The Senate Finance and Banking Committees have worked diligently to construct a comprehensive and forward-looking bill that stays within the budget while addressing the crucial bus and transit infrastructure demands facing our country.

Mr. DURBIN. Mr. President, today the Senate will vote on the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, SAFETEA, S. 1072. I support this legislation. I believe it is a good first step toward funding our Nation's transportation infrastructure and creating jobs.

I would like to take this opportunity to discuss the benefits of this legislation for my home State of Illinois.

The Federal transportation bill, S. 1072, would make the largest investment to date in our Nation's aging infrastructure, $318 billion over the next 6 years. In short, this legislation would increase the State of Illinois's total Federal transportation dollars and provide greater flexibility. It would help improve the condition of Illinois's roads and bridges, improve funding for mass transit in Chicago and down State, reduce traffic congestion, and address highway safety and protection of our environment.

The bill would provide $255 billion over 6 years for highways and other surface transportation programs. Illinois has the third largest Interstate System in the country; however, its roads and bridges are rated among the worst in the Nation. The State can expect to receive more than $7.6 billion over 6 years from the highway formula contained in the Senate bill. That is a 37-percent increase or $2 billion more than the last transportation bill, TEA-21.

With these additional funds, the Illinois Department of Transportation will be able to move forward on major reconstruction and rehabilitation projects throughout the State.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate traffic congestion, lessen air emissions, and provides access for thousands of Illinoisans every day. S. 1072 includes $56 billion over 6 years for mass transit. Illinois would receive about $2.9 billion over 6 years under the Senate bill, an increase of $500 million or 21 percent more than the last transportation bill.

This legislation also preserves some important environmental and enhancement programs, including the Congestion Mitigation and Air Quality, CMAQ, Program. CMAQ's goal is to help States meet their air quality conformity requirements as prescribed by the Clean Air Act. The Senate bill would increase funding for CMAQ from $8 billion to $13 billion—an increase of 62.5 percent. Illinois received more than $460 million in CMAQ funds in TEA-21; the State is expected to receive an increase in CMAQ funding under the Senate bill.

With regard to highway safety, Illinois is one of 20 States that has enacted a primary seatbelt law. S. 1072 would enable the State of Illinois and other States that have passed primary seatbelt laws to obtain Federal funds to implement this program and further improve highway safety.

I know this legislation is not a perfect document. Illinois's highway formula will be improved by this Senate bill, and I hope our House colleagues can add to our effort. Amtrak reauthorization and rail freight transportation funding are noticeably absent. And important road and transit projects from around my home State have not yet been included. I will work with my Illinois colleagues in the House to ensure that Illinois receives a fair share of transportation funds—highway, transit, and highway safety—in the final conference report.

With the passage of this legislation, the Senate has upheld its obligation to reauthorize and improve our Nation's important transportation programs.

I urge my colleagues in the House to move quickly to resolve their differences. This bill should have been passed last year. Any further delay at this point could jeopardize construction and the jobs we so desperately need in Illinois.

Mr. DOMENICI. Mr. President, I want to begin by thanking the managers of the bill for their hard and tireless work on one of the most complicated pieces of legislation we will consider—second, perhaps, only to the Energy bill.

In this Senator's opinion, this bill, known as the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, or SAFETEA, represents a tremendous step forward in the life of our country's transportation policy. While this is by no means a perfect bill and, quite frankly, I don't think such a thing exists, I believe this is a good bill. I am convinced that the Chairman and Ranking Member have put together a bill that treats our many States and varied interests as fairly as is possible.

With respect to my own State of New Mexico, this is a bill that will provide immeasurable economic benefit to our State. The most visible economic impact is on jobs. Thousands of New Mexicans will go to work as a direct result of this legislation. We have repeatedly been told that for every $1 billion spent on roads, more than 40,000 jobs are created. Over the 6-year span of this reauthorization, we will spend over $2 billion in the State of New Mexico. Quick math tells me that this will mean that over 80,000 jobs will be created in New Mexico alone in the next six years.

New Mexico is the fifth largest State geographically and has a predominantly rural population. This means that our population is very dependent on roads to keep us connected. Better roads will mean that people and goods will be able to move throughout our State in a safer, more efficient manner. Commerce will certainly benefit, bringing additional economic benefit to New Mexico.

Additionally, passage of SAFETEA will ensure that our State continues the improvements to our roads and rails begun under TEA-21. New Mexico roads will be safer for drivers, passengers, and pedestrians. Safer roads mean fewer accidents, fewer emergency road visits for victims of accidents, fewer lost days of work and productivity as a result of accidents. Aside from the much more important physical and emotional benefits, prevention of these accidents will bring on economic benefits as well.

While New Mexicans are primarily road-travelers, there is also a significant need for public transportation, both by bus and by rail. I am pleased with work done by the Banking Committee on the Transit portion of this transportation reauthorization bill. New Mexico will be a better place become of this portion of this bill.

Some of you know that I worked with the Native American leaders in New Mexico and throughout the country to create the Indian Reservation Roads program over 20 years ago. Each time we have reauthorized our transportation programs, I have worked to ensure that this program is taken care of. This year is no different. While the Environment and Public Works Committee was not able to accept all of my recommendations. or all of the Indian Affairs Committee's, I am pleased that the Chairmen and Ranking Members were willing to work with us to improve the program on the floor.

Now I know that the Statement of Administration Policy indicates that the President's advisors will recommend that he veto the bill if it remains at the current funding level. It is my great hope that we will be able to work with the White House and at the House of Representatives when this bill gets to Conference to find a way to provide adequate funding for our Nation's transportation needs. This country needs the certainty of a six-year reauthorization in order to plan for multi-year projects. I believe we are taking an imporant step toward providing that certainty today by sending this bill to a Conference Committee. I look forward to working with the Conferees to make this bill even better.

I yield the floor.

Mr. SARBANES. Mr. President, this reauthorization of the highway and transit program is one of the most important pieces of legislation that we will consider in this Congress. Its enactment will help restore the federal commitment to our surface transportation infrastructure—the lifeblood for our economy as well as our quality of life.

Ensuring that our Nation has a modern. safe and efficient transportation network has been one of my highest priorities in the United States Senate. As ranking Democrat on the Senate Banking. Housing and Urban Affairs Committee, which has jurisdiction over our nation's transit programs, and as a member of the Senate Budget Committee. I have fought vigorously to bolster federal investment in transportation infrastructure and to put in place a sensible. balanced framework in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21) to enable the nation to sustain its economic growth and enhance the quality of life of our citizens.

The reauthorization bill. known as the Safe. Accountable, Flexible. and Efficient Transportation Equity Act of 2003. or SAFETEA, that is before the Senate authorizes $318 billion in funding over the next six years for maintaining and improving our Nation's and States' highways, bridges and transit systems and addressing safety issues.

There is a huge backlog of needed repairs, replacements and upgrades to bring our transportation network—our roads, bridges, transit systems and railroads—up to standards. The Department of Transportation's Conditions and Performance Report estimates that an average of $127 billion per year is needed over the next two decades to maintain and improve the condition of these systems. Other estimates show an even greater need. This backlog constrains our Nation's economic competitiveness, leaves more and more Americans stuck in traffic, contributes to air pollution and results in unnecessary fatalities. In my judgment, we must make prudent investments in our transportation systems not only to prevent further deterioration of the network—but to improve the system, relieve congestion and save lives.

These investments will also boost our economy and create jobs—at a time when new jobs and a boost to the economy are desperately needed. The United States Chamber of Commerce has estimated that each $1 billion invested in transportation infrastructure creates 47,000 direct jobs and there are indirect impacts as well. The Texas Transportation Institute has estimated that in 2001. Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the nation of $69.5 billion in lost time and wasted fuel. As these figures show, congestion has a real economic cost. in addition to the psychological and social costs of spending hours each day sitting in traffic. We cannot afford to let these costs of congestion grow any further. The investments made under this bill will help us make progress in our efforts to combat traffic congestion and deteriorating conditions on our Nation's roads. bridges, and transit systems.

For our Nation's roadways and bridges, this legislation authorizes an average increase of nearly 36 percent in funding to enable states and localities to make desperately needed repairs and improvements. Maryland's share of highway funding will grow by 40 percent over the next 6 years compared to the level provided in TEA-21—more than a $1 billion increase to help upgrade our highway infrastructure.

As a small "bridge" State with crisscrossing interstate routes, a State with high population density and with high traffic congestion, Maryland has tremendous highway infrastructure needs. Maryland is the fifth most densely populated State in the Nation. Maryland roads. including both State highways and other roads, now serve almost 54 billion vehicle miles of travel annually. Our State has the second largest urban interstate traffic density and the sixth largest percentage of roads in urban areas in the United States. As part of the northeast corridor Maryland experiences an extremely high volume of through traffic. especially on roadways such as I–95. Maryland is one of the few States in the Nation with two major metropolitan areas, Washington. D.C. and Baltimore. and two major beltways with some of the highest traffic volumes in the country—in excess of 150.000 average daily traffic—within 30 miles of each other. Our state has the sixth highest congestion cost in the nation, and these congestion costs continue to rise. According to the Texas Transportation Institute, from 2000 to 2001. the annual cost in Washington. DC is up from $631 to $667 year. In the Baltimore Region, the annual cost went up from nearly $400/year to $455/year. In the Washington metropolitan area we have the second longest average commute time in the Nation.

In the next 20 years, Maryland's driving age population is expected to increase by nearly 20 percent. the number of licensed drivers by 25 percent, and the number of registered vehicles by 29 percent and this will mean significantly more traffic on our roads and pressures on our transit systems. Maryland's Department of Transportation is at a crossroads. facing deficient roads and bridges as well as key gaps and bottlenecks within the State's transportation system that are known to cause delay and congestion. Maryland has an estimated unfunded capital need for more than $13.2 billion in highway maintenance. construction and reconstruction over the next ten years. Clearly, Maryland must have adequate funding to address these transportation challenges and to facilitate overall mobility and the funds made available under this measure will be a significant help in this regard.

Importantly. the measure preserves the dedicated funding for the Congestion Mitigation and Air Quality. CMAQ. program which helps States and local governments improve air quality in non-attainment areas under the Clean Air Act; the Transportation Enhancement set-aside provisions which support bicycle and pedestrian facilities and other community based projects, as well as the other core TEA–21 programs—Interstate maintenance, National Highway System. Bridge and the Surface Transportation Program. Likewise. TEA–21's basic principles of flexibility, intermodalism. strategic infrastructure investment. and commitment to safety are retained.

I am especially pleased that the legislation includes a provision which sets aside 2 percent of a State's Surface Transportation Program for stormwater runoff mitigation. According to the Environmental Protection Agency. polluted stormwater from impervious surfaces such as roads is a leading cause of impairment for nearly 40 percent of U.S. waterways not meeting water quality standards. In the Chesapeake Bay region, it is estimated that runoff from highways contributes nearly 7 million pounds of nitrogen, 1 million pounds of phosphorous and 167,000 tons of sediment annually to the Bay. In Maryland alone, the Center for Watershed Protection estimates that the 7500 miles of Federal-aid highways generate yearly loads of 1.2 million pounds of nitrogen, 127,000 pounds of phosphorous and 25,000 pounds of sediment into Maryland waterways and eventually into Chesapeake Bay each year. The stormwater provision will provide more than $73 million for the Bay States and local governments for stormwater abatement of which $15 million would be available for Maryland.

For our Nation's transit systems, the legislation authorizes $56.5 million—$15.5 billion more than provided in TEA-21—to modernize and expand our transit facilities. These funds will go a long way to meeting the growing demand for transit in cities, towns, rural areas, and suburban jurisdictions across the country. Maryland's formula share of transit funding will grow by nearly 60 percent over the next 6 years from $572 million to $907 million. These funds are absolutely critical to Maryland's efforts to maintain and upgrade the Baltimore and Washington Metro systems, the MARC commuter rail system serving Baltimore, Washington, DC, Frederick and Brunswick, and the Baltimore Light Rail system. Bus systems and para-transit systems for elderly and disabled people throughout Maryland will also receive a big boost in funding.

I am particularly pleased that the legislation includes the Transit in Parks Act or TRIP which I introduced. This new Federal transit grant initiative will support the development of alternative transportation services—everything from rail or clean fuel bus projects to pedestrian and bike paths, or park waterway access, within or adjacent to national parks and other public lands. It will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact.

I especially thank the staff of the Banking Committee for the fine work done on the transit title of the bill. First, I commend Chairman SHELBY and his staff, including Sherry Little, Rich Steinmann, Peggy Kuhn, and of course, Doug Nappi and Kathy Casey. I also compliment my own staff, who did a superb job, providing needed additional resources to meet the transit needs of all Americans. My transit team was most ably led by Sarah Kline, and I also thank Aaron Klein, Charlie Stek, and Kate Mattice. Let me also acknowledge the major contribution made by the Subcommittee on Housing and Transportation and the staff of Subcommittee Chairman ALLARD, Tewana Wilkerson, and Ranking Member REED, Neil Campbell.

Like any other complex and comprehensive piece of legislation, this bill has its share of imperfections. But if we are to ensure not only the safe and efficient movement of people, goods and services, but also the future competitiveness and productivity of our economy, we must make these investments, and move forward with this legislation. I urge my colleagues to join me in approving this measure.

Mr. ALLEN. Mr. President, I rise today to offer my support to the amendment submitted by the distinguished Senator from Missouri, Mr. TALENT. I, like him, have been inundated with phone calls and letters by small business owners throughout the Commonwealth of Virginia expressing great concern with the moving provisions included in the Safety Title of the TEA-21 reauthorization legislation.

I believe the intentions for mandating these changes to current regulations governing the moving industry are well-intentioned. We have all heard horror stories about families having their belongings held hostage by a rogue moving company attempting to extort further revenues. This is a serious problem and the Federal Government needs to make sure regulations are in place to protect consumers and the vast majority of moving companies that act in good faith and provide a valuable service to millions of American families.

My constituents that move Virginia families from their old homes to their new ones have expressed their belief that these moving provisions go too far to try and reform an industry that is largely composed of law-abiding small businesses. By crafting broad language to target the small minority of "bad actors" in the moving industry, the Safety Title will unnecessarily and significantly burden those that follow existing regulations and go to great lengths to ensure consumers are satisfied with the outcome of their move.

We cannot ask small businesses, which often cannot absorb large additional costs in the services they provide, to have no recourse when a consumer inaccurately describes the services required. A small moving company cannot provide additional and often labor-intense services without appropriate recourse to collect for those services. By forcing movers to relinquish shipments for the initial price quoted provides no effective recourse to seek payment when other services are requested or required. This amendment would allow movers to collect any added expenses at the time of the delivery, or if there is disagreement about those charges, allow movers to recoup expensive attorneys' fees if it is determined that the mover was correct in assessing the additional charges.

Additionally, we should carefully consider the language we include with regard to providing States the authority to enforce Federal regulations. I understand that the moving industry is fully supportive of permitting State attorney generals to hold rogue movers accountable for consumer protection violations. However, it may be ill-advised to leave open the possibility that issues beyond consumer protection will be interpreted in varying ways by the States. If a moving company cannot be confident that there is a consistent application of these regulations, it will make it difficult for them to implement uniform practices.

As we consider the highway bill and continue to refer to it as a jobs measure, I believe we must make sure all provisions are appropriately measured and do not injure legitimate small businesses. Rogue movers are no more likely to adhere to the rules outlined in this legislation because they do not adhere to current statutes regarding the shipment of citizens belongings. I will state again, I believe the vast majority of U.S. movers abide by our laws and go to great lengths to ensure that they provide a quality service to consumers. The Safety Title legislation was crafted with a noble purpose, but I believe it would unduly hurt legitimate small businesses and I hope my colleagues will join me in supporting this amendment, which provides a more measured and even-handed response to a small, but high-profile problem of unscrupulous movers.

Mr. LAUTENBERG. Mr. President, we have been in a difficult parliamentary situation which has precluded my offering my amendment, but had I offered it, it would have accomplished the following.

My amendment would keep intact long standing provisions that protect public health, the environment, and the rights of citizens and states to have meaningful participation in transportation decisions.

While I know the authors have worked very hard to strike a balance on the provisions in this bill, I believe their language to "streamline" transportation planning processes is ill-advised and will have severe and unintended consequences.

No one can argue with the theory behind "streamlining" transportation projects.

No public official wants to slow and encumber its State's transit, highway, bridge, rail, or other major construction projects.

Unfortunately, the assumption behind the streamlining in this bill is that crucial tools to protect the environment, such as performing "environmental impact statements," are the reason behind the long, protracted projects that go on for years. That is patently incorrect and this misconception must be put to rest.

In 2000, the Federal Highway Administration queried its divisions in all States, asking for a list of all projects requiring an "Environmental Impact Statement" that had been in preparation for over 5 years.

What they learned should inform this body as it seeks to address the problem of delay.

The Highway Administration found that a 70 percent—a large majority of the delays, were due to five issues—all unrelated to the environment.

They were: one, lack of funding; two, low project priority; three, local controversies; four, project complexity; and five, late changes made in the scope of a project.

If our purpose is really to bring greater efficiency to transportation planning, we must address the primary reasons for delay—those which are listed here.

The National Environmental Policy Act, NEPA—which this bill seeks to weaken—was signed by President Nixon for very good reasons. When citizens and all relevant agencies are given the opportunity for meaningful participation in project planning, any needed adjustments can be made early in the process, saving states time and money.

The approach outlined in this bill would essentially allow the U.S. Department of Transportation to waive the NEPA process if it so desired. That would be like a manufacturer that waits until its product is already designed before checking to see if it even serves the needs of consumers. Clearly, such an approach is clumsy, inefficient, and far more expensive in the long run if design changes are needed.

As written, the language in the substitute amendment is confusing and even contradictory.

It first states that despite NEPA or "any other law" that agencies are accountable for, the Department of Transportation is given the authority to make the final decision on the need for, and purpose of, a transportation project.

At the same time, the bill contains a standard "savings clause" which states that no other law—such as NEPA, the Clean Air Act, and the Clean Water Act—will be preempted by this very language.

This is inherently ambiguous and you can bet it will lead to more litigation. It will without doubt slow the progress on transportation projects—the very outcome this so-called "streamlining" language seeks to remedy.

Instead of just handing final decisionmaking authority over to the U.S. Department of Transportation. DOT my amendment outlines a simple, traditional process that will allow all relevant agencies to resolve conflicts which can arise. DOT has neither the expertise nor the statutory authority to make pivotal decisions on matters of public health and the environment.

Overarching decisionmaking authority should not be handed off to DOT.

This amendment restores the balance of authority that has historically existed across all relevant agencies and departments—both State and Federal—to facilitate thorough, responsible project planning.

My home State of New jersey perfectly illustrates the crucial role of our health and environmental agencies in making transportation planning decisions.

For years, New Jersey has implemented responsible, aggressive environmental law enforcement policies.

Yet because of up-wind pollution and large metropolitan areas, health standards for ozone are being violated in every county in New Jersey—which has some nine million residents.

According to New Jersey's department of environmental protection, 45 percent of our ozone pollution is caused by motor vehicle exhaust.

The group, Physicians for Social Responsibility, reports that nationwide about 15 million Americans suffer from asthma, which is triggered and exacerbated by ozone. In the last 20 years, the prevalence of asthma has risen over 60 percent.

An analysis performed a few years ago estimated that for just one pollutant, particulate matter, 2,300 to 5,400 people die prematurely every year in New Jersey. Mobile sources account for about 30 percent of the particulate matter emitted into the air. Nationally, some 20,000 American citizens die prematurely from this pollutant.

Think about that. America grieves for the 536 American soldiers we have lost in Iraq since March of last year, and rightly so. Yet in that same 1-year period 20,000 Americans died unnecessarily from just one air pollutant—particulate matter.

Consider toxic air pollutants. Seventeen of New Jersey's 21 counties rank among the 100 most polluted counties in the Nation and the risk of cancer in four of our counties is up to 3000 times higher than EPA's health threshold. A primary cause of these toxic emissions is mobile sources.

My point is that with such serious health threats related to transportation on the increase throughout the country, now is not the time to pare back the role of our public health and environmental protection agencies in decisionmaking on Transportation projects. The meaningful participation of these agencies is needed more today than ever before.

The U.S. Department of Transportation is simply not equipped or qualified to make the ultimate decisions with regard to public health and the environment. The stakes are too high.

I urge my colleagues to support public participation. I urge them to support agency cooperation that protects public health and the environment. And I urge them to support my amendment.

I yield the floor.

Mr. CORZINE. Mr. President, my distracted driving amendment addresses one of the most serious highway safety problems in our Nation: distracted and fatigued driving.

When drivers talk on their cell phones, change radio stations, eat, or otherwise fail to devote their full attention to driving, they pose a threat not only to themselves, but to others. Drivers who are drowsy or tired pose a similar threat.

I am particularly concerned about the use of hand-held cell phones while driving, which the California Highway Patrol recently reported was the number one cause of distracted driver accidents in their State. According to a study by the Harvard Center for Risk Analysis, "the use of cell phones by drivers may result in approximately 2,600 deaths, 330,000 moderate to critical injuries and 1.5 million instances of property damage in America per year." Other studies have reached similar conclusions. One, published in the New England Journal of Medicine in 1997, concluded that the "use of cellular telephones in motor vehicles is associated with a quadrupling of the risks of a collision during the brief period of a call." That study went on to say "this relative risk is similar to the hazard associated with driving with a blood alcohol level at the legal limit."

States, counties and municipalities around the country have considered legislation affecting the use of hand-held cell phones while driving. New York enacted a ban against the use of hand-held cell phones while driving in 2001. A number of municipalities in my own State of New Jersey have also chosen to enforce bans within their borders, including Marlboro, Carteret and Nutley. New Jersey itself has enacted a law that imposes additional penalties on those driving infractions where cellphone use has been determined to be a factor.

This patchwork of laws, however, does not take the place of a consistent, Nation-wide ban. That is why I introduced the Mobile Telephone Driving Safety Act last year. That bill would provide incentives for States to adopt bans on hand-held cell phones, and I hope that we can build more support for this legislation in the future. However, this amendment proposes a more modest first step that I have worked out with the managers of the bill from the Commerce Committee, Senators McCAIN and HOLLINGS.

The main provision in the amendment would provide Federal funds for

States to implement programs designed to address distracted and fatigued driving, by making such programs an eligible use of funds under the Section 402 highway safety program. These programs might include public education campaigns, additional training for law enforcement, and implementation of laws that specifically address fatigued or distracted driving.

The amendment also calls for several demonstration projects to specifically test ways of combating distracted driving. And it directs States to work with local law enforcement officials to find ways to collect more accurate data about how the use of electronic devices in vehicles affects traffic safety.

In sum, this amendment helps address some of the most important highway safety issues we confront. And it does so without requiring any new funds, or putting any additional burdens on the States. I want to thank Senators McCAIN and HOLLINGS for their cooperation on this matter, and I urge my colleagues to support it.

Mr. BINGAMAN. Mr. President, I have submitted an amendment to continue an important Federal program begun in TEA–21 that addresses a unique problem with the roads in and around the Nation's single largest Indian reservation and the neighboring counties. Through this program, Navajo children who had been prevented from getting to school by frequently impassable roads are now traveling safely to and from their schools. Because of the unusual nature of this situation, I believe it must continue to be addressed at the Federal level.

The Navajo Nation is by far the Nation's largest Indian Reservation, covering 25,000 square miles. Portions of the Navajo Nation are in three States: Arizona, New Mexico, and Utah. No other reservation comes anywhere close to the size of Navajo. The State of West Virginia is about 24,000 square miles. In fact, 10 States are smaller in size than the Navajo reservation.

The counties in the three States that include the Navajo reservation must maintain the roads used by county school buses but receive no Federal or local tax funds to maintain the roads. Nearly all of the land area in these counties is under Federal or tribal jurisdiction. As I understand it, counties in States with large reservations are not required to maintain roads on the reservation. Of course, no other reservation is anywhere close to the size of the Navajo reservation.

According to the Bureau of Indian Affairs, about 9,800 miles of public roads serve the Navajo nation. Only about one-fifth of these roads are paved. The remaining 7,600 miles, 78 percent, are dirt roads. Every day school buses use nearly all of these roads to transport Navajo children to and from school.

In response to this unique situation, I authored a provision in TEA–21 to provide annual funding to the counties that contain the Navajo reservation to help ensure that children on the reservation can get to and from their public schools. Under section 1214(d) of TEA–21, $1.5 million is made available each year to be shared equally among the three states that contain the Navajo reservation. These Federal funds can be used only on roads that are located within or that lead to the reservation, that are on the State or county maintenance system, and that serve as school bus routes.

For the last 6 years, the counties have used the annual funding to help maintain the routes used by school buses to carry children to school buses to carry children to school and to Headstart programs. The amendment provides a simple 6-year reauthorization of that program, with a modest increase in the annual funding to allow for inflation and for additional roads to be maintained in each of the three States.

Continuing this program for 6 more years is fully justified because of the vast area of the Navajo reservation—by far the Nation's largest. I do believe the unique nature of this situation can only be dealt with effectively by the Federal Government. I am pleased to have my colleague, Senator DOMENICI, as a cosponsor, and I hope all Senators will support our amendment.

I ask unanimous consent that several letters supporting this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SAN JUAN COUNTY COMMISSION,
Monticello, UT, January 6, 2003.

Re: Indian School Bus Route Safety Reauthorization Act of 2003

Hon. JEFF BINGAMAN,
U.S. Senator, Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: San Juan County, Utah wants to express our appreciation to you for your efforts to secure funding to improve the Indian School Bus Routes. San Juan County has approximately 25% of the total land area on the Utah portion of the Navajo Nation.

The County is currently maintaining 611 miles of roads on the Navajo Nation. 357 miles are natural surface, 164 miles are of a gravel surface and 90 miles are paved. Most of these roads are used by school bus in the transportation of students to and from the different schools.

The County has three high schools that are operated by the San Juan School District on the Utah portion of the Navajo Nation (Whitehorse High School in Montezuma Creek, Monument Valley High School in Monument Valley and Navajo Mountain High School in Navajo Mountain). In addition, the school district has two elementary schools located in Halchita, near Mexican Hat and in Montezuma Creek. The Bureau of Indian Affairs has two boarding schools that also operate within the County boundaries at Aneth and Navajo Mountain. In addition there are pre-schools that are located in Monument Valley, Halchita, Toda, and Montezuma Creek.

One major example of the funds that have been previously used was to pave the nearly six miles section of road in the Navajo Mountain area. Navajo Mountain is an isolated community located in the southwestern corner of San Juan County. There is a single highway in and out of the community, with the nearest community located over seventeen miles to the south in Arizona. The road still is dirt for ten miles south of the Utah boundary, but the County was able to pave the road on the Utah side this past year making the road passable year round and greatly improving the safety for the students and residents.

We would strongly encourage the re-authorization of these funds for this important need.

Very truly,
TY LEWIS,
Commissioner.
MANUEL MORGAN,
Commissioner.
LYNN H. STEVENS,
Commissioner.

BOARD OF SUPERVISORS
OF APACHE COUNTY,
St. Johns, AZ, March 1, 2000.

Hon. Senator JEFF BINGAMAN,
Hart Senate Office Building,
Washington, DC.

SENATOR BINGAMAN: I strongly express my appreciation for your effort for the passage of the Transportation Equity Act for the 21st Century (TEA–21). The TEA–21 funds were utilized to purchase some gravel for school bus routes within the Apache County, District II, on the Navajo reservation where it was badly needed.

Without your effort and other members of Congress, such road improvements would have never been possible on the Navajo reservation.

Please accept the enclosed information on the Apache County, District II plus the resolutions of the local Navajo community chapters as our thanks.

Again, thank you.

Sincerely,
TOM M. WHITE, Jr.
County Supervisor, Ganado District II.

Enclosure.

NAVAJO COUNTY BOARD
OF SUPERVISORS,
Holbrook, AZ, December 18, 2002.

Senator JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

Re: TEA–21 Funding for Maintenance of School Bus Routes

DEAR SENATOR BINGAMAN: Navajo County has used the TEA–21 funding since its inception to maintain school bus routes located on reservation lands within the county. In order to best use these funds, we have entered into agreements with the Bureau of Indian Affairs and various established school districts. These agreements allow us to expand the budgets for roads in the school districts and receive maximum benefit for funds spent.

The funding to date has been spent as follows: Funding of road worker salaries, $63,226; purchase of road working equipment, $215,651; purchase of road building materials, $173,313.

This material, labor and equipment helps to maintain over 1,300 miles of school bus routes. Even though these funds are extremely helpful, the current amount of funding is inadequate to meet the needs that are encountered in these remote lands.

Navajo County fully supports your efforts to not only continue the present funding, but also the efforts to increase the annual amount. If this funding was not available, the school children on the reservation would be the ones who suffer.

Please continue your efforts to enhance the TEA–21 funds. If you need further information, please call me at (928) 524–4053.

Sincerely,

JESSE THOMPSON,
Supervisor.

OPERATIONS DEPARTMENT,
Kayenta, AZ, January 20, 2004.

Re: Letter of Support

Senator JEFF BINGAMAN,
Attn: Denial J. Alpert, Legislative Assistant,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the Kayenta Unified School District (KUSD) and Navajo County Board of Supervisors, I write in support of the TEA–21 grant that the federal government allocates to the State of Arizona and distributes to the Navajo County Board of Supervisors. The TEA–21 Grant greatly impacts the Kayenta Unified School District and the surrounding communities it serves on the Navajo Reservation.

For example, during the 2002–2003 school year, Kayenta Unified School District graduated 188 students from Monument Valley High School, and out of the 188 students, 120 students were bused to and form school daily and many of these students live off paved roads. The district buses travel over 350,000 mile on an off unpaved roads and transports 2,105 students a day. The overall enrollment at Kayenta Unified School District is 2,600 students.

The district is allocated $30,000.00 from the TEA–21 grant annually to support the salary of a heavy equipment operator. Currently, the district has 35 bus routes, and 25 of these routes are on unpaved roads. The heavy equipment operator grades all unpaved roads and with assistance from the TEA–21 grant, we are able to maintain these roads adequately. Most of all, the unpaved roads need to be safe for student transportation, and it is important that we maintain these bus routes, so KUSD is requesting that your office continues to financially support this funding for all Indian reservations, but more importantly, to ensure safe transportation for our students.

Furthermore the TEA–21 grant should be equally distributed among the three states that receive this grant. The purpose of the grant is to improve or maintain unpaved roads on the Indian Reservations, especially when inclement weather sets in. With many unpaved roads, the assistance from the TEA–21 grant has made it possible for our students who live in remote areas to continue to remain home and attend school. Otherwise these students would have to go to a boarding school and live away from home. Navajo families in our surrounding areas and Kayenta Unified School District greatly benefit from the TEA–21 grant.

Your continuous support and allocation in awarding Kayenta Unified School District is greatly appreciated.

If there are any questions please contact me at (928) 697–2130.

Sincerely,

JULIUS YOUNG II,
KUSD/Operations Director.

FORT DEFIANCE COMMUNITY CHAPTER,
Fort Defiance, AZ.

RESOLUTION OF THE FORT DEFIANCE CHAPTER EXPRESSING AN APPRECIATION TO SENATORS PETE DOMENICI AND JEFF BINGAMAN AND OTHER MEMBERS OF THE U.S. CONGRESS FOR THEIR EFFORTS AND SUPPORT OF FUNDS ALLOCATION TO APACHE COUNTY AND OTHER COUNTIES WITHIN THE NAVAJO NATION FOR ROAD MAINTENANCE

Whereas:

1. The Fort Defiance Community Chapter of Arizona is a certified Navajo chapter government pursuant to 26 N.N.C. is delegated governmental authority with respect to local matters consistent with Navajo laws, including custom, traditions and fiscal matter; and

2. The Fort Defiance Community Chapter population of 5,581 people have at least (800+) miles of excess dirt roads and the Apache County, District II maintains seven (7) miles of dirt road; and

3. The Fort Defiance Community Chapter realized that in the past, the Apache County was unable to defray the cost of gravel for the dirt roads; however, this past year, the Apache County was able to gravel two (2) miles of school bus routes in Fort Defiance area; and

4. The Fort Defiance Community Chapter knows that the Apache County, District II lobbied for its funds such as the TEA–21 (Transportation Equity Act for the 21st Century) and was funded to gravel some of the county routes which are bus routes; and

Now, Therefore, Be It Resolved That:

1. The Fort Defiance Chapter sincerely expresses an appreciation to Senators Pete Domenici and Jeff Bingaman and other members of the U.S. Congress for their efforts and support of funds allocation, especially the TEA–21 (Transportation Equity Act for the 21st Century) to Apache County and other counties within the Navajo Nation for road maintenance of school bus routes.

2. The Fort Defiance Chapter further supports that the gravel of dirt roads continue so that all motorists and school busses travel safely in all types of weather.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Fort Defiance Community Chapter at a duly called meeting at which a quorum was present and that same was Motioned by: Larry Anderson and Seconded by: Louva Dahozy, and passed by a vote of 26 in favor and 0 opposed and 1 abstained, this 28th day of February, 2000.

ALBERT DESCHINE,
President.
RENA C. WILLIAMS,
Vice President.
LAURITA BEGAY,
Secretary-Treasurer.
ELMER L. MILFORD,
Council Delegate.
HAROLD WAUNEKA,
Council Delegate.
RODGER DAHOZY,
Grazing Officer.

SAN JUAN COUNTY,
Aztec, NM, January 9, 2003.

Senator JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

HON. SENATOR BINGAMAN: We are aware that Congress will be considering bills to reauthorize the TEA–21 funding for local roads that provide access to the Navajo Reservation. These funds are of special significance to San Juan County.

The Public Works Department of San Juan County regularly maintains over 400 miles of roads that are adjacent to or provide access to the Navajo Reservation. These roads are critical to the population in the service areas. School buses depend on our County workers to keep the roads maintained and to provide other essential services.

Over the past five years, we have received $953,688 from the TEA–21 program for the maintenance of roads and bridges in these areas. The assistance received under this program will be crucial if we wish to continue to provide these much needed services to the residents on the Navajo Reservation and their visitors.

I would like to thank you for your hard work on behalf of the citizens on San Juan County and urge you to support legislation that would extend the TEA–21 Program.

Sincerely,

TONY ATKINSON,
County Manager.

GALLUP-MCKINLEY COUNTY
PUBLIC SCHOOLS,
Gallup, NM, December 19, 2002.

Hon. Senator JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: Regarding the reauthorization of TEA–21 legislation, I would like to be up front in support of this bill. Our Gallup-McKinley County School District cannot function without a decent roads maintenance program. Our school district has established a good partnership with the McKinley County Commissioners' Office. Mr. Irvin Harrison, McKinley County Manager, is very instrumental in addressing the many roads maintenance issues. Of course, the money to do the actual maintenance work comes from the Indian School Bus Route Safety Reauthorization Act.

Let me explain why the Gallup-McKinley County Schools consider TEA–21 is practically indispensable. Our district daily transports 9,089 students and covers 16,070 miles. The 9,089 students are almost all Native Americans residing on Indian reservation land or checker Board Areas. The majority of the roads are dirt or unimproved. Our bus fleet totals 146 and 27 buses are equipped with lifts. Senator, you can imagine how delicate it is to make sure the roads are safe and all-weather condition. On an annual basis, our miles driven exceed 3,047,269. Without the county's roads maintenance program, our buses would deteriorate as quickly as we buy them and absenteeism would climb astronomically. What is so unique about our district is, its 5000 square miles size and reported unpaved road transportation nears 400,000 miles. What the McKinley County Roads Department maintains include grading, placing gravel with some degree of compaction, repair work on drainage appurtenances and providing drainage solutions to rain damaged areas. Gallup-McKinley County School District is still expanding. A new high school is under design in Pueblo Pintado. A safe bridge is absolutely essential right next to the new school site.

Senator, I recall 3 years ago that you took a ride in one of our buses west of Gallup. I understand you enjoyed the rough ride. I thank you for taking the time from your busy schedule to visit our school district.

I am confident that the reauthorization of TEA–21 will be an historic event because this piece of legislation indeed relates to the No Child Left Behind initiative. All weather and safe roads provide the means to get the children to school on time. Absentees and tardiness are discouraged with a reliable transportation to school. I urge your colleagues to jump on the bandwagon and support the Indian School Bus Route Safety Reauthorization Act of 2003. Please call me if you have any questions.

Sincerely,

KAREN S. WHITE,
Acting Superintendent.

GALLUP MCKINLEY COUNTY
PUBLIC SCHOOLS,
Gallup, NM.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR HON. JEFF BINGAMAN: The Gallup McKinley County Schools serve over 15 thousands students, of which over 10 thousand are bussed daily. Our District's school buses travel 9,250 miles daily, one way. Several miles of these roads are primitive dirt roads with poor or no drainage. Several do not have guard rails and some are not maintained by any entity. The inability to safely negotiate school buses over these roads during wet, muddy and snowy conditions greatly restricts our ability to provide adequate services for families living along these particular roadways. Funding for school bus route road maintenance is vital to providing safe and efficient transportation for thousands of students throughout our County.

The School bus route maintenance programs have helped tremendously. Our County Roads Division (McKinley County) has been extremely helpful in maintaining hundreds of miles of bus route roads. The route improvements completed recently in the North Coyote Canyon, Mexican Springs, Johnson loop, Tohlakai, CR-1, Crestview, Lyanbito and Bluewell have provided us with the ability to safely negotiate these areas and transport hundreds of students to various schools.

The School bus route program is a very important program. Our County Roads division worked diligently to provide safe access and passage for our school districts 160 school buses. Without the school bus route program, it would be impossible to maintain safe conditions on these roads. To insure the safety of our school children and families, it is imperative that the reauthorization of the TEA-21 Bill be realized.

Your help in sponsoring bills, which address the unique situations with respect to school bus route roads, have been greatly appreciated. Your continuing support of the school bus route program (TEA-21 Bill) will enable us to continue to safely and efficiently transport our students. It is through these cooperative efforts that we are able to serve the hundreds of families living in our County. Thank you for your continued efforts.

Sincerely,

BEN CHAVEZ,
Support Services Director.

THE NAVAJO NATION,
ROCK SPRINGS CHAPTER,
Yah-Ta-Hey, NM.

RESOLUTION OF ROCK SPRINGS CHAPTER,
EASTERN NAVAJO AGENCY—DISTRICT 16

Requesting and Recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Reauthorize the TEA-21 Bill for Continued Funding to the County of McKinley, State of New Mexico for Improvement of School Bus Routes Leading to and within the Navajo Indian Reservation which is Supported by Rock Springs Chapter Community.

Whereas:

1. The Rock Springs Chapter is a certified chapter and recognized by the Navajo Nation Council, pursuant to CAP-34-98, the Navajo Nation Council adopted the Navajo Local governance act (LGA) which directs local chapters to promote all matters that affect the local community members and to make appropriate decisions, recommendation and advocate on their behalf, and:

2. The Rock Springs Chapter is requesting and recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Re-authorize the TEA-21 Bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation which is supported by Rock Springs Chapter Community, and:

3. The Rock Springs Chapter is established to plan, promote, and coordinate the community, economic, and social development for the community, including an oversight of coordinator and support for federal, state, tribal, and other programs and entities; and

4. The Rock Springs Chapter Community are highly concerned of their students attendance due to poor road conditions, lack of improving and maintaining bus routes and how it effects the daily transports of students as well as daily travel for community members, and:

5. There are vest miles of (dirt roads) school bus routes that still require improvement. Poor roads contribute to poor education, health issues, economic growth, unemployment, and fatalities in our rural (community) county.

Now, Therefore Be It Resolved:

1. The Rock Springs Chapter strongly supports the foregoing resolution to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominici to Re-authorize TEA-21 Bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation.

2. The Rock Springs Chapter Community hereby supports the continuation of improving and upgrading the vast miles of dirt roads school bus routes.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly presented and considered by the Rock Springs Chapter at duly called chapter meeting at Rock Springs Chapter, New Mexico (Navajo Nation) at which a quorum was present and the same was passed with a vote of 33 in favor, 00 opposed and 00 abstained on this 18th of February, 2003.

Motion: Ted Billy.
Second: Rose Mark.

RAYMOND EMERSON,
Chapter President.
HARRIETT K. BECENTI,
Council Delegate.
LUCINDA ROANHORSE,
Acting Community Services Coordinator.

Mr. CORZINE. Mr. President, I have submitted an amendment which addresses the serious national problem of drunk driving by helping to ensure that when drunken drivers are arrested, they can't simply get back into their car and put the lives of others in jeopardy. The amendment is based on legislation known as "John's Law" that I have introduced in the Senate and that has already been enacted at the State level in New Jersey.

On July 22, 2000, Navy Ensign John Elliott was driving home from the United States Naval Academy in Annapolis for his mother's birthday when his car was struck by another car. Both Ensign Elliott and the driver of that car were killed. The driver of the car that caused the collision had a blood alcohol level that exceeded twice the legal limit.

What makes this tragedy especially distressing is that this same driver had been arrested and charged with driving under the influence of alcohol, DUI, just 3 hours before the crash. After being processed for that offense, he had been released into the custody of a friend who drove him back to his car and allowed him to get behind the wheel, with tragic results.

We need to ensure that drunken drivers do not get back behind the wheel before they sober up. With this amendment, States would be allowed to use some of their drunk driver prevention grant money from the Federal Government to impound the vehicles of drunk drivers for no less than 12 hours. This would help ensure that a drunk driver cannot get back behind the wheel until he is sober. And that would make our roads safer, and prevent the loss of many innocent lives.

I hope my colleagues will support this commonsense measure. And I want to express my appreciation to Senators MCCAIN and HOLLINGS for their cooperation on this matter.

Mr. KOHL. Mr. President, I would like to take this opportunity to explain my objections to the transportation reauthorization bill. I want to make it clear to everyone in this chamber, and more importantly, to the people of Wisconsin, the reasoning behind my vote today. This legislation is important to me; I wholly support a 6-year transportation reauthorization bill. I understand the need, on so many levels, for long term transportation funding. This is especially true in Wisconsin, where the harsh winters make transportation planning critical. And across the Nation, I know that investment in our transportation infrastructure is vital to our safety and our economy. I know how a 6-year bill affects planning for cities and States, affects jobs across the country, and the overall impact that a 6-year authorization has on the economy. I have heard the statistics, read the data and seen the charts. But most importantly, I know that if I were to support this bill today, I would not be doing my best to represent the people of Wisconsin.

Every time Congress has faced reauthorizing a transportation funding bill, I have had to fight for Wisconsin's fair share. And under TEA-21, Wisconsin received the best possible return over the course of the bill. Under TEA-21, Wisconsin received an average rate of return of approximately $1.02 to every dollar the State contributed to the highway trust fund. This fair return did not come without a fight, however, and prior to TEA-21's passage, I worked diligently to ensure that Wisconsin saw its fair share of transportation dollars.

This bill, however, throws those hard-won and well-earned returns away. By the second year of the bill, Wisconsin's rate of return will drop from almost $1.03 to $.95. According to preliminary estimates from my State's Department of Transportation, Wisconsin stands to lose an average of $80 million every year for the 6-year life of the bill under a 95 percent rate of return. In other words, the difference between a hundred percent and 95 percent rate of return results in millions of dollars lost for Wisconsin. How can I support that?

That is why I sought to offer an amendment, which would have helped Wisconsin recoup some of the loss under this bill. My amendment would correct one of the largest problems that midwestern States have faced over the past several years. Midwestern States account for almost 70 percent of the loss of funds that is associated with the ethanol tax exemption. Wisconsin's loss has more than tripled within the last 3 years alone. My amendment would change States' TEA-21 average by adding the ethanol losses that occurred between 1996 and 2001. By applying the revised averages to the portion of the bill that calculates the minimum a State can receive, Wisconsin would stand to gain in the range of $50 million every year of the bill. This would help the State gain back the losses that we faced due to ethanol.

Unfortunately, because of the rush of leadership on both sides of the aisle to finish the transportation bill, efforts to offer amendments improving the bill were procedurally blocked. I am very disappointed that so many of my colleagues—so many whose States do well under this bill—have shut out the rest of us who want to debate our ideas for making the bill fairer and better. This is politics at its worst. And the result will be a huge amount of public resources divvied up by a formula crafted in secret, unimproved with the ideas from—unresponsive to the needs of—too many States like Wisconsin.

Fortunately for Wisconsin and these other States, this bill is far from law despite our work this week. The White House is insisting on bringing the cost of the bill down by billions before the President will sign it. The House is developing a bill including an increase in the gas tax that has little support in the Senate. If a 6-year authorization does become law this year, it will not look anything like the behemoth we have voted on today.

And for all these reasons, I could not vote for this legislation—vote to pass the losses contained in this legislation to my State. I will not be part of a process that puts the Senate stamp of approval on an embarrassing backroom deal that has a lot more to do with log rolling than road building. I will not push through legislation that does not give Wisconsin drivers and Wisconsin taxpayers their fair share.

A safe and secure transportation network is important to the people in my State. The Wisconsin highway system requires constant attention and repair, to offset the damage caused by harsh winters and hot summers. Every year during the appropriations process, I have worked to secure funding for ongoing projects critical to ensuring safe roads and a stable economy. I support the Senate's decision to pass a 6-year authorization. But not this bill. I cannot in good conscience support this bill, which represents an embarrassment to the Senate and a serious loss to my State.

Mr. BURNS. Mr. President, I thank the managers of this difficult bill for the hours and days of work that have gone into this bill. This legislation is the most difficult the Senate will deal with this year. It goes without saying that there are more moving parts of this bill and that's what makes it so difficult. It affects every State in the Union in important ways: infrastructure and jobs. Every Senator in this body knows and understands that. All of us here are in need of both and it affects rural and urban areas alike.

If I have learned anything during my tenure here, it is this: It is impossible to out build America's love for the automobile.

The Subcommittee on Communications of the Commerce Committee has looked at this along with the Subcommittee on Surface Transportation. We have spent hours discussing safety and efficiency. We have passed legislation in telecommunications making it easier to telecommute. The deployment of broadband Internet services is lagging due to several reasons, but it becomes vital to the easing of congestion found in our morning and evening commutes—labor and consulting laws to deal with the one who stays home two of the five working days and uses either the telephone or Internet to correspond and perform his or her office responsibilities. It is being done in Washington, D.C. as we speak.

Great strides have been made in telemedicine and distance learning using these new and exciting communications tools. What I am trying to say is simple. It is not just a highway bill to move people but to move people and commerce. It is just one more item that is the infrastructure to do many things. The Internet has allowed Montana to move closer to downtown Minneapolis-St. Paul, Chicago, Seattle, Denver, or San Francisco. For that matter, it has opened up the world and world markets to us in rural areas as never before.

Now why do you ask why Montana has a huge interest in our roads and highways? We still depend on our farm-to-market roads. We are at the end of the line for product and the head of the line for the natural resources that are in high demand in every corner of the Nation.

Here is the problem. It is a problem that has been dealt with by so many Senators and Congressmen in a fair way. Montana has only 28 people per lane mile on our Federal aid highways when the national average is 124. That is on Federal aid highways. In another area, our per capita income is below the national average. If that is not enough, rural Montana has long stretches, fewer people with smaller incomes. In fact, you have heard me use this expression a lot: "We have a lot of dirt between light bulbs." We also have ways of financing the modern day needs for modern day roads. We have huge holdings of federally owned lands—federally owned national parks, national forest lands, Indian reservations, and public lands. They all have transportation needs that are unique to their areas. .That limits our tax base, thus the need for some assistance in fulfilling the transportation needs for the entire country.

Overall, I am very supportive of the bill before us today, but I do have some concerns and issues I wish we had more time to deal with.

As the bill is written now, Montana would not receive funds under the impaired driving or occupant protection sections of this bill. I have two amendments that create a minimum guarantee to States such as mine that desperately need assistance is these areas. If it is a national program, then everyone should be able to access those funds. I understand the incentive-based approach my colleagues have written but creating programs that exclude some States is not the right direction.

Senator SHELBY did a great job, and I thank him for his work and assistance on rural transit. Even though Montana receives a 169 percent increase from TEA-21, it translates into modest dollars. Now here is my problem. We have an aging rural population. I have 14 counties that do not have a local physician. So routes taken in Montana must traverse these areas where we have modest ridership and long travel distances. These new transit funds will help us meet those needs.

While we are on the subject of mass transit, it is time to face the situation of Amtrak.

Let me state at this point that I have been and continue to be a supporter of Amtrak. With all its problems, all the bumps, scars, and warts, Congress has listened to our folks at home, and it is clear they want a national passenger system. It is costly. There are all kinds of studies and reports that one can draw from to deal with Amtrak, and I have yet to see any change in how it does business. We demagog the issue a lot and sometimes we see some attempt to change it but nothing that would change it drastically. We all demagog well, but we have shown no political will to change it. Regional needs and issues come front and center when we try.

There are those who think of Amtrak as a light rail commuter system, so the interest and money flows in that direction. It is the only national passenger railway system this country has. Let me repeat—it is the only national passenger system we have. If it takes money from the Federal Treasury to subsidize, then so be it. But if there are areas where it is being used as a local commuter service, then are the taxpayers of the Nation subsidizing a local problem?

Amtrak is just one of many important rail issues we should discuss today. When looking at rail policy, I believe it is important to consider the outlook of the rail customers along side that of the railroads, and those views are quite different.

In my State and many others across the Nation, we have the issue of captive shippers, and the economic impact to our States is no small item.

We have heard from more and more shippers about decreased transportation competitiveness and, as a result, increased transportation rates.

Let me give a quick description of what has happened in this country the last 20 or so years. In 1980, there were 40 class I railroads in this country. As a result, Congress passed the Staggers Act that year with the intent that regulation would be eased and competition would endure and drive the marketplace, ensuring rail rates would remain reasonable. Through regulatory involvement and a stifling amount of consolidation, we find ourselves with essentially four class I railroads today, two in the east and two in the west.

Together with Senators DORGAN and ROCKEFELLER, I introduced S. 919, the Railroad Competition Act of 2003 which is represented in several amendments before us today. Our intent is to correct the model and the economic structure that allows monopolistic behavior in the freight rail industry. Contrary to what you have heard from the railroads, there are no provisions in our amendments that are re-regulatory. The bill restates the original intent of the Staggers Act of 1980 which has been eroded by mergers and regulatory interpretation.

Our amendments will not penalize the railroads or create an environment where railroads cannot compete with other transportation modes. In fact, our amendments will create competition among our railroads improving transportation efficiencies in our economy. I am the last Member of Congress who would introduce a measure that would drive a railroad out of a local economy, simply due to the fact that my State of Montana is nearly entirely captive to one railroad.

The bottom line is the railroad industry in this country is allowed to legally operate in a business model that breeds monopolistic behavior.

Montana is a classic case of what happens to rail customers when you eliminate competitive transportation alternatives. Our rail rates are some the highest in the Nation and my shippers end up subsidizing rail rates in regions where competition is present. Our rail customers pay more for less service. The rail customers in regions with competitive alternative pay less and receive more service.

American agricultural shippers are the most vulnerable to predatory marketing by monopolistic practices of railroads. The farm producer, unlike every other industry in America, cannot pass the freight costs onto anyone else. They must simply eat the cost.

It has been 24 years since the enactment of the Stagger Act, and neither the marketplace nor the Surface Transportation Board has corrected the obvious monopolistic behavior of our railroads. I ask that my colleagues seriously consider the rail customer issues we have in this country.

Finally, I appreciate the hard work of the managers of this bill and their consideration for rural America. It is my hope we begin to move forward on the highway bill and I look forward to its timely passage.

Mrs. FEINSTEIN. Mr. President, I take a few minutes today to talk about the transportation reauthorization bill before the Senate and why it is so important that we deliver a strong, well-rounded bill to our States.

This bill authorizes the largest increase of funds for California over 6 years since I have been in the Senate. That increase is $6 billion for California roads over the next 6 years.

As a donor State, California sends more tax dollars to Washington, DC, than we receive back. This bill over the next 6 years would greatly improve that status.

For the first time, this bill brings California, and all donor States, to a 95 percent rate of return. California is currently at a 90 percent rate of return. In other words, for every dollar California sends to Washington, it gets back only 90 cents for maintenance and improvement of our highways This bill would allow California to receive 95 cents back on the dollar in the sixth year of the authorization of the transportation bill.

While that increase does not happen as quickly as I would like, this bill provides California with an overall $6 billion increase for important highway programs.

As a Californian, transportation is the backbone of our economy. California has two of the Nation's busiest ports—Los Angeles/Long Beach and Oakland, and California ports handle half of all cargo coming into the United States.

We need roads that are equipped to handle the flow of goods and the truck traffic that comes with it.

Mr. President, three-quarters of all goods shipped from California ports are now transported by truck along California roads. Roads that are in desperate need of repair. Thirty-seven percent of California road conditions are rated "poor." Only 11 percent of roads nationwide have that same rating. On the other hand, only 13 percent of roads in California have a "good" rating while 46 percent of roads nationwide have the same classification.

At the same time, travel on California roads increased 97 percent between 1980 and 2000, while population increased 42 percent in the same period.

We are all familiar with pictures of California gridlock. Cars sitting on our freeways, moving at a snail's pace.

The facts bear out the images. Los Angeles has had the worst traffic in the nation for 16 years in a row. San Francisco and Oakland are tied with Atlanta and Washington for second place. San Diego ranked sixth.

Traffic congestion in California costs motorists $20.4 billion annually in lost time and fuel.

All this in a State that has six nonattainment air quality areas, with 70 percent of the State in the reformulated gasoline program because our air is so dirty.

California needs an infusion of cash to pay for highway enhancements to allow an easier flow of traffic to reduce the amount of time trucks and cars are idling, increasing air pollution. That is just one step we can take to allow communities in my State to reach air quality attainment.

We also need money for public transit to reduce the amount of cars on the road, reducing air pollution, and decreasing the amount of time my constituents have to spend commuting every day.

California has some of the largest regional transportation systems in the country including the Bay Area Rapid Transit, BART, CalTrain, the rail service between San Francisco and San Jose, and Metrolink, Southern California's regional transit system.

My State is facing a crisis. Without Federal highway dollars my local communities will not be able to eliminate bottlenecks on our highways to improve air quality. As a result, they will be out of conformity with Federal air quality regulations, and will lose even more Federal highway dollars. This will become a never-ending cycle. Without money they can't conform, and without conforming they can't get money.

California also needs this bill for economic reasons. According to the Department of Transportation, each $1 billion in new infrastructure investment creates 47,500 new jobs: 26,500 of these are directly related to construction, engineering, contracting, and other on-site employees, and 21,000 are indirect jobs resulting from the spending associated with the investment.

We would not have to wait long to feel the benefits of this transportation bill. Transportation construction contractors hire employees within a few weeks of obtaining a project contract. These employees begin receiving paychecks within 2 weeks of hiring. In other words, if the bill is passed tomorrow, three weeks from now construction sites would be bustling with activity. We can't afford to delay.

In an economic recovery that has so far been jobless, the Federal Government must do what it can to create jobs.

Improving our transportation infrastructure is one of the critical things we can do to create all sorts of jobs.

According to the California Employment Development Department, job growth in the coming year in California will be a dismal 1 percent about 142,000 jobs in all—barely more than half the 10 year average.

California needs a robust transportation bill to help clean the air, ease congestion on the roads, and create jobs.

Mr. CHAMBLISS. Mr. President, today I rise in opposition to the final passage of S. 1072, the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, SAFETEA." However, this vote does not come without great difficulty, because I understand how vital this legislative package is to the transportation infrastructure of Georgia and the country as a whole.

I understand that the future growth of my state largely depends on a robust transportation program, particularly in Atlanta and its surrounding counties. Georgia's commuters are suffering from some of the most notorious congestion in the country and without the crucial funds from the reauthorization of the highway funding bill, the time they spend commuting will only get worse. I also clearly understand that the funding from this bill will be used for highway and transit projects that would greatly enhance the vast transportation infrastructure in Georgia. However, I believe that these improvements can be made in conjunction with sound fiscal policy.

Last year, in a vote that I did not support, the Senate moved to increase the contract authority in the budget resolution for transportation spending to $272 billion. The SAFETEA bill on the floor of the Senate today breaks this unprecedented level by further increasing the contract authority by $36 billion, this being an increase of 46 percent over the previous level. In other words, to pass the Senate's version of the SAFETEA legislation, the Senate will have to vote to set aside its own budget resolution. In addition, the legislation contains a significant funding gap between the desired spending levels and the anticipated transportation-related excise tax receipts. Simply put, the gas tax receipts used to finance most federal surface transportation projects will not keep pace with government spending. Over the next 6 years, the Congressional Budget Office projects that the gas tax receipts for highways and transit will generate roughly $233 billion—about $80 billion less than the contract authority provided in the SAFETEA legislation on the floor of the Senate. The Finance Committee has produced a plan to make up the difference in a series of revenue boosting maneuvers that simply move revenue generators out of general revenues into the Highway Trust Fund. However, at the end of the day when we realize that there just isn't enough money from the Highway Trust Fund to pay for this bill, inevitably, the burden will fall on the General Fund to make up the difference. The deficit will continue to grow and that is an option that I cannot support.

In this time of soaring budget deficits, we must hold the line on spending. We must draw a line in the sand and say that we will not continue to lay the burden of these ever increasing deficits on the shoulders of our children and our grandchildren, because they will pay the price of Congress's profuse spending habits. It is up to us to monitor ourselves and if we do not start by limiting the spending contained within this bill, the deficit will only increase. I am not willing to leave these problems to be dealt with by future generations. Our President has given us an amount that he would support for the cost of this highway bill. He has requested that we limit our spending to $256 billion to work with over the next 6 years. Even with this limitation, this figure represents a 21 percent increase over the Transportation Equity Act for the 21st Century (TEA-21), enacted in 1998. I believe that this rational increase would still have a positive effect on Georgia's transportation infrastructure, while doing significantly less damage to our Nation's economy.

I urge my colleagues who will be Senate conferees when this legislation moves to conference to pursue fiscal responsibility and work to reduce the total cost of this bill before the conference report returns to the Senate floor for final passage.

Mr. LEVIN. Mr. President, Michigan is a long time donor State that for 50 years or so has sent more gas tax dollars to the Highway Trust Fund in Washington than are returned back in transportation infrastructure spending.

The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, SAFETEA, addresses this inequity by returning more money to donor States which for years have seen a portion of their highway trust fund contributions shifted to "donee" States. These "donee" States have benefitted from antiquated Federal highway formulas which give them more Federal highway funding than they paid into the highway trust fund.

I have been fighting to correct the inequity faced by donor States like Michigan for decades. We have made some progress, but we won't be satisfied until we get the full return on our gas tax dollars after the costs of administering the program are allocated. For instance, in 1978, Michigan was getting somewhere around 75 cents on our gas tax dollar. The 1991 ISTEA bill brought us up to approximately 80 cents per dollar and the 1998 TEA-21 bill guaranteed a 90.5 cent minimum return for each State.

SAFETEA moves us in the right direction toward correcting the inequity in the distribution of highway funding. I cosponsored an amendment that would have, if adopted, provided additional funding to donor states to bring them more quickly to equity. While the inequity should be corrected immediately rather than gradually over the life of the 6-year bill, it is an important step forward that donor States will all achieve a 95 cent return by the sixth year of this bill, a level that is much better than in prior bills.

Under this legislation, Michigan will get more than $2.1 billion additional dollars over 6 years to pay for badly needed transportation infrastructure improvements. In all, under the formula portion of this bill, Michigan will get over $7.4 billion over 6 years which represents more than a 40 percent increase over TEA-21, plus additional funds from other sections of the bill.

Our Nation has significant infrastructure improvement needs. For instance, according to the Federal Highway Administration, FHWA, congestion at border crossings can lead to delays of over 80 minutes. The lost productivity from this congestion has a negative impact on the Nation's economy. It also causes environmental problems in the border regions. We need to get trucks and people across the borders more quickly and with greater safety.

I am pleased the bill managers have accepted my proposal to distribute funding for the bill's enhanced and expanded Border Planning, Operations, and Technology Program based on documented usage and trade flows at individual border crossings. Under my proposal, border infrastructure funding would be distributed using criteria that is based on the cargo weight, trade value and the number of commercial and passenger vehicles crossing the particular border. This means our Nation's busiest border crossings will get the Federal funding needed to improve this important economic infrastructure. Distributing the funds by this formula gives border projects more stability and predictability and is good public policy. It will also enhance U.S. economic activity and growth by facilitating the more efficient flow of goods, services and people at U.S. border crossings. Michigan, home to our Nation's top two commercial vehicle crossings on the northern border, the Ambassador Bridge in Detroit and the Blue Water Bridge in Port Huron, would receive approximately $204.5 million from this account over 6 years to improve its border infrastructure.

SAFETEA also makes an important change to the ethanol tax subsidy that will benefit my State of Michigan. At issue is the fact that the current ethanol subsidy comes at the expense of the highway trust fund and those States such as Michigan and Ohio that consume ethanol. Under current law, ethanol consuming States end up, under the formula, getting less back in federal highway funds. The Michigan Department of Transportation estimates that Michigan's annual revenue loss is $37 million a year in Federal aid because of the way the taxes on ethanol are credited.

To fix this, this bill shifts the cost of the ethanol tax subsidy from the highway trust fund to the general fund. Once ethanol taxes are credited at the same rate as gasoline, 18.4 cents a gallon compared to the current 13.2 cents a gallon on ethanol, for the purposes of calculating inputs into the highway trust fund, the highway trust fund will grow. So, too, will the size of Michigan's and other ethanol consuming States' contributions credited to the trust fund. The bottom line is with the ethanol fix, Michigan will receive more Federal highway dollars over the life of the 6-year bill.

This legislation provides $56 billion for mass transit over 6 years, a significant increase over the prior reauthorization bill. Under the transit title, Michigan would get $656 million over 6 years, an increase of $230 million or 53 percent over TEA–21. This moves us in the right direction on mass transit.

There are few Federal investments that will have such a large and immediate impact on job creation and economic growth than investments in our Nation's transportation infrastructure. The efficient functioning of our economy depends on a reliable multimodal interstate system that is made up of highway, bus, rail, shipping and air transportation. We need to maintain and improve these systems and we need to address the costs and frustration of increased traffic congestion. This bill goes a long way to improve the operation of our transportation system and to keep us competitive in a global marketplace.

The Federal infrastructure investment of $318 billion contained in this bill, while increasing the efficiency of our transportation system, will also spur the creation of thousands of jobs in every State across this Nation. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs. With Michigan standing to gain over $7.4 billion dollars over the 6-year bill, an increase of more than $2.1 billion over the last 6 years, this bill would mean almost 100,000 new jobs in Michigan and the retention of almost 250,000 jobs. These are good paying jobs and jobs that Michigan needs for economic recovery and to replace some of the jobs we have lost in manufacturing. These are jobs that we need in Michigan and throughout our country.

Mr. CRAIG. Mr. President, I wish to express my view regarding the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, SAFETEA, S. 1072.

This legislation reauthorizes our Nation's surface transportation, freight, and mass transit programs, which are so vital to the infrastructure of my State of Idaho and to the Nation. Idaho is considered a "donee" State, one that receives more Federal dollars from the Highway Trust Fund, HTF, than we contribute. This is due to the low population density, reduced tax base, and several miles of interstate that run throughout the State.

Thanks to the hard and careful work of my colleague, Senator CRAPO, who serves on both the Banking, Housing, and Urban Affairs committee and the Environment and Public Works committee, I believe Idaho has received fair and equitable treatment in this bill. I applaud the committee and especially Senator CRAPO for recognizing that large, rural States have to maintain the infrastructure that our farmers, long-haul truckers, tourists—and most important, our citizens—use every day.

However, Mr. President, I would like to voice my concern with the legislation now before us.

Last year the President proposed his version of SAFETEA to Congress. Both House and Senate committees of jurisdiction quickly began their work to forge a bill that addresses our Nation's needs. Although neither was successful in bringing the bill to the floor, after a year of work, the Senate will vote on our version of the bill today.

As I have seen it, the President's proposal would authorize $256 billion in highway and transit funding over 6 years. This is a $45 billion, or 21 percent increase from the 1998 reauthorization referred to as "TEA–21." The legislation before the Senate is calculated at a total cost of $318 billion, with $311 billion of the total amount under contract authority.

For obvious reasons, my concern is that this legislation sends the wrong signal to the American taxpayers. Before I go further, I must say that I strongly support the need to maintain and improve the infrastructure of this Nation. I also understand the impact this legislation has on creating jobs and its role in strengthening our economy, which continues to grow and expand.

The benefits of this bill are many, but I cannot support the funding levels proposed in this bill. Recently the Congressional Budget Office, CBO, predicted that the federal deficit will reach $477 billion this year. These figures are sure to fluctuate, but I think Congress must act responsibly by keeping spending under control.

The bill before the Senate is roughly $62 billion above the administration's request, and $24 billion over budget. We have already faced a motion to waive the budget today, which directly undermines the budget we all agreed to last year for FY2004.

It is a tough choice for me to oppose this bill. Thanks to the bill's managers, Idaho will greatly benefit from the formula's allocation for both our highway system and our transit needs. However, I cannot allow for future generations of Americans to pay for the fiscal irresponsibility of our actions now.

It is my hope that when this legislation is placed before a conference of the House and Senate, that common sense and fiscal responsibility prevails, and I will be able to cast a vote in favor of a final conference report.

Mr. GRASSLEY. Mr. President, I will respond to some criticisms of the Finance Committee package.

There is an allegation that the Finance Committee did not pay for this bill. Let me be clear. The Finance Committee adhered to the following principles in carrying out its responsibilities:

The Finance Committee funded the trust fund by increasing the amount of excise tax receipts retained by the trust fund.

The Finance Committee funded the bill at the outlay number—that is the cash flow impact on the trust fund. Some have pointed to obligations and contract authority numbers. Those numbers were not and are not relevant to the Finance Committee role. It is unfair to compare numbers for contract authority or obligation with receipts. That is apples and oranges. The Finance Committee matched receipts and outlays.

In accordance with Finance Committee members' desires, the deficit impact of matching receipts and outlays was offset with general fund revenue raisers. Those numbers match up.

That is the bottom line. The Finance Committee did its job.

I ask unanimous consent to have printed in the RECORD a summary of the Finance Committees funding title for the highway bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF FINANCE COMMITTEE FUNDING TITLE

Finance Committee jurisdiction extends to the highway use-related excise taxes, the highway trust fund, and the expenditure authority of the highway trust fund. The Finance Committee acted primarily on the cash flow into and out of the trust fund. Cash flow into the trust fund is represented by trust fund excise tax receipts. Cash flow out of the trust fund is represented by trust fund outlays. Matters involving contract authority and obligation limits are not Finance Committee subject matter and the committee did not speak to them.

According to the Congressional Budget Office, CBO, current law trust fund receipts will total $227.8 billion over the six year period. CBO projects $196 billion in highway account receipts and $31.8 billion in mass transit account receipts.

The authorizing committees' actions placed demands on the trust fund of $231 billion for highways and $36.6 billion for transit for the six year authorization period. That means a total of $267.6 billion in demands on the trust fund.

Prior to Finance Committee action, demands on the trust fund exceeded receipts by $39.8 billion over the 6-year period. To make up this funding gap, the Finance Committee developed two categories of proposals. The first category increased trust fund receipts by tightening compliance. The second category included accounting changes that raised trust fund receipts.

The compliance changes raised trust fund receipts by $5.6 billion over the authorization period. These changes were also scored as revenue raisers by the Joint Committee on Taxation. These proposals have no impact on the budget deficit.

The budget resolution assumes that 2.5 cents per gallon of gasohol receipts, currently held by the general fund, will be transferred to the trust fund. That transfer raises trust fund receipts by $5 billion over the authorization period. The Finance Committee also assumed that trust fund balances would be spent down by $7.5 billion over the authorization period. Adding all of these changes together with the compliance changes, the Finance Committee closed the gap by $18.1 billion over the authorization period. That left a funding gap of $21.7 billion.

The Finance Committee proposed to close this gap with a group of trust fund accounting changes. These proposals raise trust fund receipts by shifting the burden of tax policies from the trust fund to the general fund. In the view of Finance Committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund. Included in these proposals is a repeal of the partial exemption for ethanol-blended fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as state and local governments. Finally, the highway trust fund will earn interest on its balance, so that the highway and transit programs are not prejudiced. This second category of proposals closed the funding gap, but, without revenue offsets, would have increased the budget deficit by $21.7 billion.

Finance Committee members decided that this second category of proposals should not have a deficit impact. To this end, the Finance Committee title includes a group of loophole closers previously approved by the committee.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have printed in the RECORD a copy of Finance Committee staff prepared analysis. This analysis reconciles trust receipts and outlays. It also reconciles the deficit impact of the proposal with general fund revenue raisers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEA 21 Reauthorization bill funding projections, February 2, 2004

[In billions]

Highways:	
Contract Authority	255.0
Obligation Limitation	238.0
Commerce Obligation	6.5
Outlays	231.0
Amount needed to Fund EPW/Commerce Spending	231.0
Gas Tax Baseline—Projected Gas Tax Receipts	196.0
Additional Funding Needed	35.0
Revenues additions to Highway Trust Fund:	
Fuel Fraud Compliance and Mobile Machinery	5.0
2.5 gasohol	5.0
**5.2 Gasohol	9.0
**Interest on Trust Fund balance	2.0
**Gas Guzzlers	0.5
**Amend Fuel refund mechanism in IRC	8.0
Spend down partial Trust Fund balance	5.5
Additional Revenue for Highway Trust Fund	35.0
Transit:	
Baseline 2.86 cents from each gallon taxed	31.8
Spenddown of partial MTA balance	2.0
Fuel Fraud	0.6
**Interest on MTA	2.2
Total Transit from Trust Fund	36.6
**Revenue Offsets:	
Expansion of limitation on depreciation of autos	0.03
Tax Shelters/Corporate Governance	15.8
Enrol Tax Shelters	3.2
Expatriation	3.3
Total Offsets	22.3

Mr. GRASSLEY. There has also been some mention of the use of a provision accelerating the payment of corporate estimated taxes. The provision has been attacked as a "gimmick." It has been attacked as "funny money." The provision is fairly straight forward. It increases the payment of the third quarter corporate estimated tax deposits by 119% for 2009. This measure has the effect of shifting $11.4 billion from fiscal year 2009 to fiscal year 2010. It makes sure the bill will be offset for the five- and six-year periods.

Let the record reflect, Mr. President, that this technique and variations on it have been used frequently over the past decade. Most of the time these things were done without complaints from either side. Sometimes complaints were raised by those opposed to a particular bill on other substantive grounds.

Let's look at the history of enacted tax laws that contained these shifts.

In 1994, the Uruguay Round Agreements Act, that is, the landmark general agreement on tariffs and trade legislation contained several changes in payment dates for excise taxes. Check it out in section 712 of Public Law 103 415 of December 8, 1994. That legislation was overwhelmingly supported by both sides of the aisle.

In 1997, the Tax Relief Act of 1997 contained a change in the percentage for the "safe harbor" for payment of individual estimated taxes for 1998, 1999, 2000, 2001, and 2002. Check it out in section 1091 of Public Law 105 34 of August 5, 1997.

In 1998, the Trade and Tax Relief Extension Act of 1998 contained a change for the safe harbor for payment of individual estimated taxes. Check it out in section 2003 of Public Law 105–277 of October 21, 1998.

In 2001, the Economic Growth and Tax Relief Reconciliation Act of 2001, contained the much-criticized shift in corporate estimated tax payments. Check it out in section 801 of Public Law 107-16 of June 7, 2001.

In 2003, the Jobs and Growth Tax Relief Reconciliation Act of 2003 also contained the much-criticized shift in corporate estimated tax payments. Check it out in section 501 of Public Law 108 27 of May 28, 2003.

All of the laws mentioned above are major pieces of legislation. They were all bipartisan measures. All of them contained shifts in dates of payment of excise taxes, corporate taxes, or individual income taxes. Members should also be aware that these devices or similar devices were used in partisan bills by each side that did not become law. For example, the patients bill of rights legislation considered in the summer of 2001, contained a one day shift in Medicare provider payments. Some of the harshest critics of the corporate estimated tax shift were lead sponsors of that legislation.

Now, even though the corporate shift in this bill is a conventional practice, Senator BAUCUS and I agreed to delete it before this bill left the Senate floor. Our agreement is with Senators NICKLES and CONRAD. We will attempt to carry out our agreement but are subject to the cooperation of our colleagues.

Part of the legislative process is compliance with our budget rules. The Finance Committee offset its title over the five, six, and ten year period of the bill. Contrary to the critics' assertions, the corporate shift moved real money, corporate tax receipts, from one period to the other. I ask unanimous consent that a revenue table, prepared by the Joint Committee on Taxation, on the Finance Committee financing title, be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT COMMITTEE ON TAXATION
February 2, 2004
JCX-11-04

ESTIMATED REVENUE EFFECTS OF THE CHAIRMAN'S MODIFICATIONS TO THE "HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION ACT OF 2004," SCHEDULED FOR MARKUP BY THE COMMITTEE ON FINANCE ON FEBRUARY 2, 2004

Fiscal Years 2004 - 2013

[Millions of Dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
Trust Fund Reauthorization - Extension of Highway Trust Fund and Aquatic Resources Trust Fund Taxes (through 9/30/09) and Expenditure Authority (through 9/30/09) [1]	DOE	*No Revenue Effect*											
The "Volumetric Ethanol Excise Tax Credit ('VEETC') Act"													
A. Alcohol and Biodiesel Excise Tax Credit and Extension of Alcohol Fuels Income Tax Credit													
1. Provide excise tax credits for biodiesel used to produce a qualified fuel mixture [2] ($1.00/gallon for agribiodiesel and $0.50/gallon for biodiesel) (sunset 12/31/06) [3]	fsoua 9/30/04	—	-41	-57	-16	—	—	—	—	—	—	-114	-114
2. Provide excise tax credit (in lieu of reduced tax rate on gasoline) to certain blenders of alcohol fuel mixtures (sunset 12/31/10)	fsoua 9/30/04	*No Revenue Effect*											
3. Provide that all gasoline excise tax revenues are deposited in the Highway Trust Fund and all alcohol fuels excise tax credits are paid from the General Fund [4]	fsoua 9/30/04	—	—	—	—	—	—	—	1,131	1,559	1,586	—	4,276
4. Repeal reduced-rate sales of gasoline for blending with alcohol and reduced-rate sales of alcohol fuel blends	fsoua 9/30/04	—	23	25	24	24	24	24	23	23	22	96	212
5. Transfer full amount of alcohol fuel excise taxes to the Highway Trust Fund	fsoua 9/30/03	*No Revenue Effect*											
6. Extension of section 40 alcohol fuels income tax credit (sunset 12/31/10)	DOE	—	—	—	—	-6	-13	-15	-10	-3	—	-6	-47
7. Provide outlay payments (in lieu of excise tax credits and refunds) to producers of alcohol and biodiesel fuel mixtures and users of neat alcohol and neat biodiesel fuels:													
a. Outlay effects [5] [6]	fsoua 9/30/04	—	-105	-114	-116	-117	-119	-121	-38	—	—	-452	-730
b. Revenue effects	fsoua 9/30/04	—	105	114	116	117	119	121	38	—	—	452	730
8. Extension of temporary additional duty on ethyl alcohol (sunset 1/1/11) [7]	DOE	*Negligible Revenue Effect*											
B. Biodiesel Income Tax Credit - provide income tax credits for biodiesel fuel and biodiesel used to produce a qualified fuel mixture ($1.00/gallon for agribiodiesel and $0.50/gallon for biodiesel) (sunset 12/31/06) [3]	fpasoua 9/30/04	*Revenue Effects Included in Item #A.1.*											
Total of The "Volumetric Ethanol Excise Tax Credit ('VEETC') Act"		—	-18	-32	8	18	11	9	1,144	1,579	1,608	-24	4,327

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
Fuel Fraud Prevention Proposals													
A. Aviation Jet Fuel - taxation of aviation fuel at the rack	[8]	—	397	427	431	434	437	437	435	433	432	1,689	3,863
B. Dyed Fuel Proposals													
1. Elimination of manual dyeing of fuel	[9]	—	—	43	46	47	47	47	47	47	47	136	372
2. Elimination of administrative review for taxable use of dyed fuel	paa DOE						*Negligible Revenue Effect*						
3. Extension of penalty on untaxed chemically altered fuel mixtures	DOE						*Negligible Revenue Effect*						
4. Terminate the use of dyed diesel fuel by intercity buses	fsoua 9/30/04						*Negligible Revenue Effect*						
C. Modification of Inspection of Records Proposals													
1. Authority to inspect on-site records	DOE						*Negligible Revenue Effect*						
2. Assessable penalty for refusal of entry	10/1/04						*Negligible Revenue Effect*						
D. Registration and Reporting Requirements													
1. Registration of all pipeline or vessel operators required for exemption of bulk transfers; penalty on knowing transfers to nonregistered person; Secretary must publish list of registered persons [10]	10/1/04	—	116	124	125	126	127	128	128	128	128	492	1,130
2. Display of registration	10/1/04						*Revenue Effects Included in Item D.1.*						
3. Certain reports filed electronically; penalty for failure to report	10/1/04						*Revenue Effects Included in Item D.1.*						
4. Increased penalty for failure to register	pia 10/1/04	—	2	2	2	2	2	2	2	2	2	8	19
5. Registration of persons within foreign trade zones	10/1/04						*Revenue Effects Included in Item D.1.*						
6. Information reporting for persons claiming certain tax benefits	10/1/04						*Negligible Revenue Effect*						
E. Import Proposals													
1. Tax at point of entry where importer not registered	DOE	2	8	8	8	8	8	8	8	8	8	33	72
2. Reconciliation of on-loaded cargo to entered cargo	DOE						*Negligible Revenue Effect*						
F. Miscellaneous Proposals													
1. Tax on sale of diesel fuel whether suitable for use or not in a diesel powered vehicle or train	DOE						*No Revenue Effect*						
2. Limit ultimate vendor refund claims on sales of fuel used for farming purposes	fsfnua DOE						*Negligible Revenue Effect*						
3. Permit ultimate vendors to administer credits and refunds of fuel tax	10/1/04						*Negligible Revenue Effect*						
4. Two-party exchanges	DOE						*Negligible Revenue Effect*						
5. Modifications of tax on use of highway vehicles	tpba DOE [11]	143	119	122	124	126	129	129	131	133	135	635	1,292
6. Dedication of revenue from certain penalties to the Highway Trust Fund	10/1/04						*No Revenue Effect*						
7. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from the United States	sodma DOE						*No Revenue Effect*						
G. Total Accountability - taxation and reporting for blendstocks, transmix, and other products removed from terminals and refineries, including those in foreign trade zones	fsoua 9/30/04	—	100	106	107	108	108	108	108	107	107	421	958
H. Transfers from Airport and Airway Trust Fund to Highway Trust Fund	10/1/04						*No Revenue Effect*						
Total of Fuel Fraud Prevention Proposals		**145**	**742**	**832**	**843**	**851**	**858**	**859**	**859**	**858**	**859**	**3,414**	**7,706**

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
Definition of Highway Vehicle													
A. Exemption From Certain Excise Taxes for Mobile Machinery Vehicles	[12]	—	79	106	106	106	106	106	106	106	106	396	923
B. Modified Definition of Off-Highway Vehicle	[12]	*Negligible Revenue Effect*											
Total of Definition of Highway Vehicle		**[13]**	**79**	**106**	**106**	**106**	**106**	**106**	**106**	**106**	**106**	**396**	**923**
Excise Tax Reform and Simplification Proposals													
A. Highway Excise Taxes													
1. Repeal gas guzzler tax for limousines	DOE	-2	-4	-4	-4	-5	-5	-5	-6	-6	-7	-19	-48
2. Dedication of gas guzzler tax to Highway Trust Fund [14]	DOE	*No Revenue Effect*											
3. Repeal of 4.3-cent General Fund excise taxes on railroads diesel fuel and inland waterway fuel:													
a. Railroads	10/1/04	—	-139	-146	-149	-154	-158	-162	-166	-171	-175	-588	-1,420
b. Inland waterway	10/1/04	—	-11	-15	-15	-16	-16	-17	-17	-18	-18	-57	-143
B. Aquatic Excise Taxes													
1. Eliminate Aquatic Resources Trust Fund and transform Sport Fishing Restoration Account	10/1/04	*No Revenue Effect*											
2. LED devices exempted from sonar devices suitable for finding fish [15]	[16]	—	[17]	[17]	[17]	[17]	[17]	[17]	-1	-1	-1	-2	-4
3. Repeal of Harbor Maintenance tax on exports [7]	bo/a DOE	*Negligible Revenue Effect*											
4. Cap on excise tax on certain fishing equipment [18]	[16]	—	-3	-3	-3	-3	-3	-4	-4	-4	-4	-16	-31
5. Reduction in rate of tax on portable aerated bait containers [19]	10/1/04	—	[17]	[17]	[17]	[17]	[17]	[17]	[17]	[17]	[17]	[17]	-1
C. Aerial Excise Taxes													
1. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for certain fixed-wing aircraft	fuoata DOE	-2	-4	-4	-4	-4	-4	-4	-4	-4	-4	-18	-38
2. Modification of rural airport definition	4/1/04	-2	-3	-3	-3	-4	-4	-4	-4	-4	-5	-15	-36
3. Exemption from ticket taxes for transportation provided by seaplanes	ta 3/31/04	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-10
4. Certain sightseeing flights exempt from taxes on air transportation	[20]	-5	-6	-7	-7	-7	-7	-8	-8	-9	-9	-32	-72
D. Alcoholic Beverage Excise Taxes													
1. Repeal of occupational taxes relating to distilled spirits, wine, and beer	[21]	-66	-78	-78	-78	-78	-78	-78	-78	-78	-78	-378	-768
2. Suspension of limitation on cover over of rum excise tax revenues (maintain cover over at $13.25 per proof gallon and increase to $13.50 on 10/1/04) (sunset 12/31/05); require transfer to Puerto Rico Conservation Trust Fund	ablUSa 12/31/03 [22]	-67	-93	-22	—	—	—	—	—	—	—	-182	-182
E. Sport Excise Taxes													
1. Exempt custom gunsmiths from firearms excise tax [23]	[24]	[17]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-7
2. Modified taxation of imported archery products [25]	[26]	[17]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-8
3. Treatment of tribal governments as States for purposes of Federal wagering excise and occupational taxes	[21]	-1	-3	-3	-4	-4	-4	-4	-4	-4	-4	-14	-33

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
F. Other Proposals													
1. Income tax credit for distilled sprits wholesalers and for distilled spirits in control state bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits	tyba DOE	-4	-29	-33	-34	-35	-35	-35	-36	-36	-37	-135	-314
2. Credit for taxpayers owning commercial power takeoff vehicles (sunset 12/31/06)	tyba DOE	—	-25	-40	-14	—	—	—	—	—	—	-79	-79
3. Credit for auxiliary power units installed on diesel-powered trucks	ppaia DOE	-1	-1	-1	—	—	—	—	—	—	—	-3	-3
Total of Excise Tax Reform and Simplification Proposals		**-151**	**-402**	**-362**	**-318**	**-313**	**-317**	**-324**	**-331**	**-338**	**-345**	**-1,550**	**-3,197**
Miscellaneous Proposals													
A. Motor Fuel Tax Enforcement Advisory Commission	DOE	*No Revenue Effect*											
B. National Surface Transportation Infrastructure Financing Commission	DOE	*No Revenue Effect*											
C. Treasury Study of Fuel Tax Compliance and Interagency Cooperation	DOE	*No Revenue Effect*											
D. Funding for Studies of Supplemental or Alternative Financing for the Highway Trust Fund	DOE	*Estimate Will Be Provided by the Congressional Budget Office*											
E. Treasury Study of Highway Fuels Used by Trucks for Non-transportation Purposes	DOE	*No Revenue Effect*											
F. Delta Regional Transportation Plan [27]	DOE	*No Revenue Effect*											
G. Increase exclusion for employer-provided transit and vanpool benefits to $120 per month	bra DOE	-2	-9	-12	-12	-15	-17	-21	-22	-25	-27	-50	-162
Total of Miscellaneous Proposals		**-2**	**-9**	**-12**	**-12**	**-15**	**-17**	**-21**	**-22**	**-25**	**-27**	**-50**	**-162**
Proposals to Replenish the General Fund													
A. Expansion of Limitation on Depreciation of Certain Passenger Automobiles	ppisa 2/2/04	42	112	40	-52	-45	-43	-20	—	—	—	97	34
B. Proposals Designed to Curtail Tax Shelters													
1. Clarification of the economic substance doctrine and related penalty Proposals	Ta 2/2/04	341	1,163	1,282	1,156	1,197	1,323	1,472	1,673	1,906	2,172	5,140	13,686
2. Proposals relating to reportable transactions and tax shelters	[28]	30	76	119	120	124	131	139	150	164	179	469	1,232
3. Modification to the substantial understatement penalty	tyba DOE	—	—	7	15	23	26	30	34	38	38	45	211
4 Impose a civil penalty (of up to $5,000) on failure to report interest in foreign financial accounts	DOE	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	1	3
5. Actions to enjoin conduct with respect to tax shelters	DOE	*Negligible Revenue Effect*											
6. Understatement of taxpayer's liability by income tax return preparer	dpa DOE	*Negligible Revenue Effect*											
7. Frivolous tax submissions	[30]	3	3	3	3	3	3	3	3	3	3	15	30
8. Regulation of individuals practicing before the Department of Treasury	ata DOE	*No Revenue Effect*											
9. Extend statute of limitations for undisclosed listed transactions	[31]	—	—	1	1	1	1	1	1	1	1	3	8

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
10. Deny deduction for interest paid to the IRS on underpayments involving certain tax motivated transactions	tyba DOE	—	—	1	1	3	4	4	4	4	4	5	25
11. Authorize additional $300 million per year to the IRS to combat abusive tax avoidance transactions [32]	DOE	No Revenue Effect											
C. Other Corporate Governance Proposals													
1. Affirmation of consolidated return regulation authority	[33]	Negligible Revenue Effect											
2. Chief executive officer required to sign declaration as part of corporate income tax return	rfa DOE	Negligible Revenue Effect											
3. Denial of deduction for certain fines, penalties, and other amounts	generally apoia 4/27/03	176	10	10	10	10	10	10	10	10	10	216	266
4. Denial of deduction for punitive damages	dpoia DOE	10	29	30	31	32	33	34	35	36	37	132	307
5. Increase the maximum criminal fraud penalty for individuals to the amount of the tax at issue	uaoataoa DOE	—	—	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	5
6. Double certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements	oyo/a DOE	2	1	1	[29]	[29]	[29]	[29]	[29]	[29]	[29]	4	6
D. Enron-Related Tax Shelter Proposals													
1. Limitation on transfer or importation of built-in losses	Ta 2/13/03	128	123	136	149	164	180	198	218	240	264	700	1,800
2. No reduction of basis under section 734 in stock held by partnership in corporate partner	da 2/13/03	12	16	24	29	33	35	33	32	33	34	114	281
3. Repeal of special rules for FASITs	on 2/13/03	Negligible Revenue Effect											
4. Expanded disallowance of deduction for interest on convertible debt	diia 2/13/03	6	88	90	94	96	98	101	103	106	109	374	891
5. Expanded authority to disallow tax benefits under section 269	aa 2/13/03	3	9	10	10	11	11	12	12	13	14	43	105
6. Modification of interaction between subpart F and passive foreign investment company rules	[34]	23	15	8	4	5	6	8	10	12	15	55	106
E. Proposals to Discourage Expatriation													
1. Tax treatment of inversion transactions	[35]	172	137	140	168	202	242	290	348	418	493	819	2,610
2. Impose mark-to-market on individuals who expatriate	[36]	41	78	80	74	71	67	61	57	54	51	344	634
3. Excise tax on stock compensation of insiders in inverted corporations	generally 7/11/02	16	7	7	7	7	7	7	7	7	7	42	75
4. Reinsurance agreements	rra 4/11/02	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	2	5
F. Corporate Estimated Tax Payments Due July Through September of 2009 Increased to 119% of the Otherwise Required Amount	DOE	—	—	—	—	—	11,441	-11,441	—	—	—	—	—
Total of Proposals to Replenish the General Fund		**1,005**	**1,867**	**1,989**	**1,820**	**1,937**	**13,575**	**-9,058**	**2,697**	**3,045**	**3,431**	**8,620**	**22,320**
NET TOTAL		**997**	**2,259**	**2,521**	**2,447**	**2,584**	**14,216**	**-8,429**	**4,453**	**5,225**	**5,632**	**10,806**	**31,917**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

[Legend and Footnotes for JCX-11-04 appear on the following page]

Legend and Footnotes for JCX-11-04:

Legend for "Effective" column:

aa = acquisitions after
abiUSa = articles brought into United States after
apoia = amounts paid or incurred after
as = articles sold
ata = actions taken after
bo/a = before, on, and after
bra = benefits received after
da = distributions after
diia = debt instrument issued after
DOE = date of enactment
dpa = documents prepared after
dpoia = damages paid or incurred after
fpasoua = fuel produced, and sold or used, after
fsfnua = fuels sold for nontaxable use after
fsoua = fuel sold or used after
fuoata = fuel use or air transportation after
oyo/a = open years on or after
paa = penalties assessed after
pia = penalties imposed after
ppaia = property purchased and installed after
ppisa = property placed in service after
sodma = sales or deliveries made after
rfa = returns filed after
rra = risk reinsured after
ta = transportation after
Ta = transactions after
tpba = taxable periods beginning after
tyba = taxable years beginning after
tyba = taxable years beginning after
uaoataoa = underpayments and overpayments attributable to actions occurring after
30da = 30 days after

[1] The outlay effects of this provision will be estimated by the Congressional Budget Office ("CBO"). Aquatic Resources Trust Fund is to be restructured and the name changed under the Excise Tax Reform and Simplification Proposals, Item B.1. (Eliminate Aquatic Resources Trust Fund and transform Sport Fishing Restoration Account).

[2] Tax credits would be provided for on-road and off-road uses of biodiesel.

[3] This provision may also have indirect effects on Federal outlays for certain farm programs. Outlay effects will be estimated by the Congressional Budget Office.

[4] These effects result from application of the budget law for constructing CBO's baseline in the case of expiring excise taxes dedicated to trust funds. Under present law, the taxes on motor fuels dedicated to the Highway Trust Fund ("HTF") expire in 2005, and are assumed to be permanently extended in CBO's baseline, as required by budget law. The lower excise tax rates on alcohol fuels, which reduce revenue to the HTF, expire in 2007 and are also assumed to be permanently extended in CBO's baseline. The proposal would replace the lower excise tax rates on alcohol fuels with an excise tax credit that does not reduce revenue to the HTF and that expires in 2010. If this bill is enacted, CBO's subsequent baseline would not assume extension of the excise tax credit beyond its expiration because the requirement to assume extension only applies to excise taxes dedicated to trust funds. For purposes of this cost estimate, therefore, CBO assumes that the credit would expire as scheduled. This treatment generates changes in revenues and outlays beyond 2010.

[5] Estimate provided by the Congressional Budget Office. Negative numbers indicate an increase in outlays.

[6] The outlay payments for ethanol expire after December 31, 2010, and the outlay payments for biodiesel expire after December 31, 2006.

[7] Estimate provided by the Congressional Budget Office.

[8] Effective for aviation fuel removed, entered into the United States, or sold after September 30, 2004.

[9] Generally effective 180 days after the date on which the Secretary issues the regulations, which are required on or before June 30, 2004.

[10] Secretary must publish the list by June 30, 2004.

[11] The display and electronic identification device provisions are effective October 1, 2005.

[12] Generally effective after the date of enactment, except for fuel taxes, effective for taxable years beginning after the date of enactment.

[13] Negligible revenue effect.

[14] The gas guzzler tax, as amended, would generate between $71 million and $75 million per year in Federal tax receipts.

[15] Provision will result in a reduction in outlays of approximately $4 million over 10 years from the Sport Fish Restoration Trust Fund, successor to the Aquatic Resources Trust Fund.

[16] Effective for articles sold by the manufacturer, producer, or importer on and after October 1, 2004.

[17] Loss of less than $500,000.

[18] Provision will result in a reduction in outlays of approximately $52 million over 10 years from the Sport Fish Restoration Trust Fund, successor to the Aquatic Resources Trust Fund.

[19] Provision will result in a reduction in outlays of approximately $1 million over 10 years from the Sport Fish Restoration Trust Fund, successor to the Aquatic Resources Trust Fund.

[20] Effective with respect to transportation beginning on or after the date of the enactment, but shall not apply to any amount paid before such date.

[21] Effective on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

[22] The transfer to the Puerto Rico Conservation Trust Fund is effective October 1, 2004.

[23] Provision will result in a reduction in outlays of approximately $7 million over 10 years from the Federal Wildlife Restoration Fund.

[24] Effective for articles sold by the manufacturer, producer, or importer on or before the first day of the month beginning at least two weeks after the date of enactment.

[25] Provision will result in a reduction in outlays of approximately $9 million over 10 years from the Federal Wildlife Restoration Fund.

[26] Effective for articles sold by the manufacturer, producer, or importer after the date of the enactment.

[27] The proposal has outlay effects which will be provided by the Congressional Budget Office.

[Footnotes for Table #04-2 016 R are continued on the following page]

Footnotes for Table #04-2 016 R continued:

[28] Effective dates for proposals relating to reportable transactions and tax shelters: the penalty for failure to disclose reportable transactions is effective for returns and statements the due date of which is after the date of enactment, the modification to the accuracy-related penalty for listed or reportable transactions is effective for taxable years ending after the date of enactment; the tax shelter exception to confidentiality privileges is effective for communications made on or after the date of enactment, the material advisor and investor list disclosure proposals applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment; the failure to register tax shelter penalty applies to returns the due date for which is after the date of enactment; the investor list penalty applies to requests made after the date of enactment; and the penalty on promoters of tax shelters is effective for activities after the date of enactment.

[29] Gain of less than $1 million.

[30] Effective for submissions made and issues raised after the first list is prescribed under section 6702(c).

[31] Effective for taxable years with respect to which the period for assessing deficiencies did not expire before October 1, 2003.

[32] Estimate is subject to review by the Congressional Budget Office.

[33] Effective for all taxable years, whether beginning before, on, or after the date of enactment.

[34] Effective for taxable years of controlled foreign corporations beginning after February 13, 2003, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

[35] Effective for certain transactions completed after March 20, 2002, and would also affect certain taxpayers who completed transactions before March 21, 2002.

[36] Generally effective for U.S. citizens who expatriate or long-term residents who terminate their residency on or after February 2, 2004.

Mr. JEFFORDS. Mr. President, section 4(f) of the highway bill provides important protections for historic sites, parks, recreation areas, and wildlife and waterfowl refuges throughout the country. With the increasing demand for transportation projects, it is important that we not lose sight of our natural treasures. We need to balance the growing need for transportation with responsible stewardship of our history and natural resources.

In my State of Vermont, we have a wealth of history and natural beauty. To see the wildlife that populate the Missisquoi Wildlife Refuge or the covered bridges used by our forefathers is to experience a heritage that we all want preserved for future generations.

Section 4(f) has helped preserve these treasures. The Revolutionary War site at Fort Vehemence on Route 7 in Pittsford, Vermont, was avoided as a result of 4(f).

An excellent collection of historic metal truss bridges across the Connecticut River were rehabilitated, not replaced, as a result of 4(f).

A road in the Danville Historic District was narrowed in order to keep the historic characteristics of the historic village because of 4(f).

While constructing a new highway in Vermont, we have discovered a significant archeological site containing artifacts from Native Americans, providing us with a piece of history that until now was not known. By documenting this site, we will expand our knowledge of Vermont's Native Americans. Also, because of 4(f) protections.

An amendment to 4(f) is included in this legislation. The objective of this amendment is to allow transportation projects and programs to move forward more quickly, while maintaining the protections of 4(f). Those protections assure that there will be public notice and opportunity for public review and comment on proposed de minimis determinations for transportation projects, and that affected agencies will concur in the decision of the Secretary of Transportation that there will be no adverse impact on a historic site, recreation area, park, or wildlife or waterfowl refuge.

The amendment would require the Secretary of Transportation, when making a finding that a transportation project or program will have a de minimis impact, to consider all avoidance, minimization, mitigation, and enhancement measures that have been incorporated into the project. This provision allows project sponsors to incorporate environmentally protective measures into the project from the beginning, in order to support a finding of de minimis impact. These mitigation measures must be backed by enforceable agreements and post-construction monitoring of the effectiveness of these impact mitigation measures, with identified contingency measures to backstop the primary mitigation measures. In other words, the mitigation measures must be carried and be shown to have the intended impact. If they are not having the intended impact, other measures must be used to ensure no adverse impact.

In addition to the 4(f) provisions, this contains some modest, common-sense provisions to assure the transportation planners will consider the location of important habitat, wetlands and other natural resources at the earliest stages of planning for new roads.

These provisions will make project delivery faster and more efficient. Currently, transportation projects are often planned without detailed information on core conservation areas, sensitive resources or important habitat that might lie within the selected corridor. These conflicts do not come to light until the environmental review process, which then becomes more expensive and time-consuming as transportation and resource officials try to reconcile infrastructure and conservation activities.

These provisions will help transportation planners in avoiding unnecessary impacts on wildlife habitat and in mitigating for unavoidable impacts of a project.

These provisions encourage States to utilize available wildlife habitat data and maps to inform the long range transportation planning process. Planners would be able to identify potential concerns at the earliest stage of planning, when options for minimizing impacts are greatest and costs of doing so are lowest.

Over 200 Americans die each year in wildlife-vehicle collisions, many more are injured and more than 1 million animals are killed on our roadways everyday.

State and Federal agencies spend considerable time and money both protecting natural areas and building transportation infrastructure. Unfortunately, conservation and growth efforts often happen independently and then come into conflict during the permitting and construction phases of a transportation project. These investments need to be coordinated. If conservation efforts are taken into account at the earliest stages of transportation planning, both priorities can be realized, in less time and at less cost.

The most significant threat to the biodiversity of this country is habitat loss. However, thoughtful, forward-looking transportation planning can go a long way towards reducing negative impacts and mitigating for unavoidable impacts.

Over the next few decades, the decisions we make regarding highways and the ensuring loss of habitat will determine the fate of species and America's biodiversity. These provisions are aimed at helping to preserve that biodiversity through coordinated planning.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I congratulate the managers for their hard work and efforts. Following the vote, there will be no further votes until after the Presidents Day recess. Therefore, the next vote will occur on Tuesday, February 24. I will have more to say on the schedule before we close this evening. I do thank all Members for their cooperation over the last 2 weeks.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from Nebraska (Mr. NELSON) would each vote "yea."

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—76

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feinstein
Fitzgerald
Frist
Grassley
Harkin
Hatch
Hollings
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mikulski
Murkowski
Murray
Nelson (FL)
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—21

Alexander
Brownback
Chambliss
Craig
Ensign
Feingold
Graham (FL)
Graham (SC)
Gregg
Hagel
Hutchison
Kohl
Kyl
McCain
McConnell
Miller
Nickles
Santorum
Sessions
Specter
Sununu

NOT VOTING—3

Edwards
Kerry
Nelson (NE)

The bill (S. 1072), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. BOND. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INHOFE. Mr. President, I am going to make this very brief, but I do want to make a comment. This bill that we passed is a good bill. We heard all kinds of criticism. It is always difficult when you are dealing with formulas, but this is the first time in the history of this process that we have done it without going into something such as a minimum guarantee program that is purely political. I would like to have had all the States get up to 95 percent sooner. We just could not make it happen.

We have a safety portion of this bill that we never had before. We have environmental streamlining. I would have liked to have gone a lot further on that issue. Hopefully, we will be able to do it. Maybe we can do some good in conference. Nonetheless, we will get a lot more miles, literally, for the dollar than we ever have before.

I thank, one more time, Senator REID, Senator JEFFORDS, and Senator BOND. We worked very closely together. This certainly was not a partisan effort.

I thank our staffs, too. I am going to name my staff: staff director, Andy Wheeler; Ruth Van Mark; Marty Hall; James O'Keeffe; Nathan Richmond; Greg Murrill; Mitch Surrett; Laura Berry; Genevieve Erny; Frank Fannon, Angie Giancarlo; Loyed Gill; Ryan Jackson; Michele Nellenbach; John Shanahan; Jonathan Tolman; Brydon Ross; and Cori Lucero.

I say this very sincerely. I know it sounds mundane, but the public should know the hours people work up here on something like this. I am talking about all night long, several nights, and I just applaud them for doing it. I know other staff and Members have worked equally hard, so let me thank all of them for their dedication and the effort. I think we made history in terms of the length of time in which we were able to get a bill of this magnitude passed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first I want to commend my good friend from Oklahoma for all of the effort he put into this bill. I know, having been in the position of being the chairman at one time, the incredible effort that goes into the production of a bill of this size. I know what his staff did, and I will give my commendation to the staff as well.

I emphasize also the importance to the Nation. This is a jobs bill. In fact, there is no other jobs bill that will do so much for different workers of this Nation. Everyone benefits. Those who are in the manufacturing area of all the tools and equipment that are necessary to provide the work all benefit by the tremendous effort that goes into improving roads throughout this Nation. Also, there is a tremendous effort put into it which requires machinery. Therefore, the companies that make the machinery benefit with increased production, increased utilization of workers, right on down through to the people who do the minimal things which are also so very important.

As far as the staffs goes, I would like to thank the staff of the Environment and Public Works Committee, on both sides of the aisle, for their efforts.

From my staff, I thank Ken Connolly, Ed Barron, Jeff Squires, Erik Steavens, Liz Ryan, Alison Taylor, and Carolyn Dupree; Catharine Ransom, Jo-Ellen Darcy, and J.C. Sandberg with Senator REID's staff. Chairman INHOFE's staff, I would like to acknowledge and recognize Andy Wheeler, Ruth Van Mark, Marty Hall and James O'Keefe; from Senator BOND's staff, Ellen Stein and Trevor Blackann.

These staffers have made tremendous sacrifices, working long hours and many days, to bring about the fruition of this bill. We are all proud of it, and the country is going to be proud of it. The more they see of it, the more they will like it, and the more people will benefit from having better jobs.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I join in the commendations particularly to Chairman INHOFE of the Environment and Public Works Committee, and the ranking member, Senator JEFFORDS, and my cohort on the Transportation Subcommittee, Senator REID, who also had the double pleasure of being the floor manager and probably deserves a day off before he sees his new granddaughter.

I join also in thanking all of the staff, and I will submit their names for the RECORD. I want my colleagues to know I had a tremendous staff working with me. Trevor Blackann, Ellen Stein, Heideh Shahmoradi, Kent Van Landuyt, and John Stoody. It was a major effort. I think we have crafted a good bill. This was a group effort. I thank each for their very hard work and dedication.

Senator INHOFE's staff: Ruth Van Mark, James O'Keefe, Gregory Murrill, Andy Wheeler, Nathan Richmond, Mitch Surrett, Angie Giancarlo, Marty Hall, Michelle Nellenbach, Laura Berry, Brydon Ross, Cori Lucero, and John Shananhan.

Senator JEFFORDS' and Senator REID's staff: Ed Barron, J.C. Sandberg, Jeff Squires, Erik Steavens, Elizabeth Ryan, Ken Connolly, Jo-Ellen Darcy, Chris Miller, and Alison Taylor.

There are many provisions in this bill that make me proud to have been a part of drafting SAFETEA. Some of which include:

Safety. For the first time in our recent transportation legislation history, safety is given a prominent position, being elevated to a core program. We have accomplished this by providing much needed funding to reduce highway injuries and fatalities. I am pleased to say we have accomplished this without the use of mandates.

We have heard numerous testimony from the administration that nearly 43,000 people were killed on our roads and highways last year. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure, but also to the general safety and welfare of our constituents.

Equity. Our bill moves to carefully balance the needs of the donor States while also recognizing the needs of donee States. While many people did not think it was possible to achieve, all donor States will receive a 95 cent rate of return at least by 2009. I am anxious to return to my home State of Missouri and report that we will now receive 95 cents back on every dollar, each year of this Act.

Like many of the donor States, Missouri has some of the worst roads in the Nation and the second worst bridges in the Nation. This bill will allow Missouri, as well as the other States, to address many of the Nation's major transportation infrastructure needs.

Furthermore, I am proud to announce that all States will grow at not less than 10 percent over TEA–21.

I am very pleased to report that this bill follows the Bond/Reid amendment by providing a 31 percent increase in funding over TEA–21.

This bill also addresses several environmental issues by providing the necessary tools to reduce or eliminate unnecessary delays during the environmental review stage. Projects more sensitive to environmental concerns will move through a more structured environmental review process more efficiently and with fewer delays.

And most importantly, our comprehensive 6-year bill at $255 billion will sustain over 2 million new jobs. These funds will support the much-needed jobs and economic stimulus that our nation currently needs.

In closing, I want to again thank my colleagues, Senators INHOFE, JEFFORDS, and REID for their leadership and support in moving this vital piece of legislation that is focused on the needs of our Nation's transportation system. I also want to thank the other Members of the Senate for their overwhelming bipartisan support and helping move this bill forward.

The PRESIDING OFFICER (Mr. KYL). The assistant Democratic leader.

Mr. REID. Mr. President, I will be brief. I know the distinguished Senator from Georgia wishes to speak. We have spoken on the floor at some length over the last 2 weeks about the cooperation that bound the four of us together. It really has been one where we have grown closer as friends and Senators.

We have a lot more work to do on this bill. I want to again express my appreciation to the Senator from Oklahoma. We have both served in the House. We have been in the Senate for a long time. During the past year, I have gotten to know the distinguished junior Senator from Oklahoma and have developed a great deal of respect I did not have. The reason is that even though there are only 100 of us, on most occasions we do not work on a very close basis. We come through and vote, have committee hearings, and hear each other talk, but here we had no alternative but to sit down in the trenches and try to work out tremendous differences that we began with. We were able to do that.

Legislation is the art of compromise. Had Senator INHOFE stuck to his guns and I stuck to my guns, we would not have a bill. That is nothing bad. That is what legislation is all about, consensus building. I deeply appreciate the ability I have had to get to know my friend from Oklahoma much better.

I express my appreciation, of course, to my counterpart on the subcommittee, Senator BOND. I appreciate his good work. They both have excellent staffs. I have gotten to know them also.

Of course, Senator JEFFORDS and I, everyone knows of our close and longstanding relationship and how much we care about each other. I appreciate very much his work on this bill and his allowing me a little bit of freedom on a bill that normally but for the closeness of our relationship would not have occurred.

The other Senators have spoken about their staffs and how much they appreciate them and that they would submit the names for the RECORD and they ran off a lot of names. I have one staff person. No one knows this bill better than he does. No one knows the numbers better than he does. I am so well served by J.C. Sandberg. I appreciate so much the tireless efforts on his behalf. He was up until 3 in the morning this morning, last night, and many nights during the past 6 months. He has worked very long hours. I wish I could rattle off the names of lots of other people who worked with me on this bill, but the only person who did great work on my staff was J.C. Sandberg, which was exemplary. Not only has he rendered great service to me and the people of the State of Nevada, but I believe this entire country.

Also, my legislative director, Lisa Moore, has done good work. She has been around all the time helping J.C. and helping me, and I want her to know how much I appreciate her good work.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate now be in a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIVERSITY VISA LEGISLATION

Mr. CHAMBLISS. Mr. President, today I am introducing legislation to fix a problem some of my colleagues have experienced in serving their constituents. Immigration case work is one of the top issues my State offices handle on a regular basis. Occasionally, people who are in the country legally and playing by the rules can slip through the cracks as they wait on the immigration process to run its course. With the massive caseload handled by Immigration Services, there are bound to be mistakes and this legislation allows the agency to remedy those mistakes in the limited situation of the Diversity Visa Program.

The case of an Atlanta couple, Charles Nyaga and his wife Doin, recently came to my attention. Charles Nyaga, a native of Kenya, came to the United States with his family as a student in 1996. He is currently pursuing a master's degree in divinity.

In 1997, he applied for the fiscal year 1998 Diversity Visa Program and the Immigration and Naturalization Service selected him. In accordance with the diversity visa requirements, Nyaga and his wife submitted an application and a fee to adjust their status to legal permanent resident. A cover letter on the diversity visa application instructed Mr. Nyaga as follows:

> While your application is pending before the interview, please do not make inquiry as to the status of your case, since it will result in further delay.

During the 8 months the INS had to review his application, Mr. Nyaga accordingly abided by what the INS told him to do and never made any inquiry. He unfortunately never heard back. His valid application simply slipped through the cracks because at the end of the fiscal year Mr. Nyaga's application expired, although a sufficient number of diversity visas remained available.

Mr. Nyaga and his wife took their case all the way to the Eleventh Circuit Court of Appeals. In a decision last year, the court found that the INS lacks the authority to act on Mr. Nyaga's application after the end of the fiscal year, regardless of how meritorious his case is. The court even went so far as to note that a private relief bill is the remedy for Mr. Nyaga in order to overcome the statutory barrier that prohibits the INS from reviewing the case in a prior fiscal year. The U.S. Supreme Court recently refused to take up the case.

My legislation would overcome this statutory hurdle for Charles Nyaga, his wife, and others who are similarly situated. The legislation would give the Department of Homeland Security the opportunity to reopen cases from previous fiscal years in order to complete their processing. The bill would still give the Department of Homeland Security the discretion to conduct background checks and weigh any security concern before adjusting an applicant's status.

I look forward to working with my colleagues and with homeland security officials to pass this legislation this year. We must provide relief in these cases. I believe this targeted legislation strikes the proper balance to provide thorough processing of diversity visa applications while not compromising the Department's national security mission.

I yield the floor.

Mrs. MURRAY. Mr. President, I rise this evening to introduce an important piece of legislation called the Guard and Reserve Enhanced Benefits Act of 2004. This bill is at the desk.

I ask unanimous consent to add the following cosponsors: Senator LEAHY and Senator REID of Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 2068 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Rhode Island.

THE STATION NIGHTCLUB FIRE

Mr. REED. Mr. President, I rise today to recall one of the most tragic events in the history of the State of Rhode Island. It was almost 1 year ago, on February 20, 2003, that a devastating fire destroyed the Station nightclub in West Warwick, RI, killing 100 people and injuring nearly 300 more. The impact of this horrific incident on our small State is beyond measure, as most Rhode Islanders either suffered a direct loss, or knew someone who died or was injured in this blaze.

The first anniversary of the fire will bring back painful memories for many in our community. I want to express my heartfelt condolences to the families of those who perished and to let them know that our thoughts and prayers remain with them and with the survivors who continue to struggle with the physical and mental toll of this horrible event.

Looking back on the West Warwick fire and its aftermath also reminds us that it brought out the best in our people. In the first minutes and hours of this tragedy, our firefighters, police, and emergency medical personnel performed heroically under terrifying circumstances, as did many of the patrons who were at the scene and helped to save others. Nearby small businesses like the Cowesett Inn restaurant were turned into triage centers, and first responders from throughout southern New England descended upon West Warwick to do whatever they could to help.

I visited victims at all of our hospitals and in Boston as well. I was inspired by their courage and the extraordinary skill and compassion of countless doctors, nurses and health professionals.

As our Nation continues to fight the war on terror, the response to the West Warwick fire provides a good illustration of the progress we have made—and how far we have to go—in improving our emergency management capabilities. As the magnitude of the tragedy became known, the Rhode Island Emergency Management Agency and hospitals throughout southern New England activated emergency incident command systems, many of which were designed after September 11, 2001. The process of rescuing and treating victims, putting out the blaze, identifying bodies, accounting for the missing, providing crisis counseling for survivors put a tremendous strain on State and local agencies.

I have no doubt that Rhode Island's post-September 11 emergency management planning efforts, backed by Federal assistance programs through the new Department of Homeland Security, made a difference in responding to the West Warwick fire.

In the past year, Rhode Island's ability to respond to mass casualty events has been further improved with the help of Federal programs such as the State Homeland Security Grant Program, the Assistance to Firefighters Grant Program, Interoperable Communications grants, and the Department of Health and Human Services' bioterror response grants to hospitals. All told, Congress has provided more than $75 million to Rhode Island over the past 3 years for emergency management and terrorism prevention and response. Yet we continue to face tremendous challenges, and we need to do more.

I want to say a special word of thanks to my colleagues Senator GREGG and Senator HOLLINGS for their strong support in securing funding through the Department of Justice to reimburse State and local law enforcement agencies in Rhode Island for extraordinary expenses related to the fire.

The Station nightclub fire was a catastrophe. Fault will be appointed in the days ahead by the civil and criminal courts, but Rhode Island is already taking steps to ensure that a tragedy like this never happens again. The Rhode Island General Assembly passed the Comprehensive Fire Safety Act of 2003 to repeal the "grandfather" exemption from modern fire codes and require more sprinklers in places of public assembly, especially nightclubs. The law also bans pyrotechnics in most indoor venues and gives greater power to fire inspectors. The State fire marshal now faces the task of training the State's fire inspectors and meeting with businesses and institutions to explain how the code applied to individual buildings.

As State and local officials across the country reexamine their fire and building codes and step up enforcement of safety practices in public buildings, Congress should do everything it can to support this effort and to encourage both State and local governments and Federal agencies to adopt and strictly enforce the most current fire and building consensus codes. I was also proud to join my colleague Senator HOLLINGS in introducing the American Home Fire Safety Act—S. 1798—to require the Consumer Product Safety Commission to implement comprehensive fire safety standards for upholstered furniture, mattresses, bedclothing, and candles.

No one in Rhode Island will forget the tragic events of February 20, 2003, and I hope we will never forget the way Rhode Islanders came together in that dark hour to do whatever was needed to save lives and relieve the suffering of the victims. That generous spirit has continued. Over the past year, Rhode Islanders and Americans across the country have donated more than $3 million to the Station Nightclub Fire Relief Fund to help families affected by the tragedy, including children who lost parents in the fire.

We often hear that it is in times of crisis that a person's true nature is revealed. That standard applies to communities as well, and as we approach a painful anniversary that will again focus the world's attention on the sorrow and grief felt by so many Rhode Islanders, I believe the people of our State have much to be proud of for the way they responded to this tragedy. It is now our duty to do all that we can to make sure that no community ever again faces a catastrophe like this one.

I thank the Chair and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN BUDGET ISSUES

Mr. DASCHLE. Mr. President, 2 days ago I talked about the need to find a way to ensure that every American has access to health insurance and high-quality health care—and to counter the defeatism of some who suggest it isn't possible. As I said, the United States is the only industrialized country that has failed to achieve this goal. It is possible. It is a matter of political will, and we must show that we, as a Nation, have it.

Today I want to talk a little about a group of people who are counted among the insured in this country—Native Americans. They are counted among the insured, but the Government has failed utterly to deliver even basic health care to the vast majority of them.

Through treaty and statute, the Federal Government has promised health care to all Native Americans through the Indian Health Service. In fact, the Federal Government provides less than half what it would cost to provide basic clinical services to the current IHS user population.

Incredibly, the Federal Government spends twice as much per capita on medical treatment for Federal prisoners than it spends on treatment for Native Americans. Twice as much on Federal prisoners as Native American children.

Last year, and the year before that, I offered amendments to the budget resolution to make up the difference. During consideration of last year's budget resolution, we were two votes short of passing our amendment to add $2.9 billion in funding for IHS clinical services.

Every Democratic Senator voted for the funding; every Republican Senator voted against it. Republican leaders then offered an amendment to provide one-tenth of those funds—$290 million to the IHS. As meager as that increase was, it was welcome. Unfortunately, that amendment never made it through the conference with the House. Furthermore, when the Interior Appropriations bill was considered, the Republican support for that $290 million—their own proposal—had dried up.

This year, the President's budget does no better. The President's budget includes a $7 million increase for IHS clinical services—less than the cost of inflation, and about $3.4 billion short of what is needed to meet Native Americans' basic health care needs.

I have spoken many times on this floor about the "life or limb" test at the Indian Health Service. When funding is low—and that is pretty much all the time—treatment is rationed using the "life or limb" test.

If a Native American patient isn't at immediate risk of losing his or her life or a limb, then he or she is turned away. Of course, denying early treatment often leads to a worsening condition. Sometimes by the time their condition is bad enough to meet the "life or limb" test, the funding is simply gone.

People are suffering preventable long-term health effects, and even dying, because we—the U.S. Government—are failing to meet our responsibilities. Sometimes we grow numb to these realities.

We do not want to face them. We hear "life and limb test" and simply don't believe it. But this is the reality in Indian country. We have the power to fix it.

The Indian health care budget and the overall budget for Indian country were the subjects of discussion in several meetings I have had this week. Tuesday afternoon I met with, among others, John Yellow Bird Steele, president of the Oglala Sioux Tribe.

President Steele talked about what an affront to Indian country President Bush's fiscal year 2005 budget is. Inadequate funding for Indian health. Inadequate funding for Indian education. Inadequate funding for law enforcement. Inadequate for housing. There is only one area of the budget that was increased—the Department of the Interior's proposed reorganization of the Bureau of Indian Affairs and the Office of the Special Trustee that will oversee the Interior Department trust reform efforts.

This reorganization plan was given a 50 percent increase in the President's budget. One who hasn't heard much about the trust reform issue might think that should be welcome news. But the truth is that Indian tribes and trust account holders strongly oppose the reorganization plan. This plan has been pursued without proper consultation with Indian tribes and over the vehement objections of Indian tribes.

So this administration has dedicated wholly inadequate resources to Indian country and, in distributing those scarce resources, has devoted its only increase to a proposal that Indian people vehemently oppose. In the process, the administration has ignored the needs of Indian health, education, law enforcement, and every other major priority facing Indian tribes and Indian people.

Again, Indian country needs are not theoretical. They are real, everyday needs.

Tuesday President Steele and other representatives of the Oglala Lakota people talked to me about a few of them. They reminded me that Pine Ridge has four judges and two prosecutors to serve the entire reservation. BIA law enforcement funds cover the salaries of those two prosecutors for only 6 months of the year. Because the tribe's general fund is limited, it cannot make up the entire difference. This year, the prosecutors volunteered their time for 3 months of the year.

Pine Ridge has 2 troopers to cover its 1,800 miles of roads. When there is a car accident on one of those roads, more often than not, the troopers will not be able to respond. There are more unattended crashes on Pine Ridge than attended crashes. On Pine Ridge, the "first responders" are often the next people who happen to drive by.

Waste water systems are inadequate—some underground pipes date back to the 1800s. Housing is inadequate—some homes have no electricity or running water. As Cora Whiting, a tribal council member, said to me, "How many people in America are still living that way?"

Pine Ridge has an unemployment rate of 85 percent. Tribal leaders like President Steele and Cora Whiting know that the only way to improve that statistic is to bring economic development to the reservation. But it is impossible to attract businesses without the infrastructure necessary to support them. And we have a duty to help build it.

Yesterday I met with Chairman Harold Frazier of the Cheyenne River Sioux Tribe. We discussed many of these same issues. We talked about their unmet needs, and their story is all too close to that of Pine Ridge.

Their tribal court system is a perfect example. The Bureau of Indian Affairs' tribal priority allocations fund the Cheyenne River Tribal Court. This year, their funding is about $300,000 short of what they require to deliver the bare minimum of services. In essence, they have enough funds to pay salaries and benefits for an inadequate number of staff. They can pay for nothing else—no attorney fees, no supplies, no juror fees, nothing.

The Cheyenne River Sioux Tribe also faces some of the same infrastructure problems that the Oglalas and so many other tribes face. Water systems cannot maintain water pressure or support building upgrades that are essential to the provision of basic tribal services. And, of course, Chairman Frazier and I also talked at length about health care and the system that has failed them.

People tend to think of budgets as intellectual exercises—something that isn't binding or real. Even when we say we have balanced the budget—something we actually did in the 1990s—people tend not to believe it. And now that the failed fiscal policy of the last few years has turned projected surpluses into massive deficits, our credibility is even lower.

But budgets are not just numbers. They reflect choices about our priorities and our political will. They have real consequences for real people.

For several years, I have watched this administration and its allies defend tax cuts for the wealthy while they claim we "can't afford" to fund the Indian Health Service. We have borrowed money—from Social Security and other countries—to finance those tax cuts, but we have denied Indian children the health care that federal prisoners take for granted.

The fact that we choose to afford huge tax cuts for the wealthiest among us, or the construction of hospitals in Iraq, but choose not to afford health care or education or housing for Indian families is lost on no one in Indian country.

This budget isn't Indian country budget. It isn't America's budget. It is time to make our budget reflect America's true priorities, which are fair opportunities for every child in America, for their parents who work so hard to create a better life for them, and for their grandparents who deserve to retire with dignity.

That is the budget I'm going to be talking about and fighting for as this year unfolds.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REED. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERAN PATRIOT MAX CLELAND

Mr. REED. Mr. President, I rise to respond to a scurrilous attack against the patriotism of a friend and former colleague, Max Cleland. In a townhall.com column by Ann Coulter, which is described as a conservative news and information Web site, scurrilous, unprincipled attacks have been leveled against a patriot, a warrior, and a friend. I want to put my response in context.

I had the privilege of serving in the U.S. Army for 12 years on active duty. I did some challenging things there: qualified as an Army Ranger, paratrooper, commanded a company in the 82nd Airborne Division of paratroopers. But I am not a combat veteran. I did not serve in a combat zone. Max Cleland, and many, many others, did. There is a difference between those who wear the uniform of the United States and those who served in a combat situation, particularly a situation such as Vietnam.

The difference is that in that situation, more than any others, you live constantly with a sense of your own mortality. At any moment, through any fire or mishap, you could die or be seriously injured. At any moment, you could see people, your fellow soldiers, die from injuries. And for officers such as Max Cleland there is a special burden that goes along with leadership—not just officers but also noncommissioned officers. You have to make tough decisions that some day could result in the death or injury of another. That is a very special type of service that is inherent in being in a combat zone.

Max Cleland served with distinction. The article that Miss Coulter wrote mocks his service, mocks his sacrifice, and, in doing so, mocks the service and sacrifice of thousands and thousands of Americans in the past and today across the globe.

For example, this is how she describes Max in some respects. In her words:

> Moreover, if we're going to start delving into exactly who did what back then, maybe Max Cleland should stop allowing Democrats to portray him as a war hero who lost his limbs taking enemy fire on the battlefields of Vietnam.

Let's get one thing straight right now: Max Cleland is an American hero.

Let me read from the citation he received for the Silver Star, obtained from Senator MILLER's Web site.

> Captain Cleland distinguished himself by exceptionally valorous action on 4 April, 1968 . . . during enemy attack near Khe Sanh.
>
> When the battalion command post came under a heavy enemy rocket and mortar attack, Captain Cleland, disregarding his own safety, exposed himself to the rocket barrage as he left his covered position to administer first aid to his wounded comrades. He then assisted in moving the injured personnel to covered positions.
>
> Continuing to expose himself, Captain Cleland organized his men into a work party to repair the battalion communications equipment, which had been damaged by enemy fire.
>
> His gallant action is in keeping with the highest traditions of the military service, and reflects great credit upon himself, his unit, and the United States Army.

Max Cleland is a hero. No one has to portray him as one; he is one.

With respect to how he lost his limbs, this goes on to say:

> Cleland lost three limbs in an accident during a routine noncombat mission where he was about to drink beer with friends. He saw a grenade on the ground and picked it up. He could have done that at Fort Dix. In fact, Cleland could have dropped a grenade on his foot as a National Guardsman—or what Cleland sneeringly calls "weekend warriors." Luckily for Cleland's political career and current pomposity about Bush, he happened to do it while in Vietnam.

Yeah, Max was really lucky to be in Vietnam—really lucky.

This is what happened. In Max's book:

> My tour of duty in Vietnam was now almost over. In another month I'd be going home. I smiled, thinking of the good times waiting stateside.
>
> "Oh, Captain Cleland."
>
> I looked around. It was Major Cralle who had come up to our position. "The battalion needs a better radio hookup with the vision supply area," he said. "I'd like you to send a radio relay team back there to improve communications."
>
> That meant setting up a radio relay station on a hill back at the division forward assembly area 15 miles to the east. Instead of sending a team alone, I decided to go with them to ensure they got set up properly.

It is what is called leadership, sacrifice, being willing to do yourself what you ask subordinates to do. That is not routine anytime. This was a combat mission in a combat area.

> With two men, I pulled together some antennas and a generator and some radios and loaded them on a chopper. The three of us climbed in and the helicopter lifted off. Within minutes, we had settled down by the radio relay station. The men and equipment were unloaded, and I climbed back into the chopper intending to go down to battalion rear headquarters.
>
> Then two ideas crossed my mind. First, it would be better to work personally with my team in setting up the radio relay. Second, I had a lot of friends at this relay station and now was a good time to have a cold beer with them.

First: I want my men to do the job. I am going to be there with them. By the way, I have comrades that I have served with and, you know, if I have a chance to be with them, and, oh, by the way—in his characteristic honesty—have a beer with them, I was going to do that.

> I called to the pilot that I was getting out. He nodded and held the ship steady. I jumped to the ground, ran in a crouch until I got clear of the spinning helicopter blades, turned around and watched the chopper lift.
>
> Then I saw the grenade. It was where the chopper had lifted off.
>
> It must be mine, I thought. Grenades had fallen off my web gear before. Shifting the M-16——

Let me stop. I assume if he is carrying grenades and an M-16 this was not a recreational activity.

> Shifting the M-16 to my left hand and holding it behind me, I bent down to pick up the grenade.
>
> A blinding explosion threw me backwards.
>
> The blast jammed my eyeballs back into my skull, temporarily blinding me, pinning my cheeks and jaw muscles to the bones of my face. My ears rang with a deafening reverberation as if I were standing in an echo chamber.
>
> Memory of the firecracker exploding in my hand as a child flashed before me.
>
> When my eyes cleared I looked at my right hand. It was gone.

I could go on, but I think that speaks volumes. Max thought, frankly, that it was his grenade. But regardless of whose grenade it was, I was always taught, as a leader, that if there was a grenade, a live grenade, somebody has to take care of it.

Now, maybe Miss Coulter would have simply said: Sergeant, go get that grenade—or maybe just turned around and run further away, leaving a live grenade, with a pin or without a pin, in the middle of a landing zone.

Max did what a good soldier does. We used to say at West Point: A good soldier marches to the sound of guns. And that is what he did when he picked up the grenade. He was horribly wounded. Everything was broken except his spirit.

But the fear that it was his grenade, that it was a dumb accident, was allayed years later. This is an article in Esquire magazine:

> He lives with the fact that he asked for it. He was in college during Vietnam and left to join the Army because he'd always gone toward the action.

"March to the sound of the guns."

> He became the aide to a general stateside and fought to get shipped to 'Nam.

He fought to go to Vietnam.

> Once in country, he was an army captain and saw little combat and fought to be sent into Khe Sanh.

Closer to the action—

> And when Khe Sanh was over and they were mopping up, he almost bought the farm.
>
> For thirty-one years, he figured it was his fault. Before he jumped out of the chopper, he'd checked his grenades to make sure the pins that activated them were bent and could not accidently fall out. Straight pins can get you killed. The next thing he knew, he was on the ground and saw a grenade beneath him. And then for thirty-one years he heard that explosion and thought, "I've blown myself up with my own grenade." He got decorations but would have none of them, because to Max Cleland they sure . . . didn't cover a man who blows himself up. Then, this spring—

This was August 1999—

> He was on a television show and told his story about that day at Khe Sanh, and later a guy called up and said, Hey, I was there, it wasn't your grenade, I saw it. And Cleland checked the caller out, and it seems the guy really was there. And this year—

In 1999—

> Max celebrated Being Alive Day with him down in Georgia.

This is not an accurate portrayal of the service and sacrifice of Max Cleland. It is unprincipled and scurrilous. It defames him, and it defames people who wear the uniform of the United States.

She is not through yet:

> Cleland wore the uniform, he was in Vietnam, and he has shown courage by going on to lead a productive life. But he didn't "give his limbs for his country," or leave them "on the battlefield." There was no bravery involved in dropping a grenade on himself with no enemy troops in sight. That could have happened in the Texas National Guard——

There is plenty of bravery there, the bravery of leading men in difficult circumstances, in the sight of the enemy or out of the sight of the enemy. It was the bravery of understanding instinctively that you could not leave a live grenade rolling around in a landing zone. It was the bravery of being willing to be with his men even though he could have easily dropped them off, waved from the helicopter, and flown off to a happy life, 1 month before his return to the United States.

It disturbs me about Max, but Max is quite a man. But this also disturbs me about—what does it say about our soldiers today in Iraq, about the soldiers I visited, National Guardsmen and regular soldiers, at Walter Reed, who were injured, critically injured, in vehicle accidents and other mishaps that are part of a combat operation?

They did not sacrifice their limbs and their spines for our country? Is that what she is saying? Is that what we are going to say when we pat them on the back and say thanks for your service? There are no excuses for this kind of unprincipled attack on an individual, unsubstantiated by the record, an attack, as I say again and again, not only denigrates Max Cleland, it denigrates everyone who wore the uniform of the United States and wears it today. It denigrates particularly those individuals—and I must again emphatically say, I did not serve in combat—but those individuals who today serve in a combat area, who wake up every morning thinking it may be their last moment, who wake up every morning thinking that they may have to order people to do things that will cost them their lives.

It is an experience that I have not known, very few people in this Chamber have known. It is the mark of true heroism and courage, and day in and day out men like Max Cleland do it. And to suggest that he is not a hero, to suggest that his sacrifice was some type of stunt gone bad, some type of foolishness is beneath contempt.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I commend the distinguished Senator from Rhode Island for his powerful words and for sharing his insights with us on this extraordinary demonstration of verbal violence. He has laid out the record very well.

I am appalled that anybody could say the things that the Senator from Rhode Island has now reported having been said by Miss Coulter. I thank him for setting the record straight.

I would take it one step further. I think Miss Coulter owes Max Cleland an apology, and every other veteran in this country an apology. For anyone to say that somebody could possibly be lucky to experience the explosion of a grenade in Vietnam, that somehow that is lucky, just defies all common sense, all decency, any appreciation for the magnitude of the sacrifice given by any veteran under any circumstances.

She ought to apologize. She ought to be ashamed. How low does political discourse in this country have to go before somebody says "enough"? How could you possibly say things like this for political gain, recognizing that this isn't just an affront to one soldier but to all soldiers? To minimize sacrifice, and to minimize the extraordinary circumstances of one's life as a result of that sacrifice, is just inexplicable.

I am grateful to the Senator from Rhode Island for his passion, his words, and for the effort he has made tonight to set the record straight.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PACKAGE CONSIDERATION

Mr. FRIST. Mr. President, I want to take a minute to let colleagues known what the Democratic leader and I have discussed with respect to consideration of an energy package.

The Chairman of the Energy Committee has been working hard, along with others, to put together a slimmed-down energy package that addresses some of the concerns that members of the Senate had with the conference report last fall. While there was some interest in addressing energy amendments on the highway bill, the Democratic Leader and I agreed that we will instead consider energy separately from highways.

Under this agreement, I will Rule 14 an energy package and put it before the Senate in an expeditious way. We will consider it as quickly as possible, in a constrained manner, with as few amendments as possible. Senator DASCHLE and I will seek to get an agreement to limit amendments, but if that is not possible, we understand that it my be necessary to file cloture to move the process along. The goal would not be to preclude any Member's right to offer an amendment, but to ensure that the Senate has an opportunity to decide: do we want to consider a slimmed-down energy package, or not?

So, for the information of colleagues, that is how Senator DASCHLE and I have agreed to handle energy issues in the immediate future. I would now yield to the Democratic leader for his comments.

Mr. President, this is indeed how the Majority Leader and I have agreed to proceed with respect to the consideration of an energy package.

I believe this is the most appropriate way to proceed, and I appreciate working with the Majority Leader to reach this understanding.

THE DEFICIT OF DECENCY

Mr. MILLER. The Old Testament prophet, Amos, was a sheep herder who lived back in the Judean hills, away from the larger cities of Bethlehem and Jerusalem. Compared to the intellectual urbanites like Isaiah and Jeremiah, Amos was just an unsophisticated country hick. But Amos had a unique grasp of political and social issues, and his poetic literary skill was among the best of all the prophets.

That familiar quote of Martin Luther King, Jr.:

> Justice will rush down like waters and righteousness like a mighty stream. . . .

Those are Amos's words.

Amos was the first to propose the concept of a universal God and not just some tribal deity. He also wrote that God demanded moral purity, not rituals and sacrifices.

This blunt-speaking moral conscience of his time warns, in Chapter 8, verse 11 of the Book of Amos, as if he were speaking to us today:

> The days will come, sayeth the Lord God, that I will send a famine in the land. Not a famine of bread or of thirst for water, but of hearing the word of the Lord.
>
> And they shall wander from sea to sea and from the north even to the east. They shall run to and fro to seek the word of the Lord, and shall not find it.

"A famine in the land," has anyone more accurately described the situation we face in America today? A famine of "hearing the word of the Lord." Some will say Amos was just an Old Testament prophet who lived 700 years before Christ.

That is true. So how about one of the most influential historians of modern times, Arnold Toynbee, who wrote the acclaimed 12-volume "A Study of History." He once declared:

> Of the 22 civilizations that have appeared in history, 19 of them have collapsed when they reached the moral state America is in today.

Toynbee died in 1975, before seeing the worst that was yet to come. Yes, Arnold Toynbee saw the famine, "the famine of hearing the word of the Lord," whether it is removing a display of the Ten Commandments from a courthouse or of a nativity scene from a city square, whether it is eliminating prayer in the city schools or eliminating "under God" in the Pledge of Allegiance, whether it is making a mockery of the sacred institution of marriage between a man and a woman, or, yes, telecasting around the world made-in-the-USA filth masquerading as entertainment.

The culture of far left America was displayed in a startling way during the Super Bowl's now infamous half-time show, a show brought to us on behalf of the Value-Les Moonves and the pagan temple of Viacom-Babylon.

I asked the question yesterday: How many of you have ever run over a skunk with your car? I know the President has, somewhere over there around Frog Hollow. I have, many times. I can tell you that the stink stays around for a long time. You can take the car through a carwash and it is still there. So the scent of this event will long linger in the nostrils of America.

I am not talking just about an exposed mammary gland with a pull-tab attached to it. Really, no one should have been too surprised with that. Wouldn't you expect a bumping, humping, trashy routine entitled "I'm Going To Get You Naked" to end that way?

Does any responsible adult ever listen to the words of this rap-crap? I would quote you some of it, but the

Sergeant at Arms would throw me out of this Chamber, as well he should.

Then there was that prancing, dancing, strutting, rutting guy, evidently suffering from jock itch because he kept yelling and grabbing his crotch. But, then, maybe there is a culture of crotch grabbing in this country I don't know about. But as bad as all that was, the thing that yanked my chain the hardest was seeing this ignoramus with his pointed head stuck up through a hole he had cut in the flag of the United States of America, screaming about having "a bottle of scotch and watching lots of crotch."

Think about that. This is the same flag to which we pledge allegiance. This is the same flag that is draped over coffins of dead young uniformed warriors, killed while protecting Kid Crock's boney butt. He should be tarred and feathered and ridden out of this country on a rail. You talk about a good reality show? That would be one.

The desire and will of this Congress to meaningfully do anything about any of these so-called social issues is nonexistent and embarrassingly disgraceful. The American people are waiting and growing impatient with us. They want something done.

I am pleased to be a cosponsor of S.J. Res. 26, along with Senator ALLARD and others, proposing an amendment to the Constitution of the United States relating to marriage; and S. 1558, the Liberties Restoration Act, which declares religious liberty rights in several ways, including the Pledge of Allegiance and the display of the Ten Commandments.

Today, I join Senator SHELBY and others with the Constitution Restoration Act of 2004 that limits the jurisdiction of Federal courts in certain ways.

In doing so, I stand shoulder to shoulder, not only with my Senate cosponsors and Chief Justice Roy Moore of Alabama, but more importantly with our Founding Fathers in the conception of religious liberty and the terribly wrong direction our modern judiciary has taken us.

Everyone today seems to think the U.S. Constitution expressly provides for separation of church and state. I guess you could ask any 10 people if that is not so and I will bet you most of them will say, well, sure that is so. And some would point out that is in the First Amendment.

Wrong. Read it. It says:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Where is the word "separate"? Where are the words "church" and "state"? They are not there; never have been, never intended to be. Read the CONGRESSIONAL RECORD during the 4-month period in 1789 when the amendment was being framed in Congress. Clearly their intent was to prohibit a single denomination in exclusion of all others, whether it was anglican or Catholic or some other.

I highly recommend a great book entitled Original Intent by David Barton.

It really gets into how the actual Members of Congress, who drafted the First Amendment, expected basic Biblical principles and values to be present throughout public life and society, not separate from it.

It was Alexander Hamilton who pointed out that "judges should be bound down by strict rules and precedents, which serve to define and point out their duty."

"Bound down." That is exactly what is needed to be done. There was not a single precedent cited when school prayer was struck down in 1962.

These judges who legislate instead of adjudicate do it without being responsible to one single solitary voter for their actions.

Among the signers of the Declaration of Independence was a brilliant young physician from Pennsylvania named Benjamin Rush.

When Rush was elected to that First Continental Congress, his close friend Benjamin Franklin told him "We need you . . . we have a great task before us, assigned to us by Providence."

Today, 228 years later there is still a great task before us assigned to us by Providence. Our Founding Fathers did not shirk their duty and we can do no less.

By the way, Benjamin Rush was once asked a question that has long interested this Senator from Georgia in particular. Dr. Rush was asked, Are you a democrat or an aristocrat? And the good doctor answered, "I am neither". "I am a Christocrat. I believe He, alone, who created and redeemed man is qualified to govern him."

That reply of Benjamin Rush is just as true today in the year of our Lord 2004 as it was in the year of our Lord 1776.

So, if I am asked why—with all the pressing problems this Nation faces today—why am I pushing these social issues and taking the Senate's valuable time, I will answer: Because, it is of the highest importance. Yes, there is a deficit to be concerned about in this country, a deficit of decency.

So, as the sand empties through my hourglass at warp speed—and with my time running out in this Senate and on this Earth—I feel compelled to speak out for I truly believe that at times like this, silence is not golden. It is yellow.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment the Senator from Georgia, Senator MILLER, for his statement and for his outrage over some of the decline in morality which was evidenced by not only by Super Bowl halftime but also by the Supreme Court decision just made in the State of Massachusetts where basically four individuals tried to legalize same-sex marriage. It was not a vote of the people.

IMMIGRATION REFORM, GUEST WORKERS, AND AGJOBS

Mr. CRAIG. Mr. President, this afternoon the Judiciary Committee's Immigration and Border Security Subcommittee, on which I serve, held an important hearing on immigration and guest worker reform. The hearing focused on broad issues related to temporary guest worker, and especially on the framework for reform proposed recently by the President of the United States. Our chairman, the Senator from Georgia, Mr. CHAMBLISS, also welcomed statements from several Senators who have introduced bills in this area.

Before this President came into office, the Federal Government led the way as our Nation remained in denial, ignoring both the rapidly growing number of undocumented persons in this country and the increasing dependence of critical sectors of our economy on undocumented workers. Some would say, with justification, that the Nation actually spent the last four decades looking the other way.

Then, a real wake-up call came on September 11, 2001, on the need to manage our borders effectively, and of the failure to do so for many years before.

In the last 2½ years, we have made progress. President Bush has demonstrated tireless leadership on and since September 11. The new Department of Homeland Security has been established to bring rationality to our border, immigration, and homeland security efforts. With the hard work of the administration, our men and women in uniform, and the Congress, our borders are more secure and our homeland is safer.

However, a lot of work remains to be done, as recognized at this hearing.

The President has proposed a framework for guest worker reform. I applaud the administration's repeated assurance that it is not taking any position on any one bill and has no intention to preclude any bill. The President has said he wants to work out the details with Congress, and we are ready to work with him.

I also appreciated the opportunity to highlight the fact that one bill already introduced in Congress is ready to move. We have a vehicle ready to road-test key principles in the President's framework. I also believe this bill is consistent with the broad goals and principles of several of our other colleagues who have introduced broad reform bills.

That bill is AgJOBS—the Agricultural Job Opportunity, Benefits, and

Security Act, introduced as S. 1645 and HR 3142. The ranking member of the Immigration Subcommittee, the Senator from Massachusetts, Mr. KENNEDY, is the bill's other principal sponsor in the Senate. The principal difference from other bills is that AgJOBS deals with one industry—agriculture.

AgJOBS is a thoroughly-developed product, fitted for the unique needs of agriculture. It represents more than 7 years of work on these issues. It reflects 4 years of tough, bipartisan negotiations. A majority of the Senate are now cosponsors.

This bill gives us the opportunity to use reform in agriculture as the demonstration program that will help us work out the details, anticipate challenges, prevent problems, and fine-tune the mechanics of an economy-wide reform package down the road.

Agriculture also has a unique history of guest worker programs and migrant employment. We have the necessary data and experience to draw on. There is no doubt in the minds of most of us that there really are few American citizens today who want to work, on a seasonal and migrant basis, at the hard physical labor of agriculture. In contrast, in some other industries, there remains the controversy over the availability of willing and qualified domestic workers and concern about their displacement by guest workers.

Agriculture is the industry most impacted by dependence on undocumented workers—not by anyone's design, but by circumstance and necessity. The government's own data—based, incredibly, on self-disclosure by workers, themselves—indicates that more than half of the agricultural work force is undocumented. Responsible private estimates run as high 75 to 85 percent. Farmers are going out of business today because they cannot find legal workers at the times they are needed.

With AgJOBS, we could begin immediately to improve our homeland security—and especially ensure the safety and security of our food supply—by knowing who is planting and harvesting our crops, where they came from, and where they are working.

With AgJOBS, we do not need to wait to start putting an end to the inhumane risks and exploitation suffered by these most vulnerable of workers. Every year, more than 300 persons die in the desert, or in boxcars, or being smuggled in other hazardous transportation. That is not tolerable in a humane society.

AgJOBS takes the same long-term approach consistent with the President's framework and other bills—an improved guest worker program. It also addresses the need for a transition program in the immediate term, by allowing workers the earned adjustment to legal status. This is not amnesty.

This letter brings together employers and workers—from the American Farm Bureau and the U.S. Chamber of Commerce to the United Farm Workers and the AFL-CIO. Cosigners include the National Association of State Departments of Agriculture, worker and legal-service advocates, large and small employers, Latino groups, religious groups, social service organizations, agriculture and other sectors of the economy, immigration issue advocates, and others. Legislation involving major labor and immigration issues simply does not become law, unless it achieves this kind of bipartisan and broad-based consensus

I continue to invite all my colleagues to become cosponsors of AgJOBS and look forward to working with them to move this bill forward this year.

I ask unanimous consent to print into the RECORD a letter of support that Senator KENNEDY and I have just received from some 420 organizations—national, state, and local organizations—asking Congress to enact AgJOBS into law expeditiously.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 12, 2004.

DEAR MEMBER OF CONGRESS: The undersigned organizations representing a broad cross-section of America join together to support enactment of S. 1645 and H.R. 3142, the Agricultural Job, Opportunity, Benefits and Security Act (AgJOBS). This landmark bipartisan legislation would achieve historic reforms to our nation's labor and immigration laws as they pertain to agriculture. The legislation reflects years of negotiations on complex and contentious issues among employer and worker representatives, and leaders in Congress.

A growing number of our leaders in Congress, as well as the President, recognize that our nation's immigration policy is flawed and that, from virtually every perspective, the status quo is untenable. Nowhere is the status quo more untenable than in agriculture. America needs reforms that are compassionate, realistic and economically sensible—reforms that also enhance the rule of law and contribute to national security. AgJOBs represents the coming together of historic adversaries in a rare opportunity to achieve reforms supportive of these goals, as well as our nation's agricultural productivity and food security.

AgJOBS represents a balanced solution for American agriculture, a critical element of a comprehensive solution, and one that can be enacted now with board bipartisan support. For these reasons, we join together to encourage the Congress to enact S. 1645 and H.R. 3142, the Agricultural Job Opportunity, Benefits, and Security Act of 2003, before the 2004 Congressional April Recess.

Sincerely,

Agriculture Coalition for Immigration Reform: American Farm Bureau Federation; National Council of Agricultural Employers, AFL-CIO; U.S. Chamber of Commerce; U.S. Hispanic Chamber of Commerce; National Council of La Raza (NCLR); Mexican American Legal Defense and Education Fund (MALDEF); League of United Latin American Citizens (LULAC); William C. Velasquez Institute; United Farm Workers (UFW); National Cattlemen's Beef Association; National Association of State Departments of Agriculture; Catholic Charities USA; The Episcopal Church, USA; Farmworker Justice Fund (FJF); American Nursery & Landscape Association; Association of Farmworker Opportunity Programs (AFOP); National Migrant and Seasonal Head Start Association; Gulf Citrus Growers Association; Gulf Harvesting, Inc.; Labor Council for Latin American Advancement (LCLAA); Leadership Conference on Civil Rights (LCCR); Moark LLC; Turfgrass Producers International; Society of American Florists; MAFO; Monrovia Growers (CA, OR, GA, NC); National Asian Pacific American Legal Consortium (NAPALC); National Employment Law Project; Arab American Institute (AAI); National Farm Worker Ministry; National Korean American Service & Education Consortium (NAKASEC); Northeast Farm Credit Regional Council;

OFA—An Association of Floriculture Professionals; Pan American Recruiting; Northwoods Agri Women; Salvadoran American National Network; People for the American Way; Perennial Plant Association; Polish American Congress; Pacific Egg and Poultry Association; Southern Nursery Association; Together in America; Western Carolinas Horticultural Alliance; Yankee Farm Credit; Telamon Corporation; Southern Poverty Law Center; Catholic Migrant Farmworker Network; Housing Assistance Council; Alabama Nursery & Landscape Association; Amanecer (AZ); Arizona Nursery Association; Arkansas Green Industry Association;

Allied Grape Growers (CA); Almond Hullers and Processors (CA); California Association of Nurseries and Garden Centers; California Association of Winegrape Growers; Catholic Charities of the Diocese of Santa Rosa (CA); California Apple Commission; California Association of Winegrape Growers; Birds Eye Foods; Deere & Company;

Tyson Foods Inc.; Union of Needletrades, Industrial and Textile Employees (UNITE); United Egg Producers; National Christmas Tree Association; United Food and Commercial Workers Union (UFCW); United Fresh Fruit & Vegetable Association; U.S. Apple Association; U.S. Custom Harvesters, Inc.; Western Growers Association; Western Range Association; Western United Dairymen, Essential Worker Immigration Coalition; Services Employees International Union (SEIU); A. Duda & Sons; Evangelical Lutheran Church in America; American Horse Council; General Board of Church and Society, the United Methodist Church; Agricultural Affiliates; Agri-Placements International; Al French, Former USDA Director of Ag Labor Relations;

National Immigration Forum; National Potato Council; New England Apple Council; Cobank; First Pioneer Farm credit; Farm Labor Organizing Committee, AFL-CIO (FLOC); National Association of Elected and Appointed Latino Officials (NALEO); American Immigration Lawyers Association (AILA); National Chicken Council; National Council of Churches; National

Milk Producers Federation; South East Dairy Farmers Association; North East Dairy Producers Association; Northwest Horticultural Council; Wineamerica, the National Association of American Wineries; Winegrape Growers of America; American Jewish Committee (AJA); American Mushroom Institute; Campaign for Labor Rights; Cooperative Producers, Inc.;

Cooperative Three, Inc.; Council of Northeast Farmer Cooperatives; Dairylea Cooperative; American Frozen Food Institute; California Floral Council; California Farm Bureau Federation; California Grain and Feed Association; California Grape & Tree Fruit League; California Institute for Rural Studies; California Landscape Contractors Association, Inc.; California Rural Legal Assistance Foundation (CRLAF); California Seed Association; California Strawberry Commission; California Women for Agriculture; Catholic Charities, San Diego; Central American Resource Center (CA); La Clinica de la Raza (CA);

Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA); Franciscan Friars of St. Barbara Province (CA); Harry Singh & Sons (CA); Imperial Valley Vegetable Growers Association; John Harris Farms Inc. (CA); Korean Resource Center, Los Angeles; Lassen Canyon Nursery, Inc. (CA); Los Angeles Coalition to End Hunger & Homelessness; Marin Interfaith Task Force for the Americas; NiSEI Farmers League (CA); Northern California Growers Association; Nursery Growers of Southern California; Our Lady of Victory Missionary Sisters (CA); Raisin Bargaining Association (CA); Ventura County (CA) Farm Bureau; Southern California Ecumenical Council; United Food and Commercial Workers Union (UFCW) Local 1442 (CA); Universal Immigration Service (CA); Colorado Nursery Association;

Colorado Sugar Beet Growers Association; Estes Valley Multicultural Connections (CO); Northern Colorado Onion Association; Sisters of Loretto (CO); Connecticut Farm Bureau; Connecticut Nursery & Landscape Association; Connleaf, Inc. (CT); H.F. Brown Inc. (CT); The Lyman Farm, Inc. (CT); Delaware Nursery & Landscape Association; Latin American Community Center (DE); Latin American Youth Center (DC); Migrant Legal Action Program (DC); Big Cypress Housing Corporation (FL); Centro Campesino (FL); Carlos Rosario Int'l Career Center and Public Charter School; Caribbean Immigrant Services Inc. (FL); Catholic Charities of Orlando, Inc.; Coalition of Florida Farmworker Organizations; Everglades Community Association, Inc.;

Everglades Hammock, Incorporated; Fair Food America (FL); Farmworker Association of Florida, Inc.; Farmworkers Self-Help (FL); The Fellsmere Community Enrichment Program (FL); Florida Catholic Conference; Florida Citrus Mutual; Florida Citrus Packers, Inc.; Florida Farm Bureau Federation; Florida Immigrant Advocacy Center; Florida Impact; Florida Fruit and Vegetable Association; Florida Nurserymen & Growers Association; Florida Strawberry Growers Association; Fundacion Salvadorena de la Florida; Guatemalan Unity Information Center (FL); Immokalee Multicultural Multipurpose Community Action Agency, Inc. (FL); Indian River Citrus League (FL); Legal Aid Service of Broward County, Inc. (FL); Live Oak Villas, LLC (FL);

Little Manatee Housing Corporation (FL); Migrant Farmworker Justice Project, Florida Legal Services, Inc.; Mujer (FL); Pinellas Support Committee (FL); Ranch One Cooperative, Inc. (FL); Redlands Christian Migrant Association (FL); Retail Systems Consulting (FL); Sarasota/Manatee Farmworker Supporters; Sisters of the Humility of Mary—Indian River (FL); Skinner Nurseries (FL); Sugar Cane Growers Co-op of Florida; Unite for Dignity, Inc. (FL); Center for Pan Asian Community Services (GA); Georgia Green Industry Association; Georgia Rural Urban Summit; Idaho Commission on Hispanic Affairs; Idaho Community Action Network; Idaho Farm bureau; Idaho Food Producers; Idaho Grain Producers Association;

Idaho Migrant Council; Idaho Nursery & Landscape Association; Potato Growers of Idaho; Snake River Farmers Association (ID/MT); Centro Romero (IL); Chicago Jobs With Justice; Conguate (IL); Disciples Justice Action Network (Disciples of Christ) (IL); Heartland Alliance for Human Needs & Human Rights (IL); Hispanic Lawyer's Association of Illinois; Illinois Coalition for Immigrant and Refugee Rights; Illinois Landscape Contractors Association; Illinois Migrant Council; Illinois Nurserymen's Association; Immigration Project (IL); Instituto Del Progreso Latino (IL); Korean American Resource & Cultural Center (KRCC), Chicago; Law Office of Shirley Sadjadi (IL); Law Office of Douglas W. Worrell, Chtd. (IL); The Midwest Immigrant & Human Rights Center (IL);

Project Irene (IL); The Resurrection Project in Chicago; Central Indiana Jobs With Justice; Indiana Nursery & Landscape Association; Immigration Outreach Office, Catholic Charities/Archdiocese of Dubuque; Immigrant Rights Network of Iowa and Nebraska; Iowa Nursery & Landscape Association; Iowa Project; Sisters of Charity (IA); El Centro, Inc.—Kansas; Kansas Farm Bureau; Kansas Nursery & Landscape Association; Kentucky Nursery & Landscape Association; Catholic Charities Archdiocese of New Orleans; Farm Credit of Maine; Maine Nursery & Landscape Association; Angelica Nurseries (MD); Bell Nursery (MD); CASA of Maryland;

Centro de la Comunidad, Inc. (MD); John Shorb Landscaping, Inc. (MD); Maryland Aquatic Nurseries, Inc.; Maryland Nursery & Landscape Association; Migrant and Refugee Cultural Support, Inc. (MIRECS) (MD); Quinn's Kingsville Farms (MD); Robin Hill Farm Nursery (MD); Speakman Nurseries, Inc. (MD); Centro Presente (MA); Irish Immigration Center (MA); Massachusetts Farm Bureau; Massachusetts Immigrant and Refugee Advocacy Coalition; Massachusetts Nursery & Landscape Association; Eastern Michigan University's Bilingual Bicultural Education; Teacher Training Program; Michigan Farm Bureau; Michigan Migrant Legal Assistance Project; Michigan Nursery & Landscape Association; Leitz Farms LLC (MI); Zelenka Nursery, LLC (MI); Jewish Community Action (MN); Minnesota Nursery & Landscape Association; St. Joseph The Worker Church (MN); Centro San Martin Deporres (MS); Mississippi Immigrant Rights Alliance (MIRA!); Office of Hispanic Ministry, Catholic Diocese of Jackson (MS); Rich Smith, Pastor of St. Ann Catholic Church, Paulding (MS); The Social Concerns Committee of the Catholic Community of St. Francis of Assisi (MS); Daughters of Charity in St. Louis (MO); Human Rights Action Service, St. Louis (MO); Latin American Action Team, Giddings-Lovejoy Presbytery (MO); Mission Effectiveness, School Sisters of Notre Dame, St. Louis; Missouri Nursery & Landscape Association; Montana Nursery & Landscape Association; Nebraska Appleseed Center for Law in the Public Interest; Nebraska Nursery & Landscape Association; Culinary Workers Union, Local 226—Nevada; Nevada Landscape Association; Comite de Apoyo a Los Trabajadores Agricolos (NJ);

Irrigation Association of New Jersey; Mexican American Association of Southern New Jersey; Migration and Refugee Services Diocese of Trenton; New Jersey Farm Bureau Federation; New Jersey Immigration Policy Network, Inc.; New Jersey Nursery & Landscape Association; Rural Housing Incorporated (NM); Brennan Center for Justice at New York University School of Law; Cabrini Immigrant Services (NY); Cayuga Marketing, LLC (NY); Centro Hispano Cuzcatlan (NY); Centro Independiente de Trabajadors Agricolos (CITA)—(NY); Centro Salvadoreno, Inc. (NY); Christian Brothers (NY); Commission on Peace and Justice of the Roman Catholic Diocese of Albany, NY; Empire State Council of Agricultural Organizations (NY); Farm Credit of Western New York; Farmworkers Legal Services of New York; Lake Placid Groves LLC (NY); New York Association for New Americans; New York Farm Bureau; New York State Horticultural Society;

New York State Apple Growers Association; New York State Cherry Growers Association; New York State Nursery & Landscape Association; New York State Vegetable Growers Association; PRO–FAC Cooperative (NY); Public Policy Committee, Roman Catholic Diocese of Rochester, NY; Rural and Migrant Ministry (NY); Torrey Farms (NY); Willet Dairy (NY); Workplace Project (NY); YKASEC—Empowering the Korean American Community (NY); El Pueblo, Inc. (NC); Episcopal Farmworkers Ministry (NC); High County Amigos Inc. (NC); Immaculate Concepcion Church (NC); Latino Community Credit Union (NC); Nash Produce Company, Inc. (NC); North Carolina Association of Nurserymen; North Carolina Farm Bureau; North Carolina Justice and Community Development Center;

North Carolina Landscape Association; Student Action With Farmworkers (NC); Triangle Friends of the United Farmworkers (NC); Vitalink (NC); Zelenka Nursery, LLC, (NC); Advocates for Basic Legal Equality (OH); En Camino, Migrant and Immigrant Outreach, Diocese of Toledo; High Stakes Farms (OH); Immigrant Worker Project (OH); Northern Ohio Growers

Association; Office of Hispanic Ministry, Catholic Diocese of Cleveland; Ohio Farm Bureau Federation, Inc.; Ohio Fruit Growers Society; Ohio Landscapers Association; Ohio Nursery & Landscape Association; Ohio Vegetable & Potato Growers Association; United Church of Christ Justice and Witness Ministries (OH); Vlasic Pickle Growers (OH); Asian American Community Service Association, Inc.; Oklahoma Nursery & Landscape Association;

Venezuelan American Association of Oklahoma; CASA of Oregon; Farmworker Housing Development Corporation (OR); Hood River Grower-Shipper Association (OR); Northwest Workers' Justice Project (OR); Oregon Association of Nurseries; Oregon Farm Bureau; Oregon Farm Worker Ministry; Oregon Law Center; Pineros y Campesinos Unidos del Noroeste (PCUN), Oregon; El Vista Orchards (Wexford, PA); Five Forks Fruit (Waynesboro, PA); Friends of Farmworkers (PA); Hollabaugh Brothers, Inc. (Biglerville, PA); Pennsylvania Farm Bureau; Pennsylvania Immigration and Citizenship Coalition; Pennsylvania Landscape & Nursery Association; Peter Orchards (Gardners, PA); Sisters of the Humility of Mary—Villa Maria, Pennsylvania—(Sister Ruth Mary Powers); State Horticultural Association of Pennsylvania;

Feinstein Center for Citizenship & Immigration Services (RI); Rhode Island Nursery & Landscape Assn, Inc.; South Carolina Greenhouse Growers Association; South Carolina Nursery & Landscape Association; South Carolina Upstate Tree Growers Association; Catholic Hispanic Ministry, Diocese of Knoxville (TN); Mid-South Interfaith Network for Economic Justice (TN); Tennessee Immigrant and Refugee Rights Coalition; Tennessee Nursery & Landscape Association; Centro de Salud Familiar le Fe (TX); Ellison's (TX); El Paso Central Labor Union; Equal Justice Center (TX); Houston Community Services; Jovenes Immigrantes por un Futuro Mejor (TX); Midland Community Development Corp. (TX); Migrant Clinicians Network, Inc. (TX); Rio Grande Valley Sugar Growers, Inc. (TX); Texas Agricultural Cooperative Council; Texas Nursery & Landscape Association;

Texas Poultry Federation; Texas Egg Council; Texas Broiler Council; Texas Poultry Improvement Association; Texas Produce Association; Texas Seed Trade Association; Texas State Florist's Association; Texas Turkey Federation; Texas Vegetable Association; Turfgrass Producers of Texas; Utah Farm Bureau; Utah Nursery & Landscape Association; Catholic Diocese of Richmond, Virginia; Hampton Roads Coalition for Workers' Justice; Hispanic Committee of Virginia; Refugee and Immigration Services, Catholic Diocese of Richmond; Southwest Virginia Nursery and Landscape Association; Virginia Green Industry Council; Virginia Council of Churches; Virginia Justice Center for Farm and Immigrant Workers;

Virginia Nursery & Landscape Association; El Centro de la Raza (WA); Grupo Mexico of Washington State; Lutheran Public Policy Office of Washington State; Marsing Agricultural Labor Sponsor Committee (WA); Underwood Fruit and Warehouse Company (WA); Washington Association of Churches (WA); Washington Growers Clearing House Association; Washington Growers League; Washington Potato & Onion Association; Washington State Commission on Hispanic Affairs; Washington State Nursery & Landscape Association; Washington Sustainable Food & Farming Network; Commercial Flower Growers of Wisconsin; Gardens Beautiful Garden Centers (WI); Grounds Management Association of Wisconsin; Northern Christmas Tree Growers & Nursery (WI); Office of International Student Services, University of Wisconsin-Platteville; South Central Federation of Labor, AFL–CIO (WI); UMOS (WI);

Wisconsin Council of Churches; Wisconsin Landscape Contractors Association; Wisconsin Landscape Federation; Wisconsin Nursery Association; Wisconsin Sod Producers; Ivan Kohar Parra, Executive Director, Latino Community Development Center.

SCHOOL VIOLENCE AND COPS FUNDING

Mr. LEVIN. Mr. President, 2 weeks ago a 17-year-old student was shot and killed at Ballou High School in Washington, DC. This shooting was the second in a 4-month period at the school. Earlier this week, in Albany, NY, another school shooting took place, and while only minor injuries resulted, the incident is another example of the impact of gun violence on students.

School violence, or even the threat of school violence, instills fear in our students, and limits their ability to learn. It also threatens and intimidates teachers and makes instruction more difficult. Violence in our schools puts the learning environment in jeopardy.

That is one reason why I am troubled by President Bush's fiscal year 2005 budget. The President's budget proposes a total elimination of funding for the COPS in Schools Program. As my colleagues know, the COPS in Schools program is designed to help law enforcement agencies hire school resource officers to engage in community policing in and around primary and secondary schools. COPS in Schools provides an incentive for law enforcement agencies to build collaborative partnerships with the school community and to use community policing efforts to combat school violence.

Since 1994, in my home State of Michigan, police departments have received more than $210 million, hired more than 3,300 officers, and the COPS in Schools program has added 143 school resource officers, but with the President's cuts to the COPS program, additional Federal assistance would not be on the way. The President's $900 million in cuts to COPS funding would require local police departments around the country to stretch even further the limited number of dollars they have to protect our schools and communities.

I urge my colleagues to support efforts to reinstate COPS funding so that we might ensure a safer environment for our children to learn.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Santa Rosa, CA, on September 20, 1999. Four youths allegedly fired shots from a pellet gun toward a woman whose car had gay pride, diversity, and rainbow stickers on it. The youths also allegedly yelled derogatory comments regarding the woman's sexual orientation.

The first duty of Government is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

THE JOBS FOR AMERICA ACT

Mr. KENNEDY. Mr. President, millions of Americans have seen corporations move their jobs overseas. Americans are losing jobs in every sector of our economy—not only in manufacturing, but also in computer technology, the service sector, and health care. Positions like call center technician, information technology specialist, and even health care worker are evaporating at an amazing clip.

Experts estimate that 40 percent of Fortune 1000 companies are currently using some form of overseas outsourcing. As many as 3.3 million jobs may be offshored in the next 15 years, causing American workers to lose $136 billion in wages. Worst of all, we are losing jobs in sectors that once provided our economy with its greatest growth like the information technology sector. As many as 500,000 information technology jobs could go overseas in coming years.

The tragedy of our disappearing jobs is about more than just numbers. This week, a Wisconsin auto parts manufacturer announced that it was moving 500 jobs overseas, putting an equivalent number of workers out on the street. IBM has announced plans to displace thousands of computer programmers by moving their work to other countries. These workers represent the human cost of offshore outsourcing.

This cost—all too real for most Americans—is ignored by the Bush administration, whose chief economic advisor stated this week that outsourcing is "a plus for the economy in the long run."

Tell that to the 15 million Americans who are out of work today. Tell that to the millions more who had to settle for new jobs at lower pay. Tell that to the millions of Americans struggling every day to provide for their families, pay the bills, and cope with rising health care and college costs.

What we are seeing is a President out of touch with the needs of working Americans. He thinks it is good to deny overtime pay to workers. He opposes an increase in the minimum wage. He opposes unemployment coverage for workers looking for new jobs. And now he wants to ship your jobs overseas.

Exporting American jobs may help the bottom line on Wall Street, but it hurts the bottom lines of America's families.

Today, we are saying enough is enough. If President Bush and his corporate pals want to send your job overseas, then they will be held accountable.

The Jobs for America Act amends the Worker Adjustment and Retraining Notification, WARN, Act to require companies to report whenever they lay off workers to send jobs overseas. When company plans to lay off workers and send those jobs overseas, they need to tell workers in advance. And they need to inform the Department of Labor, and local government officials. They will have to tell the public how many jobs are affected, where the jobs are going, and why they are being offshored.

This act also requires the Department of Labor to compile much-needed statistics of offshored jobs and report them on an annual basis to the Congress and the public. Finally, it applies WARN Act protections to all cases where 50 or more workers are laid off.

The bill shines a spotlight on offshoring practices—not only in corporate boardrooms but at the White House. It is time for President Bush and Corporate America to let every American know whether they stand only for more profits or whether they stand with the American people.

Mrs. FEINSTEIN. Mr. President, I rise to join my colleagues, Senator SNOWE and Senator WYDEN, to support the bipartisan Medicare Enhancement for Needed Drugs Act. This legislation is an important step toward controlling the spiraling cost of prescription drugs for America's seniors.

Last November, I voted in favor of the Medicare Prescription Drug Improvement and Modernization Act because I believed it was the right step toward finally delivering on a promise Congress made to its seniors to modernize Medicare by providing prescription drug coverage in the nearly 40-year-old program.

I personally ran the numbers and looked at a variety of options to add a prescription drug benefit in Medicare, but I decided to support the final bill that was passed last November and signed into law in December because I felt it would make a genuine, positive difference for the seniors in my State, particularly those with low incomes or very high drug bills.

The key to the Medicare bill is that the prescription drug coverage is voluntary. No senior will be forced to enroll in drug coverage in Medicare, also called Medicare Part D. Those who do will receive assistance from the Federal Government for their drug bills up to $2,250 in total drug costs and will only pay 5 percent of their drug costs above $3,600 in out-of-pocket spending.

I have said several times on the floor of the Senate that I was dismayed at a provision in the bill that prohibits the Secretary of Health and Human Services from negotiating lower prescription drug prices. Similarly, I said that I would take action to remove this provision and work toward lowering costs of the program.

I feel strongly that savings to the Medicare Program can be achieved by provisions in the Medicare Enhancement for Needed Drugs Act. Now is the time to find solutions that reduce the cost of prescription drugs for our Nation's seniors and for the future of Medicare. I know seniors in my State who have had to make the terrible choice of paying for their prescription drugs and paying for rent and groceries. In the end, many skip or reduce their dosages putting their health at risk. That is simply unacceptable.

This bill represents a comprehensive approach to strengthening the drug coverage in the Medicare bill by addressing the skyrocketing drug costs.

First and foremost, the bill strikes language in the Medicare bill called the "noninterference" provision. That section bars the HHS Secretary from interfering with the negotiations between drug manufacturers and pharmacies and sponsors of prescription drug plans. I strongly believe that the Secretary should be given the authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs.

CBO estimates that the effect of striking the "noninterference" provision would have a "negligible effect" on Federal spending because the savings CBO predicts private plans will be able to obtain will be greater than what the Secretary will be able to achieve.

However, what if CBO's predictions are not the reality and private plans cannot achieve the lowest prices available? What if competition among private plans does not bring about greater cost savings? In that scenario, the HHS Secretary would not be able to step in and use the full force of the Federal Government's bulk purchasing power to lower prescription drug prices.

A 2001 inspector general's report from the Department of Health and Human Services found that the Department of Veterans' Affairs, VA, paid an average of 52 percent less for a list of two dozen drugs than did Medicare. The VA employs a number of cost-saving techniques such as using generics whenever available and substituting high-priced medications with just as effective ones for lower prices.

I strongly believe that the Federal Government should employ the cost-saving techniques for Medicare as the VA does for the acquisition of prescription drugs.

As an incentive to participating Medicare drug plans to negotiate the lowest possible drug prices, the bill allocates $500 million from the Medicare Stabilization Fund to be used by the HHS Secretary for those plans to secure negotiated prices that are on average within 10 percent of VA or Department of Defense.

In order to ensure that seniors can make an "apples to apples" comparison when determining which drug plan suits them best, the bill requires that the Centers for Medicare and Medicaid Services, CMS, determine the negotiated savings received from each plan.

The bill makes a significant step toward increasing access to lower cost reimported prescription drugs by ensuring access to these markets. It prohibits any company that discriminates publicly, privately or otherwise against foreign retailers or wholesalers who pass along discounts to consumers living in the United States from taking advantage of the advertising deduction allowed under the U.S. Tax Code. The purpose of this provision is to stop the practice of drug manufacturers limiting their shipments to foreign countries expressly to prevent reimportation by American consumers.

I have heard concerns raised by many of my constituents about the impact the Medicare bill will have on their medigap plans. This bill directs the HHS Secretary to work with the National Association of Insurance Commissioners to conduct a review of the changes to the medigap policies in the new drug benefit for the purpose of evaluate its impact on Medicare beneficiaries.

CBO projects that Americans over 65 will spend $1.8 trillion on prescription drugs over the next 10 years. Recent studies of United States and Canadian drug price comparisons show that, on average, prices charged by manufacturers, wholesalers, and retailers were higher in the United States, most recently by about 70 percent.

If we do not address the exorbitant costs of prescription drugs in this country today, we threaten the viability of programs like Medicare for future generations. I am pleased to join Senators SNOWE and WYDEN in the fight for lower prescription drug prices for our seniors.

I urge my colleagues to join me in supporting this important legislation.

INFANT MORTALITY RATE INCREASES FOR THE FIRST TIME SINCE 1958

• Mr. BOND. Mr. President, I rise to today to discuss some disturbing news. According to a preliminary report released by the CDC's National Center for Health Statistics, infant mortality in the U.S. increased from 6.8 deaths per 1,000 live births in 2001 to a rate of 7.0 in 2002. This is the first time that the infant mortality rate has increased since 1958. Birth defects, preterm birth and low birthweight, and maternal complications of pregnancy were the major factors contributing to this increase.

During the last session of Congress we passed legislation that I introduced with Senator DODD to renew the Federal commitment to finding the causes of birth defects and preventing those for which we know the causes. I am very proud of the important work being conducted by the National Center on Birth Defects and Developmental Disabilities at the CDC in this area.

Congress has not yet addressed the problem of premature birth and low birthweight. In 2002, more than 480,000 babies were born prematurely in the U.S 1 in 8 births. In my own State of Missouri, 12.7 percent of births are preterm, an increase of more than 11 percent over the last decade. Preterm labor can happen to any pregnant woman and the causes of nearly half of all preterm births are unknown.

In January of 2003, the March of Dimes launched a 5-year, $75 million campaign to prevent preterm birth. Also supporting the campaign are the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the Association of Women's Health, Obstetric and Neonatal Nurses and 28 other national organizations. I cannot think of a better group of organizations to take on this serious public health problem. As significant as the March of Dimes campaign will be, success in reducing the incidence of prematurity requires a commitment from the Federal Government as well.

I am pleased to be a cosponsor of vital legislation aimed at reducing the rates of preterm birth. The "PREEMIE Act" authorizes expansion of research into the causes and prevention of prematurity and increases Federal support of public and health professional education as well as support services related to prematurity.

I would like to conclude by telling you the story of Jacqueline Reineri. Born 4 months premature, at just 24 weeks gestation, Jacqueline was given a very slim chance for survival. She was the size of a small doll, weighing just 1 lb., 10 ounces. Jacqueline had a grade-three brain bleed among many other complications and spent 96 days in the neonatal intensive care unit, NICU.

Today, Jacqueline has Spastic Quadriplegia Cerebral Palsy and gets around in a power wheelchair. She has endured four major surgeries and will continue to experience many long-term effects of prematurity. While her family worries about her future, they feel blessed that she is a very intelligent second grader in a typical classroom and a very active advocate for prematurity and children with special needs, serving as the Missouri March of Dimes Ambassador.

As inspiring as Jacqueline's story is many premature babies aren't as lucky. The recent increase in the rate of infant mortality underscores the importance of a comprehensive public-private effort to find the causes and ultimately prevent premature birth.

I ask all of my colleagues to join me today in pledging to do all we can to ensure a day when all children are born healthy.•

RADIO LIBERTY STIFLED IN UKRAINE

Mr. CAMPBELL. Mr. President, several weeks ago, I addressed the Senate, in my capacity as Co-Chairman of the Helsinki Commission, on critical Presidential elections scheduled to be held later this year in Ukraine. In the latest twist in the lead up to those elections, yesterday Radio Liberty was abruptly informed that its Ukrainian Service programming would be removed from its major radio rebroadcaster's FM schedule, beginning February 17. In a press release, RFE/RL President Tom Dine said, "This is a political act against liberal democracy, against free speech and press, against RFE/RL, and shows, once again, that Ukraine's political leadership is unable to live in an open society and is compelled to 'control' the media as if it were the good old days of the Soviet Union."

This is not the first time that there has been official Ukrainian pressure to drop RFE/RL broadcasting since September 2001, shortly after the murder of independent journalist Heorhiy Gongadze and the release of secretly-recorded tapes in Ukrainian President Kuchma's office implicating him and other high-ranking officials in the disappearance, corruption, and other dubious actions. Radio Liberty covers these and many issues about life in Ukraine, serving as an objective source of information in a media environment increasingly dominated by these authorities.

In the past I have spoken out about Ukraine's troubled pre-election environment, including its media environment. This latest move, together with repressive measures against the democratic opposition and independent media over the course of the last few months, raise profound questions as to whether the October presidential elections will be free, fair, open, and transparent, in a manner consistent with Ukraine's freely undertaken OSCE and other international commitments. Effectively unplugging an important independent source of information does not bode well for democracy in Ukraine.

EXPORT-IMPORT BANK

Mr. SHELBY. Mr. President, I acknowledge today, February 12, as the seventieth anniversary of the Export-Import Bank, the principal export credit agency of the United States. Since 1934, the bank has played a unique role in helping to facilitate U.S. exports, ultimately supporting thousands of jobs. As an independent U.S. Government agency, it assumes credit and country risks that the private sector is unable or unwilling to accept.

Eximbank has assisted in financing more than $400 billion in U.S. exports. On average, 85 percent of its transactions directly benefit small businesses which are clearly struggling in today's economy. Historically, the Bank has a loan-loss rate of under 2 percent, which is a respectable record for any financial institution.

As the United States has become economically interdependent with a growing number of foreign trade partners, the Bank's role in leveling the playing field for American companies seeking to market their goods and services overseas continues to grow. In turn, Eximbank plays a vital part in enabling U.S. companies, both large and small, to turn export opportunities into concrete sales.

Mr. President, I am pleased to make not of Eximbank's important contribution to the U.S. economy and hope the institution continues to honor its mission through the twenty first century.

IN MEMORY OF MILTON WESLEY SANDERS

Mr. REID. Mr. President, Milton Wesley Sanders passed away on Tuesday, February 10, in Washington, DC. He was one of the rapidly vanishing members of what we rightfully call the "greatest generation".

These valiant Americans who fought in World War II did not merely defeat a savage and evil enemy. They literally saved the free world. What would our own lives have been like if the forces of Nazism had prevailed in that war? It is truly unthinkable, and thanks to the greatest generation and men like Milton Sanders, we will never have to know the answer.

This generation of Americans grew up during the Great Depression, so they already knew about sacrifice. And when their country called upon them to sacrifice even more, they did not hesitate.

Milt Sanders' first heroic act occurred when he was still in flight school in Florida. During a training flight near Tallahassee, FL, his new P–47 aircraft malfunctioned because of a missing part.

Rather than bail out over a populated area, he decided to take the airplane in for a "safe" crash landing. He could have landed safely on the campus of the Florida State College for Women now known as Florida State. But when he saw a lot of students walking across campus, he headed for a nearby field.

In the instant before landing he had to divert the aircraft to avoid hitting a farmer. In the resulting crash, he suffered a skull fracture and numerous other injuries. But his quick thinking and courage had saved innocent lives.

During the war, Milt flew 116 combat P–47 fighter-bomber missions with the 9th Air Force in the European theater of operations. He supported operations from the pre-Normandy invasion build-up through the race across France, the Battle of the Bulge, and the final victory over Nazi tyranny. He brought back seven aircraft so badly shot up that they were immediately sent to the scrap heap. He was credited with shooting down one German aircraft and destroying more than 25 aircraft on the ground. For his valor, Milt was awarded two Distinguished Flying Crosses, 20 Air Medals, two Presidential Unit citations, the French Croix de Guerre with Silver Star, and the Belgian Fourragere.

Milt, who was known to some of his squadron buddies as "Sandy," experienced the heroism of war, and he also saw the horror.

He saw one friend's aircraft crash into the ground. He saw another man bail out only to be knocked unconscious when he collided with his airplane. That man's parachute never opened.

He saw dead bodies that were booby-trapped.

He befriended an English family in London, only to find when he went to visit them that their home had been destroyed by a German V1 rocket.

Milt and his comrades knew the dangers they faced. After flying a mission at night, he would later recall that ground fire is frightening during the day, "but to see it at night at a low altitude, you think every shot coming up has your name on it."

Yet despite the dangers, he fought without fear.

After World War II, Milt continued to serve in the U.S. Air Force Reserve, rising to the rank of lieutenant colonel and retiring with 20 years of honorable service in 1962.

Even when his active duty service had ended, he continued to serve our country through his work with several firms providing weapons systems and equipment to the Department of Defense. This association continued until his civilian retirement in 1989 at the age of 72.

The measure of a man's life is not solely in what he did, but in what he did for others. Throughout his life, Milton Sanders constantly sacrificed his time and talents in service to others in his church, his community, and his Nation. Every person who came into contact with him knew he was a friend they could always count on, no matter the hour, no matter the need.

Perhaps Milt's greatest contribution to our Nation comes from the legacy of his 46 years of loving marriage to his wife Jean. They have eight children, including two graduates of our military service academies; 28 grandchildren; and 17 great-grandchildren.

I will always treasure the memories of my monthly home teaching visits to the Sanders home. His piano playing, story-telling and beautiful prayers will always be vividly present in my mind. Jean, I learned during these visits, has always been the foundation of their wonderful relationship.

Like so many other members of his generation, Milton Sanders was a great yet humble patriot. Because of the sacrifices they made, our lives are immeasurably better than they otherwise might have been. Our Nation owes them more than words can ever convey.

HOMAGE TO BILL AND TERI POPP

Mr. COLEMAN. Mr. President, today I pay homage to Minnesotans who are helping the Minnesota National Guard and their families. The National Guard serves our country and the States as a unique organization among all branches of the United States Armed Forces. The Guard is America's community-based defense force, located in more than 2,700 cities and towns across the Nation. Sixty-two of those cities are located in Minnesota. National Guard members are citizen-soldiers and airmen who are integral members of their communities. Minnesota National Guard members live, shop, work, worship, and go to school in Minnesota's cities and towns. This inexorable link between the community and its citizen-soldiers is what makes the National Guard an important and necessary part of their local and national communities.

The Minnesota Army and Air National Guard are reserve components of the United States Army and Air Force. During times of national emergency, National Guard members may be called into active Federal service by the President of the United States. Guard members from Minnesota have served in every major conflict involving the United States Armed Forces since the Guard's inception more than 360 years ago. At this time, Minnesota National Guard members are serving in Iraq, Bosnia, Afghanistan, and Kosovo, as well as in other countries and within the State of Minnesota.

For the past 40 years, National Guard members have primarily served within their own communities, helping assist local law enforcement agencies during emergencies. In this capacity, members worked for the Guard on a part-time basis, usually just during emergency situations. Guard members earned the majority of their income from their jobs in the community. In the past couple of years, Guard members have been called to active duty. Because of this, they no longer earn their civilian incomes. For the most part, their civilian pay far exceeds their pay on active duty. In addition, when Guard members are deployed, they and their families need to support two households—the Guard member in their remote location and the family the Guard member leaves behind. While employers are encouraged to meet the pay differential for the Guard, oftentimes small companies cannot meet this obligation. Many Guard members and their families are caught in an unanticipated set of circumstances due to long terms of deployment overseas while supporting and protecting our country.

Inspired by the National Guard's members' dedication, patriotism, and selflessness, many Minnesotans have stepped forward to help Minnesota National Guard soldiers and their families. The efforts of Bill and Teri Popp, of Minnetonka, MN, deserve special praise. Long-time supporters of the Guard, they gave generously and challenged other Minnesotans to join them in supporting the Minnesota National Guard. Bill, founder and owner of POPP Telecom, believes that his company can and should improve the quality of life for everyone in his community. To that end, the Popps donated $1,000 to every Minnesota National Guard member who was serving in Iraq, as of November 14, 2003. The gift the Popps made to Guard members in Iraq totaled $166,000.

A true patriot, Bill included a thank you letter to each Guard member that received the donation that provided: "Thank you for putting your life on hold, and on the line, in service to our country. Thank you for . . . risking your life to advance liberty and justice for all people of the world."

To then set an example to the community, the Popps made an additional donation to the Minnesota National Guard Foundation to help Guard members in financial need. Bill, through his company, also prepared and ran announcements on Minnesota radio stations encouraging other people and companies in Minnesota to make donations to the foundation to support members of the Minnesota National Guard and military reserves who have been impacted economically by extended periods of active duty service.

The Popps not only have promised to make sure the sacrifices the Guard and other military personal make in service to our country will not be forgotten, they have followed through to help that promise come true. They epitomize the strength and patriotism of our great Nation.

On behalf of all Minnesotans, I express my heartfelt appreciation to Bill and Teri Popp for their generosity and patriotism. They deserve all our thanks.

HONORING OUR ARMED FORCES

SERGEANT BENJAMIN GILMAN

Mr. DODD. Mr. President, I rise today to speak in tribute to U.S. Army Sgt. Benjamin Gilman, of Meriden, Connecticut, who died in Afghanistan on January 29, 2004, at the age of 28.

Sergeant Gilman was killed along with seven other American soldiers in a weapons cache explosion near the town of Ghazni. He was part of the 41st Engineer Battalion, 10th Mountain Division, based in Fort Drum, NY.

Benjamin Gilman was always doing his best to help others, long before he enlisted in our Armed Forces. As a teenager, he won an award for his volunteer work at the Veterans Memorial Medical Center. When visiting his mother at her job at the Curtis Home for the elderly, he would spend time with the senior citizens who lived there, sharing conversations over games of checkers. While working at a fast food restaurant at the local mall, Benjamin made friends with a group of elderly women he would come to call his "adopted grandmothers."

While he was committed to service of all kinds, it was always Benjamin Gilman's dream to serve his country in the military. Even as a 7-year-old playing with action figures, young Benjamin told anyone who would listen that he would be a soldier someday.

Benjamin was a special person for many people, and there were many people who were special to him. One of those people was Jean Moran. When Benjamin was 11 years old, he met Jean through a local Big Brother/Big Sister program. It was the first time that the program's organizers had assigned a big sister to a boy. But Jean became a fixture in Benjamin's life for years to come, taking on the role of the older sibling that he never had.

Of all the bonds and friendships Benjamin had, though, none was more lasting or special than his relationship with his mother, Edie Gilman. A single mom, Edie poured her heart, soul, time, and energy into her only child. In the last letter he sent home from Iraq, Benjamin thanked his mother for everything she did for him, calling her his "best friend in the entire world."

My heart truly goes out to Edie Gilman, who has suffered the kind of loss that is difficult for most of us to comprehend. We often speak of the weighty burden borne by our men and women in uniform—and rightfully so. But we would do well to also remember the burden placed on the shoulders of the families of these brave Americans.

While our troops are defending our freedoms overseas, all across America there are husbands and wives who must bear the responsibility of raising children alone. There are sons and daughters who must do without a helping hand with their schoolwork, or an enthusiastic supporter at their soccer games. There are brothers and sisters who are missing a role model, a mentor, a friend.

There are fathers and mothers, who endure anxious days and sleepless nights knowing that their children are in harm's way. And then there are people like Edie Gilman, who one day learn the heartbreaking news that someone they love will never be coming home.

And so today I salute the courage, the commitment, and the conviction of Benjamin Gilman, a young man who lost his life fulfilling the noblest of callings, defending our Nation and the values we hold dear. And I offer my deepest and most heartfelt sympathies to Edie Gilman, who has made a sacrifice for her country that is too great for words.

TRIBUTE TO ALL MILITARY SERVICE MEN AND WOMEN AND THE BALTIMORE ORIOLES

Mr. CONRAD. Mr. President, I rise today to thank the service men and women who have served our country so bravely in Afghanistan and Iraq. I also want to thank Peter Angelos and the world-class organization that he leads, the Baltimore Orioles. All too often we hear negative stories revolving around professional athletes. With this in mind, I have to tell you about a wonderful event that took place a few nights ago.

Tuesday night, my colleagues in the Senate Democratic caucus, along with members of the Baltimore Orioles, visited Walter Reed Army Medical Center. We went to Walter Reed to personally thank and honor the brave men and women of our Armed Forces who have sacrificed so much for our country in Afghanistan and Iraq. When Peter Angelos was asked if anyone from the Orioles would be willing to visit soldiers at Walter Reed, there was an overwhelming response from players, coaches, and front office personnel alike. In fact, there were so many volunteers that not everyone could be accommodated. Specifically, I would like to recognize the following members of the Orioles organization who joined us at Walter Reed last night: pitchers John Parrish, Rick Bauer, Julio Jorge, Sidney Ponson, and Matt Riley; outfielders Larry Bigbie and Jay Gibbons; infielders Bran Roberts and Miguel Tejada, accompanied by his wife Santa; Jim Beattie, executive vice president of baseball operations, his wife Martha; Mike Flanagan, vice president of baseball operations, his wife Alex and daughter Kerry; and bullpen coach, Elrod Hendricks.

As a Senator from the great State of North Dakota, I know all too well the sacrifices that are made by members of this country's military. I am proud to say that North Dakota has the highest National Guard membership per capita in the Nation, and not surprisingly, during the Iraq crisis has had the most mobilized personnel per capita of any State.

Thus, it was truly heartwarming, as we went from table to table at Walter Reed, to see the enthusiasm of not only my fellow Senators, but also of the Baltimore Orioles in paying tribute to and recognizing the courageous men and women of the United States military. It is their professionalism, dedication, and hard work that provide the very freedoms that make this country great and it was obvious that these ideals were not lost on the members of the Baltimore Orioles.

ADDITIONAL STATEMENTS

IN RECOGNITION OF BLACK EAGLE'S GRAMMY WIN

• Mr. DOMENICI. Mr. President, I wish to recognize a group of musicians from my home State of New Mexico. The group, Black Eagle, won a Grammy this past Sunday night.

The Black Eagle group is from the Pueblo of Jemez, which is one of the 19 Indian pueblos in our State. Those of us who reside in the Southwest are familiar with the pueblos and their people, but many are not. The pueblos share many common traditions, but they are distinct entities and maintain unique identities. The Jemez Pueblo, located in north central New Mexico, is home to the beautiful red mesas, rich culture, and some of the most wonderfully talented people around. Uniquely, the Pueblo of Jemez is the only remaining village of the Towa speaking pueblos. The Pueblo has long been known for its artistic talent and craft, but now its distinguished musicians can now add "the Grammy winning" declaration to their accolades.

The Black Eagle group formed in the late 1980s. The group's founder, Malcom Yepa, started the group when he was in his teens. With some urging, he, several friends, and several family members began composing songs in their native Towa language. Currently, the Black Eagle's are comprised of about 20 members from all across the age spectrum.

Prior to their Grammy for best Native American Music Album, their sixth album "Flying Free," won the Best Pow Wow Album of the Year award at the 2003 Native American Music Awards held in Albuquerque this past November. Both awards are a remarkable tribute to their hard work, commitment, and determination.

In addition to being musicians, the group has often reiterated their dedication to their village and their ancient culture. Furthermore, their resolve to positively influence young people is most admirable. For that, and for all their accomplishments, I am proud, and I salute each and every one of them here in this RECORD. May their recent success be only a prelude to future accomplishments, and may they continue to represent their people and the state of New Mexico with distinction.●

MESSAGES FROM THE PRESIDENT

Message from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 523. An act to make technical corrections to laws relating to Native Americans, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3783. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

ENROLLED BILL SIGNED

At 10:07 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 610. An act to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2095. A bill to enhance energy conservation and research and development and to provide for security and diversity in the energy supply for the American people.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 12, 2004, she had presented to the President of the United States the following enrolled bill:

S. 610. An act to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6337. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Thifensulfuron methyl; Tolerances Actions" (FRL#7338–6) received on February 12, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6338. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aldicarb, Atrazine, Cacodylic Acid, Carbofuran, et al; Tolerance Actions" (FRL#7338–3) received on February 12, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6339. A communication from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Agency Organization" (RIN00–033F) received on February 12, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6340. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of retirement; to the Committee on Armed Services.

EC–6341. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the Department's Annual Statement of Assurance; to the Committee on Armed Services.

EC–6342. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's semiannual Monetary Policy Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–6343. A communication from the Director, Office of White House Liaison, transmitting, pursuant to law, the report of a designation acting officer and change in previously submitted reported information for the position of Assistant Secretary for Technology Policy, Department of Commerce, received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6344. A communication from the Director, Office of White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed and change in previously submitted reported information for the position of Assistant Secretary for Export Enforcement, Department of Commerce, received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6345. A communication from the Director, Office of White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed and change in previously submitted reported information for the position of Assistant Secretary for Export Administration, Department of Commerce, received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6346. A communication from the Director, Office of White House Liaison, transmitting, pursuant to law, the report of a designation of acting officer and change in previously submitted reported information for the position of Under Secretary for Intellectual Property and Director, Patent and Trademark Office, Department of Commerce, received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6347. A communication from the Director, Office of White House Liaison, transmitting, pursuant to law, the report of a nomination and change in previously submitted reported information for the position of Assistant Secretary and Director General U.S. and Foreign Commercial Service, Department of Commerce, received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6348. A communication from the Director, Office of White House Liaison, transmitting, pursuant to law, the report of a vacancy, designation of acting officer, and change in previously submitted reported information for the position of Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6349. A communication from the Director, Office of White House Liaison, transmitting, pursuant to law, the report of a change in previously submitted reported information for the position of Assistant Secretary for Communications and Information, Department of Commerce, received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6350. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Central

Contractor Registration" (RIN2700-AC95) received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6351. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Investigative Requirements" (RIN2700-AC74) received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6352. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Lifting of U.N. Sanctions Against UNITA" (RIN0694-AC86) received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6353. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions and Clarifications to the Export Administration Regulations" (RIN0694-AC24) received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6354. A communication from the Secretary of Commerce, transmitting, the Department of Commerce's 2004 Report on Foreign Policy-Based Export Controls; to the Committee on Commerce, Science, and Transportation.

EC-6355. A communication from the Secretary of Transportation, transmitting, pursuant to law, two Annual Reports of Accomplishments under the Airport Improvement Program for fiscal years 1998 and 1999; to the Committee on Commerce, Science, and Transportation.

EC-6356. A communication from the Director, Bureau of Electronic Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Direct Investment Surveys: BE-15, Annual Survey of Foreign Direct Investment in the United States" (RIN0691-AA48) received on February 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6357. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; The 2005 ROP Plan for the Baltimore Severe 1-Hour Ozone Nonattainment Area: Revisions to the Plans' Emissions Inventories and Motor Vehicle Emissions Budgets to Reflect MOBILE6" (FRL#7623-4) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6358. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Florida: Southeast Florida Area Maintenance Plan Update" (FRL#7622-1) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6359. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Civil Monetary Penalty Inflation Adjustment Rule" (FRL#7623-5) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6360. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Delegation of Authority to the Washington State Department of Ecology, Benton Clean Air Authority, Northwest Air Pollution Authority, Olympic Regional Clean Air Agency, Puget Sound Clean Air Agency, Spokane County Air Pollution Control Authority, Southwest Clean Air Agency, and Yakima Regional Clean Air Authority for New Source Performance Standards" (FRL#7623-3) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6361. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Delegation of Authority to the Oregon Department of Environmental Quality for New Source Performance Standards" (FRL#7622-6) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6362. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and/or Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District" (FRL#7621-2) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6363. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary and Secondary Drinking Water Regulations: Approval of Additional Method for the Detection of Coliforms and E. Coli in Drinking Water" (FRL#7622-8) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6364. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Texas Underground Injection Control Program Approved Under Section 1422 of the Safe Drinking Water Act and Administered by the Railroad Commission of Texas" (FRL#7622-9) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6365. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the Texas Underground Injection Control Program Approved Under Section 1422 of the Safe Drinking Water Act and Administered by the Texas Commission on Environmental Quality" (FRL#7623-1) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6366. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL#7614-9) received on February 12, 2004; to the Committee on Environment and Public Works.

EC-6367. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, a report entitled "Tribal Pesticide and Special Projects"; to the Committee on Environment and Public Works.

EC-6368. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Filing of Applications and Related Forms" (RIN0960-AF52) received on January 20, 2004; to the Committee on Finance.

EC-6369. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Australia; to the Committee on Foreign Relations.

EC-6370. A communication from the Director, Business Operations, Defense Security Cooperation Agency, transmitting, pursuant to law, a report of actions required by Presidential Determination 02-16; to the Committee on Foreign Relations.

EC-6371. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-6372. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Senior Executive Pay and Performance Awards" received on February 12, 2004; to the Committee on Governmental Affairs.

EC-6373. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Information Technology Exchange Program" received on February 12, 2004; to the Committee on Governmental Affairs.

EC-6374. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, Governmental Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2001-19" (FAC2001-19) received on February 12, 2004; to the Committee on Governmental Affairs.

EC-6375. A communication from the Chairman, National Science Board, transmitting, pursuant to law, the Board's report under the Government in Sunshine Act for the National Science Board in calendar year 2003; to the Committee on Governmental Affairs.

EC-6376. A communication from the Director, Office of Personnel Management, transmitting, a draft of proposed legislation to repeal retirement benefits provided by section 226 of Public Law 108-176 for certain air traffic control supervisors, and for other purposes; to the Committee on Governmental Affairs.

EC-6377. A communication from the Director, Workforce Relations and Accountability Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002" (RIN3206-AJ93) received on February 12, 2004; to the Committee on Governmental Affairs.

EC-6378. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Performance-Based Child Support Incentive System; to the Committee on Health, Education, Labor, and Pensions.

EC-6379. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Pediculicide Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph" (RIN0910-AA01) received on February 12, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6380. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Biological Products; Bacterial Vaccines and Toxoids; Implementation of Efficacy Review" (Doc. No. 1980N–0208) received on February 12, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6381. A communication from the Assistant General Counsel for Regulatory Services, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Magnet Schools Assistance Program" (RIN1855–AA01) received on February 12, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6382. A communication from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting, pursuant to law, a copy of the commercial and inherently governmental activities inventory of the Department; to the Committee on Health, Education, Labor, and Pensions.

EC–6383. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to routine screening for thyroid dysfunction; to the Committee on Health, Education, Labor, and Pensions.

EC–6384. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Board's Justification of Budget Estimates for Fiscal Year 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–6385. A communication from the Director, Faith Based and Community Initiatives Task Force, Office of the Attorney General, transmitting, pursuant to law, the report of a rule entitled "Participation in Justice Department Programs by Religious Organizations Providing for Equal Treatment for all Justice Department Program Participants" (RIN1105–AA83) received on February 12, 2004; to the Committee on the Judiciary.

EC–6386. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Fiscal Year 2002 Annual Report to Congress for the Bureau of Justice Assistance; to the Committee on the Judiciary.

EC–6387. A communication from the Chief Judge, United States Court of Federal Claims, transmitting, pursuant to law, a report relative to Hardwick, Inc. v. United States; to the Committee on the Judiciary.

EC–6388. A communication from the National Commander, American Ex-Prisoners of War, transmitting the American Ex-Prisoners of War's financial statements for the year ended August 31, 2003; to the Committee on the Judiciary.

EC–6389. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Extension of Administrative Fines Program" received on February 10, 2004; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

POM–352. A memorial adopted by the Senate of the Legislature of the State of Florida relative to enacting a Medicare Prescription Drug Benefit; to the Committee on Finance.

SENATE MEMORIAL NO. 1180

Whereas, the use of prescription drugs improves the quality of care and helps patients live healthier, longer, and more productive lives while keeping them out of more costly acute care settings in the long term, and

Whereas, the increased use of new and improve prescription drugs has changed the delivery of health care in the United States since Medicare was enacted, and while two-thirds of the Medicare population has some form of prescription drug coverage, although it many times is inadequate, one-third of Medicare beneficiaries have no coverage at all, and

Whereas, Congress did not enact a drug benefit in the Medicare program, and therefore the program is inadequate in providing the elderly and disabled the most appropriate drug therapies, preventing the delivery of quality health care at an affordable cost, and

Whereas, the private sector provides affordable coverage by negotiating discounts on drugs and meeting the needs of special populations with chronic diseases and those with co-morbidities through coordinating care with disease management, drug utilization review, and patient education programs, all of which aid in ameliorating medical errors, and

Whereas, comprehensive reform of the Medicare program would use the successful tools of the private sector in coordinating care for this population and use the marketplace to foster competition among private plans, resulting in more choices of quality coverage for seniors and the disabled while maintaining the financial sustainability of the program, and

Whereas, Congress's inaction has failed to provide for comprehensive reform of Medicare, encouraging states to use their own resources to ease the burden of their elderly and disabled populations and effectively to assume an unfunded, informal mandate, and

Whereas, in implementing state programs to assist the Medicare population, state budgetary constraints can often result in requirements to restrict and limit the patient's access to needed prescription drugs, and enact anticompetivie price controls: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is urged to enact financially sustainable, voluntary, universal, and privately administered out-patient prescription drug coverage as part of the federal Medicare program; be it further

Resolved, That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

POM–353. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to economic stability and future growth; to the Committee on Finance.

SENATE RESOLUTION NO. 137

Whereas, the attack on America of September 11, 2001, was a shock to the Commonwealth of Pennsylvania and the nation; and

Whereas, there is an ongoing military and multidimensional response to terrorism that is strongly supported throughout this Commonwealth; and

Whereas, the United States faces the potential of a serious recession, having already lost 50,000 manufacturing jobs in Pennsylvania alone since the beginning of the year, and the September 11, 2001, attack on America may cause the loss of thousands of additional jobs; and

Whereas, the Congress of the United States has already taken critical action to support affected industries and is proposing additional aid to business; and

Whereas, the Congress is considering an economic stimulus package; and

Whereas, the core goal of an economic stimulus package is the stabilization of communities; and

Whereas, supporting business to stabilize employment must be a critical part of any economic stimulus package to be adopted by the Congress; and

Whereas, support for negatively impacted workers must be included as part of any economic stimulus package to stabilize the economy; and

Whereas, supporting state and local governments to avoid or mitigate a lessening of state or local tax revenues is a critical part of any economic stimulus package; and

Whereas, the economic stimulus package should include the following provisions: extending federally funded unemployment compensation, where needed, by 26 weeks; aiding workers by improving health care access with the Federal Government at least paying 75% of the COBRA health care costs and other health care assistance; siding workers by fully funding targeted training and worker reemployment programs and taking action to assist with mortgages of personal residences and to stabilize other credit transactions; and

Whereas, if the Congress does not address the critical areas of economic stimulus, business, workers and state and local government, these costs will have to be borne by state and local governments, workers and business; Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to address the critical areas that will create economic stability and allow future growth; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–354. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to trade with foreign nations; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 166

Whereas, through international agreements and in the spirit of fair and balanced trade, the United States dollar is allowed to float freely, with little to no market intervention; and

Whereas, many of the trade partners with the United States, including, but not limited to, the European Union, Canada, and Mexico, operate with a floating exchange rate within the international financial system; and

Whereas, there are nations that are able to sell goods at rates lower than the cost of production in the United States, in part, through a manipulation of their nation's currency. This contributes significantly to creating an unfair trade balance; and

Whereas, foreign countries that manipulate their currency are able to sell goods in the United States at an artificial price, lower than the cost of domestically produced products. Doing so undercuts American manufactured products, and it may soon eliminate domestic manufacturing; and

Whereas, the loss of the domestic manufacturing industry poses a substantial threat to the nation's security by requiring the United States to depend on other nations to produce critical components for our defense programs.

Whereas, currency manipulation has contributed to substantial trade deficits with certain nations. The increase in the trade deficit with China alone, one of the countries known for currency manipulation, represents about 15 percent of the decline in United States production since 2000; and

Whereas, Article IV of the International Monetary Fund Articles of Agreement states that members shall "avoid manipulating exchange rates for the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members." Under IMF surveillance procedures, a principal indicator of such manipulation is "protracted large scale intervention in one direction in the exchange market": Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to take the necessary actions, through the International Monetary Fund or otherwise, to ensure that foreign nations that trade with the United States do so fairly and do not manipulate their currency; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Commerce, and the members of the Michigan congressional delegation.

POM–355. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to funding for the Low Income Home Energy Assistance Program; to the Committee on Health, Education, Labor, and Pensions.

House Resolution No. 486

Whereas, our present economic situation continues to result in thousands of Pennsylvanians being laid off from their jobs or having to take lesser-paying jobs; and

Whereas, high energy prices lead to all Pennsylvanians, especially low-income families, the elderly and the working poor, having less money to spend on the basic necessities of life such as food, clothing and shelter in the winter months; and

Whereas, because of high natural gas prices during the summer months, when gas companies normally fill their reserves, Pennsylvania's natural gas distribution companies expect to significantly raise their prices up to 30 percent since the beginning of this year; and

Whereas, for typical home heating customers, this situation could mean that natural gas customers will face bills this coming winter of $30 to $45 per month higher than a year ago; and

Whereas, the cost of home heating oil has risen more than 25 percent since last winter, and recent announcements of future production cuts by the Organization of the Petroleum Exporting Countries (OPEC) may again lead to higher prices this winter; and

Whereas, the Congress has begun to debate, but not yet agreed on, final appropriations for the Low Income Home Energy Assistance Program (LIHEAP) for the next fiscal year which commences on October 1, 2003; and

Whereas, the United States House of Representatives has so far only agreed to support $1.8 billion in regular and contingency LIHEAP assistance; and

Whereas, the President of the United States has proposed and the United States Senate has so far agreed to support a total of $2 billion in regular and contingency LIHEAP assistance; and

Whereas, the United States Senate recently defeated an effort to authorize another $300 in emergency LIHEAP spending that would lead to a total of $2.3 billion for LIHEAP; and

Whereas, increasing LIHEAP funding should entitle the Commonwealth of Pennsylvania to a proportionate increase in LIHEAP funds and would enable more people facing colder weather and decreased income to help meet their present need for heating assistance: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President and the Congress of the United States to support efforts to increase LIHEAP funding over last year's funding; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–356. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to biological and chemical attacks; to the Committee on Health, Education, Labor, and Pensions.

Senate Resolution No. 128

Whereas, S. 1508 was introduced in the Congress of the United States on October 4, 2001; and

Whereas, the bill is intended to increase the preparedness of the United States to respond to a biological or chemical weapons attack; and

Whereas, if enacted in its current form, the bill will be known as the Biological and Chemical Attack Preparedness Act and will require the states to develop and implement a public health disaster plan for responding to biological or chemical attacks within a certain time period of publication of standards developed by the Secretary of Health and Human Services; and

Whereas, the bill also authorizes the Secretary of Health and Human Services to award grants to hospitals and health care providers to provide training, give treatment, purchase equipment and employ personnel consistent with the public health disaster plans of the states; and

Whereas, the Senate of the Commonwealth of Pennsylvania supports the intent and concept of the bill pending in Congress: Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress of the United States to enact S. 1508, which increases the preparedness of the United States to respond to a biological or chemical weapons attack; and be it further

Resolved, That a copy of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–357. A resolution adopted by the Senate of the Legislature of the State of Texas relative to the ability of federal courts to levy or increase taxes; to the Committee on the Judiciary.

Senate Resolution No. 373

Whereas, in 1990, the United States Supreme Court, in the case of Missouri, et al. v. Jenkins, et al. (495 U.S. 33), chose to disregard Article I, Section 8, of the United States Constitution, which reserves exclusively to the legislative branch of government the power to tax the citizenry; and

Whereas, in drafting that constitutional section and allocating the power of taxation, the Founding Fathers drew on the Petition of Right, an English law initiated by Sir Edward Coke, then approved by the British House of Commons and accepted by King Charles I on June 7, 1628, which states in pertinent part that ". . . no man hereafter [may] be compelled to make or yield any . . . tax . . . without common consent by Act of Parliament . . ."; and

Whereas, in 1787, the framers of the United States Constitution reiterated that time-tested principle of limited taxation, specifically vesting with the legislative branch the ". . . Power To lay and collect Taxes, Duties, Imposts and Excises . . ."; and

Whereas, their intent is unambiguous, made clear by the analysis of James Madison, who observed in The Federalist No. 48 that ". . . the legislative department alone has access to the pockets of the people . . ."; and

Whereas, the same view is expressed by Alexander Hamilton, who asked rhetorically in the Federalist No. 33, "[w]hat is the power of laying and collecting taxes but a legislative power . . .?," and follows consistently in the Federalist No. 78, in which he argued that the judiciary should be the least dangerous branch of government inasmuch as judges would have ". . . no influence over either the sword or the purse . . ."; and

Whereas, yet today, Hamilton's argument no longer rings true; through legal orders and the exercise of judicial threat and intimidation, federal courts have usurped the power of the legislative branch and have gone so far as to apply it even to nonfederal levels of government, mandating state and local requirements that have the direct, or indirect, effect of imposing judicial taxes on the states and their political subdivisions; and

Whereas, in so vesting itself by fiat with control of the public purse strings, the federal judiciary has contravened and overridden the constitutional separation of powers between the different branches and levels of government, threatening creation of a fiscal oligarchy unbeholden to influence by the electorate; and

Whereas, the states and congress have too long ignored this self-proclamation and seizure of taxation powers, and it behooves all Americans to preserve their rights by the adoption of an amendment to the Constitution of the United States, re-establishing the fundamental link between taxation and representation; and

Whereas, seeking to reverse the aforementioned Jenkins decision of 1990, lawmakers in 23 other states—and in two territories of the United States—beginning in 1993, have already adopted and transmitted to congress memorials requesting that congress propose an amendment to the United States Constitution, and those memorials have been entered in the Congressional Record as follows:

the Missouri General Assembly in 1993 (Senate Concurrent Resolution No. 9) designated as POM–175 in Volume 139 of the Congressional Record at page 14565;

the Colorado General Assembly in 1994 (Senate Joint Memorial No. 94–2) designated as POM–569 in Volume 140 of the Congressional Record at page 15070;

the New York Senate in 1994 (Senate No. 3353) designated as POM–578 in Volume 140 of the Congressional Record at page 15073;

the Tennessee General Assembly in 1994 (Senate Joint Resolution No. 372) designated as POM–580 in Volume 140 of the Congressional Record at page 15074;

the Arizona Legislature in 1995 (Senate Concurrent Resolution No. 1014) designated as POM–523 in Volume 142 of the Congressional Record at pages 6586 and 6587;

the Louisiana Legislature in 1995 (Senate Concurrent Resolution No. 11) designated as POM–525 in Volume 142 of the Congressional Record at pages 6587;

the Massachusetts Senate in 1995 (unnumbered resolution) designated as POM–625 in Volume 142 of the Congressional Record at pages 14940 and 14941 and designated as POM–638 at page 15486;

the Nevada Legislature in 1995 (Senate Joint Resolution No. 2) designated as POM–287 in Volume 141 of the Congressional Record at page 22422;

the Alaska Legislature in both 1996 and 1998 (House Joint Resolution No. 30 in 1996) designated as POM–622 in Volume 142 of the Congressional Record at pages 14939 and 14940; (House Joint Resolution No. 57 in 1998) designated as POM–515 in Volume 144 of the Congressional Record at page S9042;

the Michigan Legislature in 1996 (Senate Concurrent Resolution No. 278) designated as POM–444 in Volume 144 of the Congressional Record at page S5515;

the South Dakota Legislature in 1996 (House Concurrent Resolution No. 1010) designated as POM–526 in Volume 142 of the Congressional Record at page 6587;

the Delaware General Assembly in 1997 (House Concurrent Resolution No. 6) designated as POM–120 in Volume 143 of the Congressional Record at page S5252;

the Alabama Legislature in 1998 (House Joint Resolution No. 261) designated as POM–416 in Volume 144 of the Congressional Record at page S9405;

the Oklahoma Legislature in 1998 (Senate Concurrent Resolution No. 50) designated as POM–479 in Volume 144 of the Congressional Record at pages S6404 and S6405;

the Illinois Senate in 1999 (Senate Resolution No. 216) designated as POM–449 in Volume 146 of the Congressional Record at page S1814 and designated as POM–512 at page S3611;

the Utah Legislature in 1999 (House Joint Resolution No. 5) designated as POM–285 in Volume 145 of the Congressional Record at page S9945;

the Kansas Legislature in 2000 (House Concurrent Resolution No. 5059) designated as POM–527 in Volume 146 of the Congressional Record at page S4378;

the New Hampshire General Court in 2000 (House Concurrent Resolution No. 27) designated as POM–531 in Volume 146 of the Congressional Record at page S6469;

the Pennsylvania General Assembly in 2000 (Senate Resolution No. 47) designated as POM–642 in Volume 146 of the Congressional Record at pages S11788 and S11789;

the South Carolina General Assembly in 2000 (House Concurrent Resolution No. 4434) designated as POM–641 in Volume 146 of the Congressional Record at page S11575;

the West Virginia Legislature in 2000 (House Concurrent Resolution No. 5) designated as POM–442 in Volume 146 of the Congressional Record at page S1669;

the House of Representatives of the Commonwealth of the Northern Mariana Islands—a territory of the United States—in 2000 (House Resolution No. 12–109) designated as Memorial No. 1 in Volume 147 of the Congressional Record at page H111; as well as the Senate of the Commonwealth of the Northern Mariana Islands, likewise in 2000, (Senate Resolution No. 12–33) designated as POM–46 in Volume 147 of the Congressional Record at page S4244;

the North Dakota Legislative Assembly in 2001 (House Concurrent Resolution No. 3031) designated as POM–7 in Volume 147 of the Congressional Record at pages S3704 and S3705;

the Legislature of the United States Territory of Guam in 2001 (Resolution No. 6) designated as POM–357 in Volume 148 of the Congressional Record at page S10570; and

the Wyoming Legislature in 2002 (Senate Joint Resolution No. SJ003, later styled Enrolled Joint Resolution No. 2) designated as POM–250 in Volume 148 of the Congressional Record at pages S5630 and S5631; now: Therefore, be it

Resolved, That the Senate of the 78th Legislature of the State of Texas, Regular Session, 2003, hereby memorialize the United States Congress to propose and submit to the states for ratification as amendment to the United States Constitution to prohibit all federal courts from ordering or instructing any state or political subdivision thereof, or an official of any state or political subdivision, to levy or increase taxes; and, be it further

Resolved, That the congress be respectfully requested to entertain the following suggested text for such an amendment: "ARTICLE 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes'"; and, be it further

Resolved, That the secretary of the Texas Senate forward official copies of this resolution to the vice president of the United States, to the speaker of the United States House of Representatives, and to all members of the Texas delegation to the congress, with the request that this resolution be entered officially in the Congressional Record as a memorial to the Congress of the United States of America to propose for ratification a federal constitutional amendment to prohibit judicially imposed taxes.

POM–358. A joint resolution adopted by the Legislature of the State of Ohio relative to ratification of the Fourteenth Amendment; to the Committee on the Judiciary.

AMENDED SENATE JOINT RESOLUTION NO. 2

Whereas, both houses of the thirty-ninth Congress of the United States of America, at the first session of such Congress, by a constitutional majority of two-thirds of the members of each house thereof, made a proposition to amend the Constitution of the United States in the following words, to wit: "Joint Resolution proposing an amendment to the constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several states as an amendment to the constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as a part of the constitution, namely: ARTICLE XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of make citizens, twenty one years of age in such state.

Sec. 3. No person shall be a senator or representative in congress, or elector of president or vice president, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection of rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

Sec. 4. the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any state, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Sec. 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article."

Whereas, the General Assembly of the State of Ohio ratified the Fourteenth Amendment to the United States Constitution by a Joint Resolution adopted January 11, 1867, but by a further Joint Resolution, voted to rescind its ratification of the Amendment on January 15, 1868, before the Amendment became effective in July 1868; and

Whereas, the State of Ohio is considered by many authorities to have ratified the Amendment, but other authorities assert that Ohio's rescission may have been valid; and

Whereas, the validity of the Fourteenth Amendment is indisputable regardless of the validity of Ohio's rescission because Congress approved it by a two-thirds majority on June 13, 1866, and every State in the Union at the time has subsequently supported it, thereby exceeding the necessary three-quarters majority; and

Whereas, the Fourteenth Amendment is the primary guaranty for individual rights and liberties through its protection of the privileges and immunities of citizens of the United States, its prohibition on the deprivation of life, liberty or property without due process of law, and its guaranty of equal protection of the laws; and

Whereas, the ratification of the Fourteenth Amendment demonstrates the support of the people of the State of Ohio for the principles embodied therein: Now therefore be it

Resolved by the General Assembly of the State of Ohio, That the said Amendment to the Constitution of the United States is hereby ratified; and be it further

Resolved, That the Secretary of State of the State of Ohio be directed to deliver to the Governor of this state a certified copy of this resolution, and such certified copy shall be forwarded at once by the Governor to the Administrator of General Services, United States Government, Washington, D.C., to the President Pro Tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to the Secretary of State of the United States.

POM-359. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to intellectual property rights; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 164

Whereas, since the birth of our nation, the United States has amassed a remarkable record of creativity and discovery. Our history is replete with the development of new goods and production methods to advance the quality of life, and we have developed a strong economy based on these discoveries; and

Whereas, members of the manufacturing industry have cited a number of examples where companies in other nations have been infringing upon intellectual property rights. This has resulted in financial losses and further exacerbated the challenges faced by our manufacturers; and

Whereas, the World Trade Organization and the World Intellectual Property Organization implemented a set of standards and principles outlining how international intellectual property rights should be applied and how to settle disputes between members of the World Trade Organization and the World Intellectual Property Organization; and

Whereas, the United States can defend the intellectual property rights of domestic business through the procedures established by the World Trade Organization and the World Intellectual Property Organization; and

Whereas, to ensure a vibrant economic recovery in Michigan, our businesses and entrepreneurs must be secure in their intellectual property, for it is through these innovations that companies build their economic strength and maintain their competitiveness: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to expand its efforts through the World Trade Organization and the world Intellectual Property Organization to ensure that the intellectual property of domestic businesses and individuals is protected and that actions are taken against those countries that violate the World Trade Organization and World Intellectual Property Organization standards; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States of America, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Commerce, the Under Secretary of Commerce for Intellectual Property in the United States Patent and Trade Office, and the members of the Michigan congressional delegation.

POM-360. A joint resolution adopted by the General Assembly of the State of New Jersey relative to New Jersey's ratification of the Fourteenth Amendment; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 16

Whereas, the Fourteenth Amendment to the United States Constitution granted citizenship to, and protected the civil liberties of, freed slaves; and

Whereas, the Fourteenth Amendment also prohibits states from abridging the privileges or immunities of any citizen, depriving any person of life, liberty, or property without due process of law, or denying any person equal protection of the laws; and

Whereas, the rights guaranteed by the Fourteenth Amendment are part of the foundation of our free society; and

Whereas, in 1866, the New Jersey Legislature acted to ensure these rights by ratifying the Fourteenth Amendment; and

Whereas, thereafter, the New Jersey Legislature, in 1868, attempted to withdraw its ratification of this amendment by passage of Joint Resolution No. IV; and

Whereas, both the Federal Secretary of State and the Congress refused to recognize New Jersey's attempt to withdraw ratification and the Fourteenth Amendment became a part of the United States Constitution on July 20, 1868; and

Whereas, the attempt to withdraw New Jersey's ratification of the Fourteenth Amendment is contrary to this State's long tradition of respect for, and protection of, the civil rights of all persons; and

Whereas, even though the attempt to withdraw New Jersey's ratification of the Fourteenth Amendment was without effect, there is, nevertheless, a need to rectify this misguided action: Now, therefore, be it

Resolved by the Senate and General Assembly of the State of New Jersey:

1. Joint Resolution No. IV of 1868 which attempted to withdraw New Jersey's ratification of the Fourteenth Amendment is hereby revoked.
2. Duly authenticated copies of this Joint Resolution shall be transmitted to the federal Secretary of State, the presiding officers of the Congress of the United States, and each member of New Jersey's congressional delegation.
3. This Joint Resolution shall take effect immediately.

POM-361. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to supporting capital activities in Michigan; to the Committee on Small Business and Entrepreneurship.

SENATE RESOLUTION NO. 163

Whereas, access to capital is a key component of establishing a new enterprise. The ability to raise sufficient funding to start a business is one of the major hurdles any entrepreneur faces in attempting to create a new company; and

Whereas, because the creation of new businesses is fundamental to job creation and a successful economy, making capital more available to start-up companies is a challenge of great significance to our communities and the entire country. In response to the need, Congress has on several occasions enacted measures to encourage the establishment of new business. Congressional tools, including tax incentives for high-risk companies at the early stages of development and other moves that encourage investment in start-up ventures, can be highly beneficial; and

Whereas, Michigan is strongly committed to encouraging venture capital investment in this state. Our efforts, however, will not be nearly as effective as they could be without similar leadership from Congress. A multi-pronged effort, with both the states and the national government encouraging private enterprise, can lead to greater innovation in any number of fields. This innovation, a hallmark of American society is critical to the vitality of our national economy as we respond to challenges in an era of great change: Now, therefore, be it

Resolved by the senate, That we memorialize the Congress of the United States to enact measures that support venture capital activities in Michigan; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-362. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to a federal charter for the Korean War Veterans Association; to the Committee of Veteran's Affairs.

SENATE RESOLUTION NO. 187

Whereas, as our country has marked the fiftieth anniversary of the ending of hostilities in Korea, historians, policymakers, and veterans of that difficult conflict have reflected on the impact of the war on our country and the world. Revisiting the events surrounding the Korean War has brought public attention to many aspects of what some call "the forgotten war"; and

Whereas, unlike other veterans groups, the Korean War Veterans Association does not have a federal charter. Without this charter, this respected organization—the only veterans groups comprised entirely of veterans of the Korean War—cannot provide the same level of services other groups can. This deficiency makes it more difficult for members and families to receive appropriate services; and

Whereas, legislation to extend a federal charter to the Korean War Veterans Association is pending in both the House of Representatives (H.R. 1043) and the Senate (S. 478) of the Congress. Enactment of this measure will enable the Korean War Veterans Association to provide a wider range of services, especially the processing of claims. Clearly, this long-overdue status will assist our heroes of the Korean War and express the nation's respect for their sacrifices and honor: Now, therefore, be it

Resolved by the senate, That we memorialize the Congress of the United States to enact legislation to grant a federal charter to the Korean War Veterans Association; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-363. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to a new national veterans' cemetery in Philadelphia; to the Committee on Veterans' Affairs.

SENATE RESOLUTION NO. 124

Whereas, veterans residing in metropolitan Philadelphia are in desperate need of a new national veterans cemetery; and

Whereas, southeastern Pennsylvania veterans do not have the opportunity to be buried in a veterans cemetery within 75 miles of their home, as the Department of Veterans Affairs guidelines require, and this imposes an emotional and physical burden on their surviving loved ones; and

Whereas, the importance of and need for a veterans cemetery in the southeastern Pennsylvania region has already been recognized by the 108th Congress; and

Whereas, for providing heroic service and sacrifice to our nation, southeastern Pennsylvania veterans should have the opportunity to be buried close to home: Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize Congress to pass H.R. 1516; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–364. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania urging Congress to not lower veterans' benefits in the budget; to the Committee on Veterans' Affairs.

SENATE RESOLUTION NO. 161

Whereas, the Congress of the United States is considering a proposed national budget that includes further reductions to veterans' health care benefits based on establishing new annual enrollment fees, more than doubling copay requirements and restricting long-term access to benefits for future veterans currently serving their country on active duty at home and abroad; and

Whereas, the proposed reductions to veterans' health care benefits come at a time when this country is experiencing a nationwide health care crisis that forces millions of senior citizens, many of whom are veterans living on fixed income, to choose between purchasing food or medical services and prescription drugs to treat life-threatening illnesses; and

Whereas, the health care benefit needs of veterans deserve to be given a higher priority in the national budget so as to ensure the full funding of veterans' health care programs: Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States to not reduce veterans' benefits in the national budget; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. GRASSLEY for the Committee on Finance.

*Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of the Treasury.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY (for herself, Mr. LEAHY, and Mr. REID):

S. 2068. A bill to enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, and for other purposes; to the Committee on Finance.

By Mr. BROWNBACK (for himself and Mr. BAYH):

S. 2069. A bill to expand the S visa classification to include aliens who are in possession of critical reliable information with respect to weapons of mass destruction, to establish a Weapons of Mass Destruction Informant Center, and for other purposes; to the Committee on the Judiciary.

By Mr. HAGEL:

S. 2070. A bill to amend the Animal Health Protection Act to direct the Secretary of Agriculture to implement the United States Animal Identification Plan, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL (for himself and Mr. KENNEDY):

S. 2071. A bill to expand the definition of immediate relative for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 2072. A bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses; to the Committee on Finance.

By Mr. CORNYN (for himself and Mr. LOTT):

S. 2073. A bill to amend chapter 1 of title 3, United States Code, relating to Presidential succession; to the Committee on Rules and Administration.

By Mr. DORGAN:

S. 2074. A bill for the relief of Klas Dieter Hinze, Heidi Hinze, Annamarie Hinze, and Robert Arndt; to the Committee on the Judiciary.

By Mr. REID (for himself, Mrs. LINCOLN, and Mr. BREAUX):

S. 2075. A bill to amend title III of the Public Health Service Act to include each year of fellowship training in geriatric medicine or geriatric psychiatry as a year of obligated service under the National Health Corps Loan Repayment Program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS:

S. 2076. A bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. BAYH):

S. 2077. A bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2078. A bill to suspend temporarily the duty on Liquid Crystal Device panel assemblies for use in Liquid Crystal Device projection type televisions; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2079. A bill to suspend temporarily the duty on electron guns for cathode ray tubes (CRT's) for high definition televisions with a high definition television screen aspect ratio of 16:9; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2080. A bill to suspend temporarily the duty on flat panel screen assemblies for use in plasma flat panel screen televisions; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. HATCH, and Mr. BIDEN):

S. 2081. A bill to amend the Office of National Drug Control Policy Act Reauthorization Act of 1998 to ensure that adequate funding is provided for certain high intensity drug trafficking areas; to the Committee on the Judiciary.

By Mr. SHELBY (for himself, Mr. MILLER, Mr. BROWNBACK, Mr. GRAHAM of South Carolina, Mr. INHOFE, and Mr. ALLARD):

S. 2082. A bill to limit the jurisdiction of Federal courts in certain cases and promote federalism; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 2083. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself, Mr. CARPER, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. LAUTENBERG, Mr. ROCKEFELLER, and Mr. VOINOVICH):

S. 2084. A bill to revive and extend the Internet Tax Freedom Act for 2 years, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2085. A bill to modify the requirements of the land conveyance to the University of Nevada at Las Vegas Research Foundation; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 2086. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM of Florida:

S. 2087. A bill to amend the Internal Revenue Code of 1986 to expand the Hope Scholarship and Lifetime Learning Credits; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. REID, Mr. LEAHY, Mr. DODD, Mr. HARKIN, Mr. KERRY, Mr. FEINGOLD, Ms. MIKULSKI, Mr. SCHUMER, Mrs. MURRAY, Mr. DURBIN, Mr. EDWARDS, Mrs. CLINTON, Mr. SARBANES, Mr. LAUTENBERG, Mr. CORZINE, Ms. LANDRIEU, and Ms. CANTWELL):

S. 2088. A bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS:

S. 2089. A bill to allow aliens who are eligible for diversity visas to be eligible beyond the fiscal year in which they applied; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. EDWARDS, Mr. AKAKA, Mr. DORGAN, Mr. FEINGOLD, Mr. WYDEN, Mr. CORZINE, Ms. STABENOW, Mr. SCHUMER, Mrs. CLINTON, Mr. KERRY, and Mrs. FEINSTEIN):

S. 2090. A bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRIST (for himself, Ms. LANDRIEU, Mr. COCHRAN, Mr. DEWINE, Mr. BOND, Mr. WARNER, Mr. TALENT, and Mrs. HUTCHISON):

S. 2091. A bill to improve the health of health disparity population; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN (for himself, Mr. INHOFE, Mr. JOHNSON, Mr. KYL, Mr. LIEBERMAN, Mr. LOTT, Mr. DURBIN, Mr. VOINOVICH, Ms. COLLINS, Mr. CRAPO, and Mr. BOND):

S. 2092. A bill to address the participation of Taiwan in the World Health Organization; to the Committee on Foreign Relations.

By Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, and Mr. COCHRAN):

S. 2093. A bill to maintain full marriage tax penalty relief for 2005; to the Committee on Finance.

By Mr. DODD:

S. 2094. A bill to protect United States workers from competition of foreign workforces for performance of Federal and State services contracts; to the Committee on Governmental Affairs .

By Mr. DOMENICI:

S. 2095. A bill to enhance energy conservation and research and development and to provide for security and diversity in the energy supply for the American people; read the first time.

By Mr. CAMPBELL:

S.J. Res. 27. A joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself, Mr. LEAHY, Mr. DEWINE, Mr. MCCAIN, Mr. WYDEN, Mr. BAYH, Mr. KYL, Mr. INHOFE, Mr. COLEMAN, Ms. LANDRIEU, and Mr. CHAMBLISS):

S. Res. 302. A resolution expressing the sense of the Senate that the United States should not support the February 20, 2004, elections in Iran and that the United States should seek a genuine democratic government in Iran that will restore freedom to the Iranian people and will abandon terrorism; to the Committee on Foreign Relations.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. Res. 303. A resolution commending the Carroll College Fighting Saints football team for winning the 2003 National Association of Intercollegiate Athletics (NAIA) national football championship game; considered and agreed to.

By Mr. BROWNBACK (for himself, Mr. LEAHY, Mr. BIDEN, and Mr. DASCHLE):

S. Res. 304. A resolution expressing the sense of the Senate that the United States should not support the February 20, 2004, elections in Iran and that the United States should advocate democratic government in Iran that will restore freedom to the Iranian people and will abandon terrorism; considered and agreed to.

By Mr. CORNYN (for himself and Mr. LOTT):

S. Con. Res. 89. A concurrent resolution expressing the sense of the Congress with respect to the continuity of the Presidency; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 480

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 736

At the request of Mr. ENSIGN, the names of the Senator from Arizona (Mr. KYL) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1095

At the request of Mr. SUNUNU, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1095, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 1126

At the request of Mr. JOHNSON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1126, a bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1189

At the request of Mr. DURBIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1189, a bill to ensure an appropriate balance between resources and accountability under the No Child Left Behind Act of 2001.

S. 1414

At the request of Mr. HATCH, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

S. 1422

At the request of Mr. CORZINE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1422, a bill to provide assistance to train teachers of children with autism spectrum disorders, and for other purposes.

S. 1530

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1530, a bill to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River.

S. 1588

At the request of Ms. LANDRIEU, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1588, a bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and conduct and coordinate a research program on hormone disruption, and for other purposes.

S. 1609

At the request of Mr. HATCH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1609, a bill to make aliens ineligible to receive visas and exclude aliens from admission into the United States for nonpayment of child support.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1647

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1647, a bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for medicare beneficiaries, and for other purposes.

S. 1786

At the request of Mr. ALEXANDER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1786, a bill to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

S. 1792

At the request of Mr. DOMENICI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 1804

At the request of Mr. BREAUX, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1804, a bill to reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1900

At the request of Mr. LUGAR, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1992

At the request of Mr. KENNEDY, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1992, a bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program, to improve the medicare prescription drug benefit, to repeal health savings accounts, and for other purposes.

S. 1996

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1996, a bill to enhance and provide to the Oglada Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week."

S. CON. RES. 81

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 289

At the request of Mr. DORGAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 289, a resolution expressing the sense of the Senate with respect to free trade negotiations that could adversely impact the sugar industry of the United States.

AMENDMENT NO. 2311

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 2311 proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2326

At the request of Mr. BINGAMAN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of amendment No. 2326 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2409

At the request of Mrs. BOXER, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 2409 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2414

At the request of Mr. NICKLES, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of amendment No. 2414 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2416

At the request of Mr. BAYH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of amendment No. 2416 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2427

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2427 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2428

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2428 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2442

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of amendment No. 2442 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2482

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 2482 proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2511

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2511 intended to be proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY (for herself, Mr. LEAHY, and Mr. REID):

S. 2068. A bill to enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, and for other purposes; to the Committee on Finance.

Mrs. MURRAY. Mr. President, I rise this evening to introduce a very important piece of legislation that will support hundreds of thousands of Americans who are making great sacrifices for our country. This bill will enhance the benefits that are offered to the brave men and women of the National Guard and Reserves and their families when they are called to service.

The latest figures from the Pentagon show that more than 194,000 Guard and Reserves are currently serving on active duty. We have come to rely greatly on our Guard and Reserve Forces for extended durations. It is now time that we provide them with the support that is available to our regular services.

Nationwide, we are experiencing the largest activation of Guard and Reserves since the Korean war. In my home State this is the largest activation of these brave men and women since World War II.

Guard and Reserves make up almost 40 percent of the total U.S. force in Iraq. They play a critical role in our operations in Afghanistan, and they support a tremendous number of our homeland security missions.

The Guard's 81st Armor Brigade is sending 3,600 brave Washington State citizens to Iraq in the next few weeks. I had the pleasure of meeting with many of these soldiers and their families in early January. During my visit with these soldiers, I heard many concerns about the well-being of their families who are going to be left to shoulder tremendous responsibilities while they are away. Many were concerned that they would leave before they could help their spouse find affordable child care. Others were concerned that their children would have to go to a new doctor who accepts TRICARE, and that type of change when one parent is overseas and far away can be very scary for a young child.

My visit with the families offered a window into what they are facing as their loved ones serve on extended deployments. Their families were concerned about the loss of income between their spouse's civilian salary and their active-duty salary.

Some of our activated soldiers were in school. Their families were concerned that they would have to begin repaying student loans while their loved ones served in Iraq.

It is vital that Congress take steps to ensure all members of our Armed Forces and their families are taken care of, especially during extended active-duty deployments and upon their return home. Unfortunately, that has not always been the case. Veterans who volunteered or were drafted to serve our country were promised health care and other benefits. When they returned home they found those promises were not kept. In recent years, the administration has barred certain veterans from enrolling in the VA. The President's budget request for this year would require some veterans to pay additional fees for the services they are currently able to receive.

This evening, I am introducing a comprehensive piece of legislation that will minimize the challenges at home when members of the Guard and Reserve leave their jobs, their schools, their homes, and their families to protect our homeland and fight terrorism. This legislation helps families by extending the Family and Medical Leave Act to allow spouses to take time away from their job to put together a single-parent household and prepare for their transition.

My bill will help Guard and Reserve families with children by providing access to child care, especially during times of extended active duty. This provision would allow nonworking spouses with children to work while their spouse is being deployed, making child care more affordable.

Education is a key part of this proposal. I have heard from Guard members who are worried that they had to leave their university to go to Iraq for a year. We have to ensure that when they return to school it will be without penalty, and that their student loans are deferred during their extended deployment.

Several soldiers who work in the high-tech field said to me:

> Eighteen months away from my job in the high tech field means that I will not be ready to go back into my position when I return.

That is why my bill will extend and update the GI Bill benefits for Guard and Reserve to keep better pace with the rising costs of education. This will encourage education and provide a competitive edge for Guard and Reserves when they return home to the private sector.

My proposal will improve health care coverage by providing access to TRICARE for all members of the Guard and Reserves and their families, regardless of employment or insurance status. TRICARE only works if you are in a community that has TRICARE available. Guard and Reserves who are mobilized for extended periods need the option to maintain their private health care plans. So my proposal provides that option and covers their premiums during periods of extended deployment.

Many members of the Guard and Reserves who are mobilized are seeing a huge decrease in their pay while they serve our country on active duty. My proposal ensures pay equity for Federal employees called to duty and provides tax credits to employers to encourage their support of activated Guard and Reserves.

My proposal also reduces the age for Guard and Reserves to receive retirement pay to age 55.

I am very concerned that we are burning up our Guard and Reserve units by placing a serious strain on their families and their finances. These brave men and women need the same kind of support that our regular services have when they are called away from their families and their jobs for extended deployments. By addressing these shortfalls now, we give the Guard and Reserves a valuable tool for recruiting and retaining the best and the brightest soldiers in the world.

This bill tells our Guard and Reserve members that they can serve our country overseas, even on long deployments, and know that their families will be financially secure and able to get child care and health care. Spouses can take time off from work to prepare for a long deployment. In addition, Guard members won't lose their place at a university, and they won't be charged interest or have to repay loans until they resume their studies.

I hope we can pass this bill and do everything we can to lessen the burden on Americans who are already sacrificing so much for our security. We are asking so much of our Guard and Reserve members and their families. We have an obligation to make it easier for their spouses and children during these extended long deployments.

I hope my colleagues will support this legislation and help us move it quickly through the Senate.

I yield the floor.

By Mr. HAGEL:

S. 2070. A bill to amend the Animal Health Protection Act to direct the Secretary of Agriculture to implement the United States Animal Identification Plan, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HAGEL. Mr. President, I rise today to introduce legislation to provide the U.S. Department of Agriculture (USDA) the authority to implement the U.S. Animal Identification Plan (USAIP) for livestock, as well as strengthen existing laws that protect against the spread of disease in livestock.

Consumers in the U.S. and around the world must have confidence in our food supply. The discovery of the first case of Bovine Spongiform Encephalopathy (BSE) in the United States has raised serious concerns regarding the effectiveness of current U.S. disease management measures as well as closed U.S. beef markets overseas.

For years there have been efforts to develop a national animal identification plan. The National Identification Task Force was created in 2002. The task force brought together livestock industry representatives with USDA to participate in the development of a comprehensive plan known as the United States Animal Identification Plan (USAIP). The final development and implementation of this plan is needed now to bolster confidence in the U.S. livestock industry.

In a recent briefing regarding the completion of the investigation into the U.S. BSE case, Dr. Ron DeHaven, Chief Veterinary Officer with USDA, referring to the unfound cattle from Canada, was quoted as saying, "Many of those animals were moved into the United States a number of years ago, and so because of that timeframe some of the paper trail has gotten cold." A national animal identification plan would ensure the trail would not go cold in the future.

My legislation will direct USDA to focus its resources on implementing the USAIP for beef and dairy cattle to ensure a disease tracking system is in place in a timely manner. This bill also provides financial assistance to aid in the cost of producer compliance.

In addition, this legislation directs the Food and Drug Administration (FDA) to strengthen the enforcement of current livestock feed ban laws. This measure will help control disease threats to U.S. livestock, provide privacy protection for the information collected and used in the plan, and implement an effective plan for tracking animals.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Animal Identification Plan Implementation Act".

SEC. 2. ANIMAL IDENTIFICATION PLAN.

Section 10411 of the Animal Health Protection Act (7 U.S.C. 8310) is amended by adding at the end the following:

"(f) ANIMAL IDENTIFICATION PLAN.—

"(1) DEFINITION OF ANIMAL IDENTIFICATION PLAN.—

"(A) IN GENERAL.—The term 'animal identification plan' means the United States Animal Identification Plan developed by the National Animal Identification Development Team.

"(B) INCLUSIONS.—The term 'animal identification plan' includes—

"(i) the operational premises identification allocation system;

"(ii) the operational certification system able to certify State premises and animal number allocation systems;

"(iii) the operational premises repository; and

"(iv) the operational identification database.

"(2) IMPLEMENTATION PRIORITY.—Subject to the availability of appropriations and cost-share agreements, the Secretary shall implement the animal identification plan—

"(A) for beef and dairy cattle that are at least 30 months old on the date of enactment of this subsection, not later than 60 days after the date of enactment of this subsection;

"(B) for all other beef and dairy cattle, not later than 90 days after the date of the enactment of this subsection;

"(C) for all other ruminate livestock, not later than 180 days after the date of enactment of this subsection; and

"(D) for all other livestock, not later than 1 year after the date of enactment of this subsection.

"(3) PARTICIPATION BY STATE AND THIRD-PARTY VENDORS.—The Secretary may enter into agreements to collect information for the animal identification plan with States or third-party vendors that meet the requirements of the animal identification plan.

"(4) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—In implementing the animal identification plan, the Secretary shall ensure the privacy of producers by—

"(i) collecting only data necessary to establish and maintain the animal identification plan; and

"(ii) maintaining the confidentiality of information collected from producers.

"(B) NONAPPLICATION OF FOIA.—Section 552 of title 5, United States Code, shall not apply to the animal identification plan.

"(C) APPLICATION OF PRIVACY ACT.—Section 552a of title 5, United States Code, shall apply to any information collected to implement this subsection.

"(5) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to producers to assist the producers in complying with the animal identification plan.

"(6) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $50,000,000 for fiscal year 2004, of which at least $25,000,000 shall be available to carry out paragraph (5).

"(B) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Subject to subparagraph (C), if less than $50,000,000 is appropriated for fiscal year 2004, the Secretary may use up to $50,000,000 of the funds of the Commodity Credit Corporation to carry out this subsection.

"(C) LIMITATION ON AMOUNT OF FUNDS.—No more than $50,000,000 may be used to carry out this subsection.".

SEC. 3. RUMINANT FEED BAN.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall—

(1) monitor the implementation of section 589.2000 of title 21, Code of Federal Regulations (relating to animal proteins prohibited in ruminant feed);

(2) conduct an annual formal evaluation of the effectiveness and implementation of that section; and

(3) submit to Congress an annual report that describes the formal evaluation.

(b) ENFORCEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall develop and implement a plan for enforcing section 589.2000 of title 21, Code of Federal Regulations.

(2) INCLUSIONS.—The plan shall include—

(A) a hierarchy of enforcement actions to be taken;

(B) a timeframe to allow a person subject to section 589.2000 of title 21, Code of Federal Regulations, to correct violations; and

(C) a timeframe for subsequent inspections to confirm that violations have been corrected.

By Mr. KOHL (for himself and Mr. KENNEDY):

S. 2071. A bill to expand the definition of immediate relative for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with Senator KENNEDY to introduce the Family Reunification Act, a measure designed to remedy a regrettable injustice in our immigration laws. A minor oversight in the law has led to an unfortunate, and likely unintended, consequence. Parents of U.S. citizens are currently able to enter the country as legal permanent residents, but our laws do not permit their minor children to join them. Simply put, the Family Reunification Act will close this loophole by including the minor siblings of U.S. citizens in the definition of "immediate relative." This legislation will ensure that our immigration laws can better accomplish one of the most important policy goals behind them—the goal of strengthening the family unit.

Congress took an important first step in promoting family reunification when it enacted the Immigration and Nationality Act. By qualifying as "immediate relatives," this law currently offers parents, spouses and children of U.S. citizens the ability to obtain immigrant visas to enter this country legally.

This we can all agree is good immigration policy. Unfortunately, a "glitch" in this law has put numerous families in an uncomfortable predicament. One of these unlucky families lives in my home Sate of Wisconsin. Effiong and Ekom Okon, both U.S. citizens by birth and graduates of the University of Wisconsin-Madison, requested that their parents be admitted to the United States from Nigeria as "immediate relatives." The law clearly allows for this. Their father, Leo Okon, has already joined them in Wisconsin, and their mother, Grace, is currently in possession of an immigrant visa. However, Grace is unable to join her husband and sons in the United States because her six-year-old daughter, Daramfon, does not qualify as an "immediate relative" under current immigration law. Because it would be unthinkable for her to abandon her small child, Grace has been forced to stay behind in Nigeria, separated from the rest of her family.

This family is truly an American success story, one of first-generation citizens graduating from a top University. They want to continue to contribute to society and want to bring their family with them. Unfortunately, current immigration law only permits some members of their immediate family to join them, but not all. This is clearly wrong.

It is difficult to determine the scope of this problem. Because minor siblings do not qualify for visas, the Department of Homeland Security does not keep track of how many families have been adversely affected. However, DHS employees have assured us that the Okons are not unique. In fact, this is an all too common occurrence. If only one family suffers because of this loophole, changes must be made. The fact that there have been numerous cases demands changes now.

Many parts of our immigration laws are outdated, unfair, and in need of repair. The definition of "immediate relative" is no different. Congress' intent when it grated "immediate relatives" the right to obtain immigrant visas was to promote family reunification, but the unfortunate oversight highlighted has interfered with many families' opportunities to do just that. The legislation introduced today would expand the definition of "immediate relatives" to include the minor siblings of U.S. citizens. By doing so, we can truly provide these families with the ability to reunite and the chance to take advantage of the many great opportunities our country has to offer. This is a simple and modest solution to an unthinkable problem that too many families have already had to face.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE DEFINITION.

Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting after "at least 21 years of age." the following: "In the case of a parent of a citizen of the United States who has a child (as defined in section 101(b)(1)), the child shall be considered, for purposes of this subsection, an immediate relative if accompanying or following to join the parent.".

By Mr. CRAIG.

S. 2072. A bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses; to the Committee on Finance.

Mr. CRAIG. Mr. President, today I am introducing the Senior Elder Care Relief and Empowerment Act—the SECURE Act. The SECURE Act provides eligible taxpayers with a non-refundable tax credit equal to 50 percent of qualified expenses incurred on behalf of senior citizens above a $1,000 spending floor.

The Senate Special Committee on Aging has held several hearings on different facets of the growing long-term care crisis in this country. A major concern of mine is that the Federal long-term care policy mix may not have the right incentives—especially when it comes to the tough choices faced by families who want to care for their frail and aging relatives.

Earlier this week, we held a hearing in the Senate Special Committee on Aging on a growing issue of national importance—the issue of family caregiving for America's seniors.

Witnesses at the hearing highlighted the emotional stress and financial challenges faced by family caregivers of aging and vulnerable relatives; and testified favorably about the SECURE Act. Trudy Elliott, a witness at the hearing from North Idaho, talked about the stress and financial challenges she and her husband faced while caring for her mother, sister, and father. Her testimony was very moving. Mrs. Elliott, who also works for a company in the home health field, testified that her experience was not unique. More and more families are facing the stress and financial difficulties that come with caring for their aging parents.

It is critical to note that families, not government, provide 80 percent of long-term care for older persons in the United States. This is an enormous strength of our long-term care system. The U.S. Administration on Aging reports that about 22 million people serve as informal caregivers for seniors with at least one limitation on their activities of daily living.

These caregivers often face extreme stress and financial burden—especially those we call the sandwich generation. The sandwich generation refers to those sandwiched between caring for their aging parents and caring for their own children.

It is difficult for families to balance caring for children and saving or paying for college, while at the same time struggling with financing care for frail and aging parents.

The SECURE Act should not preclude seniors or those near retirement from purchasing long-term care insurance. The Act provides tax relief for high-risk seniors who cannot qualify for long-term care insurance policies.

For many families, the nursing home is the only solution for providing long-term care, and that can be a good choice. For other families, keeping aging and vulnerable relatives in their own home or in the caregiver's home makes sense.

An that is why I am introducing the SECURE Act. Families facing high levels of stress and eldercare expenses deserve tax relief as they freely care for their frail and aging parents.

We also heard from witnesses at the Aging Committee hearing that the SECURE Act will increase the eldercare choices available to families and has the potential to reduce the number of seniors forced to spend down their nest-egg in order to qualify for Medicaid services.

Family caregiving for aging and vulnerable relatives requires a flexible national response to ensure seniors and their families have the most appropriate high quality choices.

I invite my colleagues to cosponsor this compassionate legislation. I ask unanimous consent that the text of the bill and a brief description be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Elder Care Relief and Empowerment (SECURE) Act".

SEC. 2. CREDIT FOR ELDER CARE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

"SEC. 25C. ELDER CARE EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter 50 percent of so much of the qualified elder care expenses paid or incurred by the taxpayer with respect to each qualified senior citizen as exceeds $1,000.

"(b) QUALIFIED SENIOR CITIZEN.—For purposes of this section, the term 'qualified senior citizen' means an individual—

"(1) who has attained normal retirement age (as determined under section 216 of the Social Security Act) before the close of the taxable year,

"(2) who is a chronically ill individual (within the meaning of section 7702B(c)(2)(B)), and

"(3) who is—

"(A) the taxpayer,

"(B) a family member (within the meaning of section 529(e)(2)) of the taxpayer, or

"(C) a dependent (within the meaning of section 152) of the taxpayer.

"(c) QUALIFIED ELDER CARE EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified elder care expenses' means expenses paid or incurred by the taxpayer with respect to the qualified senior citizen for—

"(A) qualified long-term care services (as defined in section 7702B(c)),

"(B) respite care, or

"(C) adult day care.

"(2) EXCEPTIONS.—The term 'qualified elder care expenses' does not include—

"(A) any expense to the extent such expense is compensated for by insurance or otherwise, and

"(B) any expense paid to a nursing facility (as defined in section 1919 of the Social Security Act).

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) ADULT DAY CARE.—The term 'adult day care' means care provided for a qualified senior citizen through a structured, community-based group program which provides health, social, and other related support services on a less than 16-hour per day basis.

"(2) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to a qualified senior citizen in order to provide temporary relief to a caregiver of such senior citizen.

"(3) MARRIED INDIVIDUALS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

"(4) NO DOUBLE BENEFIT.—No deduction or other credit under this chapter shall take into account any expense taken into account for purposes of determining the credit under this section.

"(5) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No credit shall be allowed under subsection (a) for any amount paid to any person unless—

"(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

"(6) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFIED SENIOR CITIZENS.—No credit shall be allowed under this section with respect to any qualified senior citizen unless the TIN of such senior citizen is included on the return claiming the credit.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6213(g)(2)(H) (relating to mathematical or clerical error) is amended by inserting ", section 25C (relating to elder care expenses)," after "employment)".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Elder care expenses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred in taxable years beginning after December 31, 2003.

SENIOR ELDER CARE RELIEF AND EMPOWERMENT (SECURE) ACT

How is the tax credit structured?

50% tax credit rate for qualified expenses for elder care provided to a qualified senior citizen with long-term care needs, for all qualified expenses above a "floor" of $1,000 already provided by the taxpayer (for example: $500 credit on first $2,000 spent; $10,000 credit on first $21,000 spent)

What are the qualifications for beneficiaries of the tax credit?

Must have reached at least normal retirement age under Social Security (currently age 65), Certification by a licensed physican that the cared-for senior is unable to perform at least two basic activities of daily living

Who can claim the credit?

Senior for his/her own care, Taxpaying family member, Any taxpaying family claiming the cared-for senior as a dependent

What are the qualified expenses?

Un-reimbursable costs (those not covered by Medicare or other insurance), Physical assistance with essential daily activities to prevent injury, Long-term care expenses including normal household services, Architectural expenses necessary to modify the senior's residence, Respite care, Adult daycare, Assisted living services (non-housing related expenses), Independent living, Home care, Home health care.

By Mr. REID (for himself, Mrs. LINCOLN, and Mr. BREAUX):

S. 2075. A bill to amend title III of the Public Health Service Act to include each year of fellowship training in geriatric medicine or geriatric psychiatry as a year of obligated service under the National Health Corps Loan Repayment Program; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, as our Nation's 76 million Baby Boomers near retirement age, the number of Americans over age 65 will double to 70 million—one-fifth of the population. Americans older than 85 represent the fastest growing segment of this population and membership in this once exclusive demographic group is projected to grow from four million Americans today to an estimated 19 million by 2050.

Unfortunately, our health care system is ill prepared to handle the strain of this enormous senior population, largely because we have a critical shortage of geriatricians. Fewer than 9,000 geriatricians practice in the U.S., far below the 20,000 or more needed to effectively care for the Nation's booming population of seniors. Ironically, the number of geriatricians is expected to shrink as many of these doctors retire at the same time baby boomers start qualifying for Medicare in large numbers.

America must plan for the burdens the baby boomers demographic shift will place on our health care system and health care providers. Our first step is ensuring the country has an adequate number of well-trained geriatricians.

I first introduced legislation to address the national shortage of geriatricians during the 105th Congress. While I am encouraged that greater attention has been focused on this issue, little has been accomplished to improve the shortage of geriatricians.

Today, I am re-introducing legislation that will encourage more doctors to become certified in geriatrics. The Geriatricians Loan Forgiveness Act would forgive $20,000 of education debt incurred by medical students for each year of advanced training required to obtain a certificate of added qualifications in geriatric medicine or psychiatry.

Geriatric medicine is the foundation of a comprehensive health plan for our most vulnerable seniors. Geriatrics, by focusing on assessment and care coordination, promotes preventive care and improves patients' quality of life by allowing them greater independence and eliminating unnecessary and costly trips to the hospital or institutions. But this kind of specialized care is complicated and demanding. Many doctors inclined to study and practice geriatric medicine are dissuaded from doing so because treating the elderly takes more time and carries financial disincentives for doctors.

Medical training takes time, so we need to lay the groundwork now to have enough qualified geriatricians in place in ten years from now. This legislation is a commonsense approach and cost-effective investment. We must take these steps today to meet our needs for tomorrow.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Geriatricians Loan Forgiveness Act of 2004".

SEC. 2. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.

(a) IN GENERAL.—Section 338B(g) of the Public Health Service Act (42 U.S.C. 254l-1(g)) is amended by adding at the end the following:

"(5) OBLIGATED SERVICE.—

"(A) IN GENERAL.—For purposes of this section, each year of training in geriatric medicine or geriatric psychiatry that is required in order to obtain a certificate of added qualification in geriatric medicine or geriatric psychiatry shall be deemed to be a year of obligated service.

"(B) LIMITATIONS.—

"(i) PAYMENTS.—Notwithstanding the first sentence of paragraph (2)(A), for the year of obligated service described in subparagraph (A), the Secretary may pay up to $20,000 on behalf of the individual for loans described in paragraph (1).

"(ii) INDIVIDUALS.—The number of fellowship years in geriatric medicine or geriatric psychiatry that are deemed to be a year of obligated service under this section shall not exceed 400 in any calendar year.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to applications submitted to the Secretary of Health and Human Services under section 338B of the Public Health Service Act (42 U.S.C. 254l-1) on or after 1 year after the date of enactment of this Act.

(2) FIRST YEAR OF PROGRAM.—For the period beginning on the date of enactment of this Act and ending on December 31 of the calendar year in which such enactment occurs, the Secretary of Health and Human Services shall ratably reduce the maximum number of fellowship years in geriatric medicine or geriatric psychiatry that may be deemed to be a year of obligated service under section 338B(g)(5)(B)(ii) of the Public Health Service Act (42 U.S.C. 254l-1(g)(5)(B)(ii)) (as added by subsection (a)) to reflect the portion of the year that the amendment made by subsection (a) is in effect.

By Mr. BAUCUS:

S. 2076. A bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicated Services; to the Committee on Finance.

Mr BAUCUS. Mr. President, I rise today to introduce the Congressional Access to the CMS Chief Actuary Act of 2004.

This legislation provides Congress with greater access to cost estimates and other data produced and collected by the Center for Medicare and Medicaid Services (CMS) Office of the Actuary. The Office of the Actuary is a group of about 50 actuaries, economists, and other health professionals who provide non-partisan analyses of Medicare and other federally financed health care programs.

Recently we learned that the administration's cost estimate of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 is $534 billion over 10 years, nearly $140 billion higher than the estimates produced by the Congressional Budget Office (CBO). Contrary to statements by some members of the administration, Congress did not have this estimate when it voted on this bill.

It would be disingenuous of me to state that the higher cost estimate is my biggest concern. I have voted in the past for prescription drug bills estimated to cost more than $534 billion. And in the conference negotiations on this bill, I urged my colleagues to make changes until the final hours of the negotiations that would have added additional costs to the legislation.

My greatest concern with the higher estimate is one of transparency. More specifically, I am concerned about the degree to which access to the CMS career actuaries has been restricted by this administration. Had Congress been able to freely communicate with the career actuaries during last year's Medicare negotiations, it would not have been surprised by the higher estimates. Moreover, I believe that input from the CMS actuaries could have informed the conferees and perhaps improved certain aspects of the bill in a positive way. And why shouldn't Congress have access to all available information on legislation under consideration?

The restrictions placed on congressional access to the CMS actuary is in clear violation of the report language that was included in the Balanced Budget Act of 1997 (BBA 97). The 1997 BBA established the Office of the Actuary within CMS, which was then called the Health Care Financing Administration. Report language accompanying the legislation stated, "The independence of the Office of the Actuary with respect to providing assistance to the Congress is vital. The process of monitoring, updating, and reforming the Medicare and Medicaid programs is greatly enhanced by the free flow of actuarial information from the Office of the Actuary to the committees of jurisdiction in the Congress."

While Congress intended that the Office of the Actuary would provide it with cost and other data as requested, a free flow of information has not occurred—particularly over the past year. I requested, as well as several of my colleagues, information from the Office of Actuary throughout last year's Medicare deliberations; however, our requests were unfulfilled. I do not fault the professionals in the Office of the Actuary. Rather, I believe the lack of response was the result of inappropriate restrictions placed on the office by administration political officials.

In order for Congress to craft good legislation, we need access to the most up-to-date actuarial and cost information. CBO will always remain Congress's official score-keeper. But a second independent assessment is critical, particularly if the two estimates differ, as was the case of the recent Medicare legislation. Congress needs to understand the reasons for the differences, and only then can it make fully-informed decisions. And again, I ask, why shouldn't Congress have access to all available information on legislation under consideration?

The legislation that I introduce today is very simple. It codifies the 1997 BBA report language to require that Congress have direct and open access to information and estimates produced by the independent CMS career actuaries. The bill's purpose is to improve Congress's ability to write good legislation and to make well-informed decisions.

I want to be clear. The administration's higher cost-estimate does not change my support of this Medicare legislation. I continue to be a proud supporter of the bill.

But I have also pledged to work to improve its flaws and to address its shortcomings. Any efforts to improve this bill will require vigilant oversight of its implementation and will require having access to the latest information about the program's participation, payment, and costs. The CMS career actuaries will play a fundamental role in the data collection. The administration's past practices of restricting and censoring this information cannot continue.

This bill is about improving transparency in government and decision making. I urge all of my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Access to the CMS Chief Actuary Act of 2004".

SEC. 2. DIRECT CONGRESSIONAL ACCESS TO THE OFFICE OF THE CHIEF ACTUARY IN THE CENTERS FOR MEDICARE & MEDICAID SERVICES.

(a) FINDINGS.—Congress finds the following:

(1) In creating the Office of the Actuary in the Health Care Financing Administration (now known as the Centers for Medicare & Medicaid Services) with the enactment of the Balanced Budget Act of 1997, Congress intended that the Office would provide independent advice and analysis to assist in the development of health care legislation.

(2) While the Congressional Budget Office would continue to serve as the official source for cost estimates for Congress, Congress created the Office of the Actuary in order to have—

(A) an additional, independent source for estimates in the development of health care legislation; and

(B) access to more detailed actuarial data and assumptions related to program participation, payments, and costs.

(3) While the joint explanatory statement of the committee of conference contained in the conference report for the Balance Budget Act of 1997 provided a clear statement of the Congressional intent described in paragraphs (1) and (2), Congressional access to the Office of the Actuary has been inappropriately restricted over the past year.

(b) ACCESS.—Section 1117(b) of the Social Security Act (42 U.S.C. 1317(b)), as amended by section 900(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), is amended by adding at the end the following new paragraph:

"(4)(A) In exercising the duties of the office of the Chief Actuary, the Chief Actuary shall provide the committees of jurisdiction of Congress with independent counsel and technical assistance with respect to the programs under titles XVIII, XIX, and XXI.

"(B) The Chief Actuary may directly provide Congress with reports, comments on, and estimates of, the financial effects of potential legislation, and other actuarial information related to the programs described in subparagraph (A). No officer or agency of the United States may require the Chief Actuary to submit to any officer or agency of the United States for approval, comments, or review, prior to the provision to Congress of such reports, comments, estimates, or other information.".

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. HATCH, and Mr. BIDEN):

S. 2081. A bill to amend the Office of National Drug Control Policy Act Reauthorization Act of 1998 to ensure that adequate funding is provided for certain high intensity drug trafficking areas; to the Committee on the Judiciary.

Ms. MIKULSKI. Mr. President, today I rise to introduce legislation which will help America's families who are fighting to drive drugs and violence out of their communities.

The Dawson Family Community Protection Act of 2004 asks the Federal Government to do its fair share by devoting some of its drug fighting resources to communities with high intensity drug trafficking and severe safety concerns. That means dedicating much needed resources to help communities fight the infiltration of drugs and the drug dealers that plague their communities and threaten the safety of their children.

This bill is named in memory of a heroic Baltimore family—the Dawsons—whose active role in trying to rid their neighborhood of drugs and violence cost them their lives. Carnell and Angela Dawson lived in the community of Oliver in East Baltimore and raised five children there.

Every day Angela, known as "Angel," walked her children to school, she made sure that they only rode their bikes on the sidewalk so they would be safe. Her husband, Carnell, worked hard as a construction worker to provide for his family. Both parents were devoted to their children and wanted to make a better life for them.

The house they lived in on the corner of N. Eden Street made Angel nervous. It had too many windows and she was scared that a stray bullet would come in and harm one of her children. The street also worried Angel. There were lots of young teens dealing drugs. She wanted the drugs out of her neighborhood, away from her children and away from all the neighbors' children. She fought every day to make that happen, calling the police when she saw dealers, or violence on her block. She was persistent and the neighbors knew it. They called her a great mother—"someone who stood up for what she believed in." Sadly, that persistence and those beliefs cost her and her family their lives.

Angel had repeatedly called the police in September of 2002 to report drug activity. Then on October 3—someone threw two Molotov cocktails through the kitchen window of their house—causing a fire but no injuries. They were sending a message. Two weeks later that message was unmistakable as someone broke through their front door and poured gasoline throughout the first floor of their house and lit a match. Within minutes the house was in flames and it was impossible to escape. Although fire fighters arrived almost immediately—they could not save the family. Angel and five of her children had perished and her husband Carnell had jumped from the second story with burns all over his body—he survived only a week in the hospital.

Many in the neighborhood thought it was the final message.

The Dawsons are the kind of neighbors we all would want. They cared about the community and wanted to make it better and safer. They represent brave families all over America who are trying to take back their neighborhoods, who have worked with law enforcement and their neighbors to make their communities safer.

Too many of these families have had to face threats and retaliation and sadly even murder in their attempt to help their loved ones and neighbors. They work hard, send their kids to school to get an education and play by the rules—yet they live in communities that are unsafe because they are infested with drugs and drug dealers.

We need to get assistance to these communities, as they are working hard to make life better, they need the resources of law enforcement and government to make that a reality. We have to help communities that are trying to help themselves, communities that are trying get rid of drugs, rehabilitate and educate drug dealers and most importantly end violence and protect their neighborhood children.

That is why today, I join with my colleagues, Senator SARBANES, HATCH and BIDEN in introducing this legislation that provides $5 million to high intensity drug traffic areas with severe safety and illegal drug distribution problems—to support communities that are affected by drug trafficking and to encourage their cooperation with local, State and Federal law enforcement officials.

These funds also help to protect families that cooperate, families that report crimes and drugs and families that seek to make a difference in their communities. These resources help law enforcement provide witness protection and address safety issues in these communities. The funding only goes to neighborhoods—like the East Baltimore neighborhood that the Dawson's lived in—with severe neighborhood safety and illegal drug distribution problems.

For these communities it's time for the Federal Government to step up and do more, especially when average citizens put their lives on the line every day trying to stop the violence and crime that comes when the illegal drug trade invades their neighborhoods.

This bill will give citizens and law enforcement the tools they need to make sure the community is safe and those doing the reporting are protected. In honor of the Dawson family, I ask my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dawson Family Community Protection Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) In the early morning hours of October 16, 2002, the home of Carnell and Angela Dawson was firebombed in apparent retaliation for Mrs. Dawson's notification of police about persistent drug distribution activity in their East Baltimore City neighborhood.

(2) The arson claimed the lives of Mr. and Mrs. Dawson and their 5 young children, aged 9 to 14.

(3) The horrific murder of the Dawson family is a stark example of domestic narco-terrorism.

(4) In all phases of counter-narcotics law enforcement—from prevention to investigation to prosecution to reentry—the voluntary cooperation of ordinary citizens is a critical component.

(5) Voluntary cooperation is difficult for law enforcement officials to obtain when citizens feel that cooperation carries the risk of violent retaliation by illegal drug trafficking organizations and their affiliates.

(6) Public confidence that law enforcement is doing all it can to make communities safe is a prerequisite for voluntary cooperation among people who may be subject to intimidation or reprisal (or both).

(7) Witness protection programs are insufficient on their own to provide security because many individuals and families who strive every day to make distressed neighborhoods livable for their children, other relatives, and neighbors will resist or refuse offers of relocation by local, State, and Federal prosecutorial agencies and because, moreover, the continued presence of strong individuals and families is critical to preserving and strengthening the social fabric in such communities.

(8) Where (as in certain sections of Baltimore City) interstate trafficking of illegal drugs has severe ancillary local consequences within areas designated as High Intensity Drug Trafficking Areas, it is important that supplementary HIDTA Program funds be committed to support initiatives aimed at making the affected communities safe for the residents of those communities and encouraging their cooperation with local, State, and Federal law enforcement efforts to combat illegal drug trafficking.

SEC. 3. FUNDING FOR CERTAIN HIGH INTENSITY DRUG TRAFFICKING AREAS.

(a) IN GENERAL.—Section 707(d) of the Office of National Drug Control Policy Act Reauthorization Act of 1998 (21 U.S.C. 1706(d); Public Law 105–277; 112 Stat. 2681-670) is amended to read as follows:

"(d) AUTHORIZATION AND USE OF FUNDS.—

"(1) AUTHORIZATION.—There are authorized to be appropriated $5,000,000 to be used in high intensity drug trafficking areas with severe neighborhood safety and illegal drug distribution problems to—

"(A) ensure the safety of neighborhoods and the protection of communities, including the prevention of the intimidation of potential witnesses of illegal drug distribution and related activities; and

"(B) combat illegal drug trafficking through such methods as the Director considers appropriate, such as establishing or operating (or both) a toll-free telephone hotline for use by the public to provide information about illegal drug-related activities.

"(2) USE OF FUNDS.—The Director shall ensure that no Federal funds appropriated for the High Intensity Drug Trafficking Program are expended for the establishment or expansion of drug treatment programs.".

By Mrs. BOXER:

S. 2083. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, according to a Kaiser Family Foundation and Harvard School of Public Health survey of non-elderly Americans with private health insurance, one-half reported that they had a problem with their health insurance plans in the previous year. They cited delays and denials of coverage or care as their two most common problems. They also said they worried that if they became sick, their health plans would be more concerned about saving money than providing the best treatment. For those in managed care plans, such as HMOs, over two-thirds had this concern.

And they have good reason to be concerned. Let me tell you about two of the many people, who were hurt when HMO decided it needed to save money. Ruby Calad had a hysterectomy and her doctor recommended that she stay in the hospital longer than a day. Cigna, Ruby's insurance company said one day was enough. So Ruby went home, but she was soon in the emergency room because she had developed serious complications. Had Ruby been able to stay in the hospital longer, as recommended by her doctor, this would not have happened.

Juan Davila suffers from diabetes and arthritis. His doctor prescribed VIOXX for his arthritis because it had a lower rate of bleeding and ulcers than drugs on the formulary developed by Aetna. But instead of approving the VIOXX, Juan was required to enter a step program and try two other medications before VIOXX could be approved. He was given naprosyn—a cheaper drug—and three weeks later was rushed to the hospital. He had developed bleeding ulcers, which caused a heart attack and internal bleeding. Juan survived but now cannot take any pain medication that is absorbed by the stomach.

These examples show why medical decisions should be made by doctors, not HMO bureaucrats, and in 2001, the Senate, in a bipartisan vote of 59–36, passed S. 1052, the Bipartisan Patient Protection Act to make sure that happened. Yet, intransigence from the House leadership and the White House prevented that bill from becoming law. Nearly 3 years later, we still have not acted. So, today, I am introducing the exact same bipartisan bill that passed in the Senate in 2001.

This bill provides comprehensive protections to all Americans in all health plans. It says to all Americans who have health insurance, you have rights and protections. It says to HMOs, you have responsibilities and will be held accountable for your wrongful and harmful actions.

This bill ensures that patients have the right to have medical decisions made by their doctors and not HMO bureaucrats. Patients will have the right to see a specialist and go to the closest emergency room for treatment. They will be able to keep the same doctor throughout their medical treatment and appeal adverse claim decisions to an independent reviewer. And if they are injured by a decision made by the HMO, they will have the right to hold their HMO accountable in a court.

A meaningful patients bill of rights is long overdue. I urge my colleagues to support this legislation.

By Mr. ALEXANDER (for himself, Mr. CARPER, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. LAUTENBERG, Mr. ROCKEFELLER, and Mr. VOINOVICH):

S. 2084. A bill to revive and extend the Internet Tax Freedom Act for 2 years, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Ban Extension and Improvement Act".

SEC. 2. 2-YEAR EXTENSION OF MORATORIUM.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 nt) is amended—

(1) by striking "2003—" and inserting "2005:";

(2) by striking paragraph (1) and inserting the following:

"(1) Taxes on Internet access."; and

(3) by striking "multiple" in paragraph (2) and inserting "Multiple".

SEC. 3. EXCEPTIONS FOR CERTAIN TAXES.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

"SEC. 1104. EXCEPTIONS FOR CERTAIN TAXES.

"(a) PRE-OCTOBER, 1998, TAXES.—Section 1101(a) does not apply to a tax on Internet access (as that term was defined in section 1104(5) of this Act as that section was in effect on the day before the date of enactment of the Internet Tag Ban Extension and Improvement Act) that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

"(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tag to Internet access services; or

"(2) a State or political subdivision thereof generally collected such tag on charges for Internet access.

"(b) TAXES ON TELECOMMUNICATIONS SERVICES.—Section 1101 (a) does not apply to a tag on Internet access that was generally imposed and actually enforced as of November 1, 2003, if, as of that date, the tag was authorized by statute and either—

"(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

"(2) a State or political subdivision thereof generally collected such tax on charges for Internet access service.".

SEC. 4. CHANGE IN DEFINITIONS OF INTERNET ACCESS SERVICE.

(a) IN GENERAL.—Paragraph (3)(D) of section 1101(e) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting "The term 'Internet access service' does not include telecommunications services, except to the extent such services are purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2)(B)(i) of section 1105 of that Act, as redesignated by subsection (a), is amended by striking "except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998,".

(2) INTERNET ACCESS.—Paragraph (5) of section 1105 of that Act, as redesignated by subsection (a), is amended by striking the second sentence and inserting "The term 'Internet access' does not include telecommunications services, except to the extent such services are purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider.".

(3) Paragraph (10) of section 1105 of that Act, as redesignated by subsection (a), is amended to read as follows:

"(10) TAX ON INTERNET ACCESS.—

"(A) IN GENERAL.—The term 'tax on Internet access' means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

"(B) GENERAL EXCEPTION.—The term 'tax on Internet access' does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.".

SEC. 5. ACCOUNTING RULE.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

"SEC. 1106. ACCOUNTING RULE.

"(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

"(b) DEFINITIONS.—In this section:

"(1) CHARGES FOR INTERNET ACCESS.—The term 'charges for Internet access' means all charges for Internet access as defined in section 1105(5).

"(2) CHARGES FOR TELECOMMUNICATIONS SERVICES.—The term 'charges for telecommunications services' means all charges for telecommunications services except to the extent such services are purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider.".

SEC. 6. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 4, is amended by adding at the end the following:

"SEC. 1107. EFFECT ON OTHER LAWS.

"(a) UNIVERSAL SERVICE.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

"(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

"(2) in effect on February 8, 1996.

"(b) 911 AND E-911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E-911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E-911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E-911 services.

"(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act take effect November 1, 2003.

Mr. ROCKEFELLER. Mr. President, I am pleased to cosponsor legislation introduced today that will reinstate a moratorium on State and local taxation of access to the Internet. Senators ALEXANDER and CARPER have worked very hard to craft legislation that will protect Americans from being taxed for using the Internet, while still respecting the States' need to raise revenue from traditional telecommunications taxes. As a fellow former Governor, I have been pleased to join them in this effort and hope that all of my colleagues who have supported a moratorium on taxation of Internet access will support this bill.

Until last fall, there was a moratorium in place prohibiting taxation of Internet access. Unfortunately, that lapsed before Congress was able to craft an extension. One of the reasons that extending the moratorium has been difficult is that we want to apply the lessons learned over the last few years. For example, the previous moratorium was not technology-neutral. That is, people who accessed the Internet using a DSL connection were not always treated the same as those who used dial-up service or a cable modem. This was clearly an unintended consequence of the way that the previous legislation was drafted. In addition, over the last few years, we have seen many States struggle with enormous budget deficits. Recognizing that a downturn in the economy can compromise a state's ability to provide vital services, including schools, firefighters, and police officers, we do not want to undermine any state's revenue base.

With these lessons in mind, Senators ALEXANDER, CARPER and others have crafted an extension of the previous moratorium that would ensure that no States impose new taxes on Internet access. The legislation specifically requires that all technologies be treated equally. And because the moratorium is limited to 2 years, it ensures that Congress will revisit the issue periodically as technologies develop and circumstances change.

As a former Governor, I do not take lightly any Federal action that limits the options available to local and State elected officials I recognize how hard it is to balance a State budget and am only willing to support a moratorium on Internet access taxes because I believe that we are dealing with a unique new service. The Internet has the power to connect Americans as the radio, telephone, and television did for previous generations. By sending e-mails, telecommuting, or banking online, Americans are communicating in a new way that makes our economy more productive and enhances our quality of life. If sparing Internet access from taxation increasing the ability of low and moderate income Americans to join the technology revolution, then it is certainly a worthy public policy goal.

Now, Senators ALLEN and WYDEN have offered an alternative approach. They have proposed legislation that would permanently bar States ad cities from taxing Internet access, and they have defined the service broadly that many experts believe it will undermine some telecommunications taxes on which States currently depend. I am not interested in providing enormous tax breaks to the telecommunications industry, and so I oppose their approach. Taxes that businesses currently pay to access the Internet backbone are reasonable costs of doing business. I hope that my colleagues will not be intimidated by claims that those of us who oppose tax breaks for telecommuncations companies actually want to tax people's e-mails. That is a false argument, and anyone who resorts to it is surely trying to avoid the difficult issues that are addressed by the bill introduced today by Senators ALEXANDER and CARPER.

I would like to make one final point to my colleagues, and that is about fallibility. Every day we get fresh evidence that things are not always as they seemed and that we do not, in fact, know everything we thought we knew. If fallibility is part of being human, then surely it is part of any legislative body. If the moratorium that Congress had imposed 5 years ago had been permanent, then we would have had a difficult time reopening the issue to address the fact that certain technologies were not protected under the act. We ought not make that mistake now by thinking that we can accurately foresee the exciting technological developments on the horizon. It is appropriate for Congress to revisit this issue in two years, as the Alexander-Carper proposal allows.

I hope that all of my colleagues will join me in support of a new temporary moratorium on Internet access taxes. Enacting this legislation quickly will ensure that Americans are not hit with any taxes when they try to log on.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2085. A bill to modify the requirements of the land conveyance to the University of Nevada at Las Vegas Research Foundation; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to introduce the University of Nevada at Las Vegas Research Foundation Reinvestment Act, which enhances the long-term viability of the University of Nevada at Las Vegas by allowing proceeds from leases of the University of Nevada at Las Vegas Research Foundation property to be reinvested.

Mr. President, through provisions of the Southern Nevada Public Land Management Act of 1998, the Clark County Department of Aviation acquired land that was formerly owned by the Federal Government. A subsequent law, the Clark County Conservation of Public Land and Natural Resources Act of 2002, transferred this land to the University of Las Vegas Research Foundation for construction of a research park and technology center.

Under current law, only 10 percent of the proceeds from the sale, lease, or conveyance of this land may be reinvested. This restriction hinders efforts to promote research and development at the research park.

Mr. President, the bill that I am introducing today amends the Clark County Conservation of Public Land and Natural Resources Act of 2002 to allow the proceeds of the Foundation's research park leases to be used to carry out the foundation's research mission.

The foundation's research park and technology center in the greater Las Vegas area will enhance the research mission of the university, increasing the potential for the high-tech industry and entrepreneurship in the State. It provides the public with opportunities for high-tech education and research, and at the same time provides the State with opportunities for competition and economic development in the high-tech field. It is imperative that sufficient funds are always available to maintain and enhance the center.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "University of Nevada at Las Vegas Research Foundation Reinvestment Act".

SEC. 2. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS RESEARCH FOUNDATION.

Section 702(b)(2) of Public Law 107–282 (116 Stat. 2013) is amended by striking "that if the land" and all that follows through "conveyed by the Foundation." and inserting the following: "that provides that (except in a case in which the gross proceeds of a sale, lease, or conveyance are provided to the Foundation to carry out the purposes for which the Foundation was established), if the land described in paragraph (3) is sold, leased, or otherwise conveyed by the Foundation—".

By Mr. GRAHAM of Florida:

S. 2087. A bill to amend the Internal Revenue Code of 1986 to expand the Hope Scholarship and Lifetime Learning Credits; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, today, I am introducing legislation that increases the Federal commitment to help families meet the increasing costs of higher education.

In today's economy—as well as with life in general—getting a higher education is essential. A college educated male worker can expect to earn $29,000 more each year than his counterpart without such education. Over a working career, this edge results in more than $1 million. For women, the importance is even more pronounced. A college-educated woman can expect to earn twice what her counterpart with only a high school diploma will earn (Condition of Education 2000, U.S. Department of Education). Perhaps Federal Reserve Chairman Greenspan put it best when he said "we must ensure that our whole population receives an education that will allow full and continuing participation in this dynamic period of American economic history."

Having college-educated parents also forms the foundation for better lives for their children. Census data reveals that children of college-educated parents are twice as likely to go to college, as are those with parents who did not go to college. Research also suggest that children of college-educated parents are healthier and perform better academically than children of those with only a high school diploma.

Recognizing the importance of an advanced degree is only part of the battle. Attendance at a college or university is an expensive proposition for most American families. Worse yet, it is getting even more expensive. According to the Congressional Research Service, increases in tuition over the last twenty years on a constant dollar basis have outpaced growth in the average household's income. The difficulty of paying for college is particularly acute for lower-income families. In 1980, college costs consumed 32 percent of the average household income for a family in the lowest income quintile. By 2000, the percentage of that family's income needed to pay for college increased to 56 percent.

In the 2001–2002 school year, about $90 billion was awarded in student aid. The Federal Government provided seventy percent of this aid through appropriations, guaranteed loans, and tax credits. Although this $90 billion represents a substantial increase in the amount of aid provided by the Federal Government from just ten years ago, the Federal Government can and should do more.

A recent report by the Congressional Budget Office examined the cost of attending colleges and universities and how those costs are borne. CBO estimates that the average annual cost of attendance at public four-year colleges in the 1999–2000 academic year was nearly $11,300 after taking into consideration that portion of the costs that are covered by the institutions themselves or as a subsidy from State legislatures. Parents and students on average are responsible for nearly three-quarters of this amount, which is a significant financial hurdle, particularly for low-income families.

Under current law the maximum credit available under the HOPE Scholarship tax credit program is $1,500 assuming the student has at least $2,000 of tuition costs. The bill I am introducing increases the credit percentage to 100 percent of tuition costs and increases the maximum credit available to $2,500.

Second, the bill extends the HOPE Scholarship credit to cover four years of higher education. It recognizes that our economy increasingly demands that tomorrow's worker has a college degree, and to get such a degree requires at least four years. We shouldn't have a program designed to assist students in obtaining those degrees that abandons them mid-stream.

Third, the legislation makes the HOPE credit refundable. Refundability is the only way to provide financial assistance through the tax code to families with low incomes. And that assistance is sorely needed. According to CBO the HOPE tax credit amounts to $147 of assistance, on average, for families with income less than $30,000.

Finally, the bill creates a mechanism by which families can get the benefits of the credit sooner than it is currently available. Today, families must pay the tuition costs and then file for the credit in April of the following year when they file their income tax returns. The bill directs Treasury to create a program that would allow it to transfer the value of the credit directly to an educational institution on behalf of the taxpayer. A similar mechanism is currently available to those eligible for the tax credit for health insurance costs.

The bill I am introducing today focuses on those students who follow a more traditional path to higher education. I will be introducing separate legislation in the near future that makes changes to the Lifetime Learning credit designed to make it more useful for "nontraditional" students.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. REID, Mr. LEAHY, Mr. DODD, Mr. HARKIN, Mr. KERRY, Mr. FEINGOLD, Ms. MIKULSKI, Mr. SCHUMER, Mrs. MURRAY, Mr. DURBIN, Mr. EDWARDS, Mrs. CLINTON, Mr. SARBANES, Mr. LAUTENBERG, Mr. CORZINE, Ms. LANDRIEU, and Ms. CANTWELL):

S. 2088. A bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senators DASCHLE, REID, LEAHY, DODD, HARKIN, KERRY, FEINGOLD, MIKULSKI, SCHUMER, MURRAY, DURBIN, EDWARDS, CLINTON, SARBANES, LAUTENBERG, CORZINE, LANDRIEU, and CANTWELL today in introducing the "Fairness and Individual Rights Necessary to Ensure a Stronger Society: the Civil Rights Act of 2004". This legislation, the "Fairness Act," is vital to realizing the full promise of, the numerous Federal laws that have been enacted to guarantee civil rights and fair labor practices for all our citizens.

2004 is an especially significant year in commemorating the historic landmarks in America's struggle for civil rights. On January 15, we celebrated the 75th anniversary of the birth of Dr. Martin Luther King. On May 17, we will celebrate the 50th anniversary of the Supreme Court's historic decision in Brown v. Board of Education. And on July 2, we will celebrate the 40th Anniversary of the Civil Rights Act of 1964.

These historic milestones make this year not only a time for celebration, but also a time to reaffirm our commitment to the cause of civil rights, which is still the unfinished business of America. We must continue moving toward the goal for which so many have given so much across the years. The bipartisan civil rights laws that have been enacted over the past forty years have made our Nation stronger, better, and fairer. Civil rights is at its heart the ongoing, daily struggle to live up to what is best about America—our fundamental belief in equal opportunity and equal justice for all.

The Fairness Act is part of that continuing effort. Its goal is to guarantee that victims of discrimination and unfair labor practices have access to the courts when necessary to enforce their rights and to obtain effective remedies. As Congress has long realized, full enforcement of civil rights and fair labor practices is possible only if individuals are able to petition the courts. Our proposals will strengthen existing protections, often in cases where the courts have let us down by adopting unacceptably narrow interpretations of existing law. We recognize as well that Congress has not always made its intent clear in enacting specific and detailed provisions of these laws.

Unfortunately, recent court decisions have limited the private right to seek relief and to obtain effective remedies under many of our civil rights and labor laws. Cases like Alexander v. Sandoval and Kimel v. Florida Board of Regents have effectively closed the courthouse door on many persons seeking relief they deserve from discriminatory practices.

Key elements of our proposals will make it easier for working women to enforce their right to equal pay for equal work. We enhance protections against discrimination in federally funded services and enact needed safeguards for students who are harassed because of their national origin, gender, race, or disability. We also make sure that victims of discrimination and unfair labor practices can receive meaningful damages where appropriate. Our legislation will allow enable members of our armed forces to enforce their federal right to be free from discrimination by States because of their military status.

In addition, our proposals will ensure that older workers who suffer age discrimination are not denied the chance to seek relief merely because they work for a state government. We also stop employers from requiring workers to sign away their right to bring discrimination claims and fair labor claims to court, in order to get a job or keep a job.

These and other important proposals included in the Fairness Act are an essential part of our commitment to make Dr. King's dream a reality for everyone in every community in our country.

To those who say that now is not the time to seek this new progress, we reply, as Dr. King himself replied, now is always the time for civil rights. We know our cause is just. As Dr. King reminded us, "the arc of the moral universe is long, but it bends toward justice." I urge all of my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness and Individual Rights Necessary to Ensure a Stronger Society: Civil Rights Act of 2004".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—NONDISCRIMINATION IN FEDERALLY FUNDED PROGRAMS AND ACTIVITIES

Subtitle A—Private Rights of Action and the Disparate Impact Standard of Proof

Sec. 101. Findings.
Sec. 102. Prohibited discrimination.
Sec. 103. Rights of action.
Sec. 104. Right of recovery.
Sec. 105. Construction.
Sec. 106. Effective date.

Subtitle B—Harassment

Sec. 111. Findings.
Sec. 112. Right of recovery.
Sec. 113. Construction.
Sec. 114. Effective date.

TITLE II—UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994 AMENDMENT

Sec. 201. Amendment to the Uniformed Services Employment and Reemployment Rights Act of 1994.

TITLE III—AIR CARRIER ACCESS ACT OF 1986 AMENDMENT

Sec. 301. Findings.
Sec. 302. Civil action.

TITLE IV—AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Purposes.
Sec. 404. Remedies for State employees.
Sec. 405. Disparate impact claims.
Sec. 406. Effective date.

TITLE V—CIVIL RIGHTS REMEDIES AND RELIEF

Subtitle A—Prevailing Party

Sec. 501. Short title.
Sec. 502. Definition of prevailing party.

Subtitle B—Arbitration

Sec. 511. Short title.
Sec. 512. Amendment to Federal Arbitration Act.
Sec. 513. Unenforceability of arbitration clauses in employment contracts.
Sec. 514. Application of amendments.

Subtitle C—Expert Witness Fees

Sec. 521. Purpose.
Sec. 522. Findings.
Sec. 523. Effective provisions.

Subtitle D—Equal Remedies Act of 2004

Sec. 531. Short title.
Sec. 532. Equalization of remedies.

TITLE VI—PROHIBITIONS AGAINST SEX DISCRIMINATION

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Enhanced enforcement of equal pay requirements.
Sec. 604. Training.
Sec. 605. Research, education, and outreach.
Sec. 606. Technical assistance and employer recognition program.
Sec. 607. Establishment of the National Award for Pay Equity in the Workplace.
Sec. 608. Collection of pay information by the Equal Employment Opportunity Commission.
Sec. 609. Authorization of appropriations.

TITLE VII—PROTECTIONS FOR WORKERS

Subtitle A—Protection for Undocumented Workers

Sec. 701. Findings.
Sec. 702. Continued application of backpay remedies.

Subtitle B—Fair Labor Standards Act Amendments

Sec. 711. Short title.
Sec. 712. Findings.
Sec. 713. Purposes.
Sec. 714. Remedies for State employees.

TITLE I—NONDISCRIMINATION IN FEDERALLY FUNDED PROGRAMS AND ACTIVITIES

Subtitle A—Private Rights of Action and the Disparate Impact Standard of Proof

SEC. 101. FINDINGS.

Congress finds the following:

(1) This subtitle is made necessary by a decision of the Supreme Court in Alexander v. Sandoval, 532 U.S. 275 (2001) that significantly impairs statutory protections against discrimination that Congress has erected over a period of almost 4 decades. The Sandoval decision undermines these statutory protections by stripping victims of discrimination (defined under regulations that Congress required Federal departments and agencies to promulgate to implement title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)) of the right to bring action in Federal court to redress the discrimination and by casting doubt on the validity of the regulations themselves.

(2) The Sandoval decision attacks settled expectations created by title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972 (also known as the "Patsy Takemoto Mink Equal Opportunity in Education Act") (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (collectively referred to in this Act as the 'covered civil rights provisions'). The covered civil rights provisions were designed to establish and make effective the rights of persons to be free from discrimination on the part of entities that are subject to 1 or more of the covered civil rights provisions, as appropriate (referred to in this Act as 'covered entities'). In 1964 Congress adopted title VI of the Civil Rights Act of 1964 to ensure that Federal dollars would not be used to subsidize or support programs or activities that discriminated on racial, color, or national origin grounds. In the years that followed, Congress extended these protections by enacting laws barring discrimination in federally funded activities on the basis of sex in title IX of the Education Amendments of 1972, age in the Age Discrimination Act of 1975, and disability in section 504 of the Rehabilitation Act of 1973.

(3) From the outset, Congress and the executive branch made clear that the regulatory process would be used to ensure broad protections for beneficiaries of the law. The first regulations promulgated by the Department of Justice under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) forbade the use of "criteria or methods of administration which have the effect of subjecting individuals to discrimination . . ." (section 80.3 of title 45, Code of Federal Regulations) and prohibited retaliation against persons participating in litigation or administrative resolution of charges of discrimination brought under the Act. These regulations were drafted by the same executive branch officials who played a central role in drafting title VI of the Civil Rights Act of 1964. The language used is, in relevant respects, virtually indistinguishable from regulations under the several Acts in effect today. For example, section 304 of the Age Discrimination Act of 1975 (42 U.S.C. 6103) required the Secretary of the Department of Health, Education, and Welfare (HEW) (now Health and Human Services (HHS)) to promulgate "general regulations" to effectuate the purposes of the Act. These "government-wide regulations," governing age discrimination in programs and activities receiving Federal financial assistance condemn "any actions which have [a discriminatory] effect, on the basis of age . . ." (section 90.12 of title 45, Code of Federal Regulations).

(4) None of the regulations under the laws addressed in this subtitle have ever been invalidated. In 1966, Congress considered and rejected a proposal to invalidate the disparate impact regulations promulgated pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). In 1975, Congress reviewed and maintained the implementing regulations promulgated pursuant to title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), pursuant to a statutory procedure designed to afford Congress the opportunity to invalidate provisions deemed to be inconsistent with congressional intent. The Supreme Court has recognized that Congress's failure to disapprove regulations implies that the regulations accurately reflect congressional intent. North Haven Bd. of Educ. v. Bell, 456 U.S. 512, 533-34 (1982). Moreover, the Supreme Court explicitly recognized congressional approval of the regulations promulgated to implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C.

794) in Consolidated Rail Corp. v. Darrone, 465 U.S. 624, 634 (1984), stating that "[t]he regulations particularly merit deference in the present case: the responsible Congressional committees participated in their formation and both these committees and Congress itself endorsed the regulations in their final form.".

(5) All of the civil rights provisions cited in this section were designed to confer a benefit on persons who were discriminated against. They relied heavily on private attorneys general for effective enforcement. Congress acknowledged that it could not secure compliance solely through enforcement actions initiated by the Attorney General. Newman v. Piggie Park Enterprises, 390 U.S. 400 (1968) (per curiam).

(6) The Supreme Court has made it clear that individuals suffering discrimination under these statutes have a private right of action in the Federal courts, and that this is necessary for effective protection of the law, although Congress did not make such a right of action explicit in the statute. Cannon v. University of Chicago, 441 U.S. 677 (1979).

(7)(A) Notwithstanding the decision of the Supreme Court in Cort v. Ash, 422 U.S. 66 (1975) to abandon prior precedent and require explicit statutory statements of a right of action, Congress and the Courts both before and after Cort have recognized an implied right of action under the above statutes. For example, Congress has consistently provided the means for enforcing the statutes. In 1972, Congress established a right to attorney's fees in private actions brought under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) that continued with enactment of the Civil Rights Attorneys' Fees Awards Act of 1976 (Public Law 94–559; 90 Stat. 2641). In 1973, Congress provided a right to attorney's fees for prevailing parties under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) without expressly stating that there was a right of action. In 1978 Congress amended the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) to include a right to attorney's fees. Because the Age Discrimination Act of 1975 was enacted while the Cort decision was pending, Congress also enacted in 1978 a limited private right of action to enforce the Age Discrimination Act of 1975.

(B) The Senate Report that accompanied the Civil Rights Attorneys' Fees Awards Act of 1976 (Public Law 94–559; 90 Stat. 2641) stated that "All of these civil rights laws . . . depend heavily upon private enforcement, and fee awards have proved an essential remedy if private citizens are to have a meaningful opportunity to vindicate the important congressional policies which these laws contain." S. Rep. No. 94–1011 (1976).

(8) The Supreme Court had no basis in law or in legislative history in Sandoval for denying a right of action under regulations promulgated pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) while permitting it under the statute. The regulations were congressionally mandated and their promulgation was specifically directed by Congress under section 602 of that Act (42 U.S.C. 2000d–1) "to effectuate" the antidiscrimination provisions of the statute. Title VI of the Civil Rights Act of 1964 stressed the importance of the regulations by requiring them to be "approved by the President". Similarly, the regulations promulgated pursuant to title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) were also congressionally authorized and specifically directed by Congress to effectuate the provisions of the statute. Title IX of the Education Amendments of 1972 stressed the importance of the regulations by requiring them to be "approved by the President".

(9) Regulations that prohibit practices that have the effect of discrimination are consistent with prohibitions of disparate treatment that require a showing of intent, as the Supreme Court has acknowledged in the following decisions:

(A) A disparate impact standard allows a court to reach discrimination that could actually exist under the guise of compliance with the law. Griggs v. Duke Power Co., 401 U.S. 424 (1971).

(B) Evidence of a disproportionate burden will often be the starting point in any analysis of unlawful discrimination. Village of Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252 (1977).

(C) An invidious purpose may often be inferred from the totality of the relevant facts, including, where true, that the practice bears more heavily on one race than another. Washington v. Davis, 426 U.S. 229 (1976).

(D) The disparate impact method of proof is critical to ferreting out stereotypes underlying intentional discrimination. Watson v. Fort Worth Bank & Trust, 487 U.S. 977 (1988).

(10) The interpretation of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and other statutes barring discrimination by covered entities as prohibiting practices that have disparate impact and that are not justified as necessary to achieve the goals of the programs or activities supported by the Federal financial assistance is powerfully reinforced by the use of such a standard in enforcing title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.). When the Supreme Court wavered on the application of a disparate impact standard under title VII, Congress specifically reinstated it as law in the Civil Rights Act of 1991 (Public Law 102–166; 105 Stat. 1071).

(11) By reinstating a private right of action under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and confirming that right for other civil rights statutes, Congress is not acting in a manner that would expose covered entities to unfair findings of discrimination. The legal standard for a disparate impact claim has never been structured so that a finding of discrimination could be based on numerical imbalance alone.

(12) In contrast, a failure to reinstate or confirm a private right of action would leave vindication of the rights to equality of opportunity solely to Federal agencies, which may fail to take necessary and appropriate action because of administrative overburden or other reasons. Action by Congress to specify a private right of action is necessary to ensure that persons will have a remedy if they are denied equal access to education, housing, health, environmental protection, transportation, and many other programs and services by practices of covered entities that result in discrimination.

(13) As a result of the Supreme Court's decision in Sandoval, courts have dismissed numerous claims brought under the regulations promulgated pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) that challenged actions with an unjustified discriminatory effect. Although the Sandoval Court did not address title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), lower courts have similarly dismissed claims under such Act. Courts relying on the Sandoval decision have also dismissed claims seeking redress for unlawful retaliation against persons who opposed prohibited acts, brought actions, or participated in actions, under title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972. Because judicial interpretation of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) has tracked that of title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972, without clarification of Sandoval, plaintiffs run the risk that courts may dismiss claims brought under regulations promulgated pursuant to the Age Discrimination Act of 1975 challenging actions with an unjustified discriminatory effect and claims seeking redress for unlawful retaliation against persons who have brought or participated in actions under the Age Discrimination Act of 1975.

(14) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) has received different treatment by the Supreme Court. In Alexander v. Choate, 469 U.S. 287 (1985), the Court proceeded on the assumption that the statute itself prohibited some actions that had a disparate impact on handicapped individuals—an assumption borne out by congressional statements made during passage of the Act. In Sandoval, the Court appeared to accept this principle of Alexander. Moreover, the Supreme Court explicitly recognized congressional approval of the regulations promulgated to implement section 504 of the Rehabilitation Act of 1973 in Consolidated Rail Corp. v. Darrone, 465 U.S. 624, 634 (1984). Relying on the validity of the regulations, Congress incorporated the regulations into the statutory requirements of section 204 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12134). Thus it does not appear at this time that there is a risk that the private right of action to challenge disparate impact discrimination under section 504 of the Rehabilitation Act of 1973 will become unavailable.

(15) Since the enactment of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and section 504 of the Rehabilitation Act of 1973, Congress has intended that the prohibitions on discrimination in those provisions include a prohibition on retaliation. The ability to prevent retaliation against persons who oppose any policy or practice prohibited by those provisions, or make a charge, testify, assist, or participate in any manner in an investigation, proceeding, or hearing under those provisions, is essential to realizing the prohibitions on discrimination in those provisions.

(16) The right to maintain a private right of action under a provision added to a statute under this subtitle will be effectuated by a waiver of sovereign immunity in the same manner as sovereign immunity is waived under the remaining provisions of that statute.

SEC. 102. PROHIBITED DISCRIMINATION.

(a) Civil Rights Act of 1964.—Section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d) is amended—

(1) by striking "No" and inserting "(a) No"; and

(2) by adding at the end the following:

"(b)(1)(A) Discrimination (including exclusion from participation and denial of benefits) based on disparate impact is established under this title only if—

"(i) a person aggrieved by discrimination on the basis of race, color, or national origin (referred to in this title as an 'aggrieved person') demonstrates that an entity subject to this title (referred to in this title as a 'covered entity') has a policy or practice that causes a disparate impact on the basis of race, color, or national origin and the covered entity fails to demonstrate that the challenged policy or practice is related to and necessary to achieve the nondiscriminatory goals of the program or activity alleged to have been operated in a discriminatory manner; or

"(ii) the aggrieved person demonstrates (consistent with the demonstration required under title VII with respect to an 'alternative employment practice') that a less discriminatory alternative policy or practice exists, and the covered entity refuses to adopt such alternative policy or practice.

"(B)(i) With respect to demonstrating that a particular policy or practice causes a disparate impact as described in subparagraph (A)(i), the aggrieved person shall demonstrate that each particular challenged policy or practice causes a disparate impact, except that if the aggrieved person demonstrates to the court that the elements of a covered entity's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one policy or practice.

"(ii) If the covered entity demonstrates that a specific policy or practice does not cause the disparate impact, the covered entity shall not be required to demonstrate that such policy or practice is necessary to achieve the goals of its program or activity.

"(2) A demonstration that a policy or practice is necessary to achieve the goals of a program or activity may not be used as a defense against a claim of intentional discrimination under this title.

"(3) In this subsection, the term 'demonstrates' means meets the burdens of production and persuasion.

"(c) No person in the United States shall be subjected to discrimination, including retaliation, because such person opposed any policy or practice prohibited by this title, or because such person made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.".

(b) Education Amendments of 1972.—Section 901 of the Education Amendments of 1972 (20 U.S.C. 1681) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

"(c)(1)(A) Subject to the conditions described in paragraphs (1) through (9) of subsection (a), discrimination (including exclusion from participation and denial of benefits) based on disparate impact is established under this title only if—

"(i) a person aggrieved by discrimination on the basis of sex (referred to in this title as an 'aggrieved person') demonstrates that an entity subject to this title (referred to in this title as a 'covered entity') has a policy or practice that causes a disparate impact on the basis of sex and the covered entity fails to demonstrate that the challenged policy or practice is related to and necessary to achieve the nondiscriminatory goals of the program or activity alleged to have been operated in a discriminatory manner; or

"(ii) the aggrieved person demonstrates (consistent with the demonstration required under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) with respect to an 'alternative employment practice') that a less discriminatory alternative policy or practice exists, and the covered entity refuses to adopt such alternative policy or practice.

"(B)(i) With respect to demonstrating that a particular policy or practice causes a disparate impact as described in subparagraph (A)(i), the aggrieved person shall demonstrate that each particular challenged policy or practice causes a disparate impact, except that if the aggrieved person demonstrates to the court that the elements of a covered entity's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one policy or practice.

"(ii) If the covered entity demonstrates that a specific policy or practice does not cause the disparate impact, the covered entity shall not be required to demonstrate that such policy or practice is necessary to achieve the goals of its program or activity.

"(2) A demonstration that a policy or practice is necessary to achieve the goals of a program or activity may not be used as a defense against a claim of intentional discrimination under this title.

"(3) In this subsection, the term 'demonstrates' means meets the burdens of production and persuasion.

"(d) No person in the United States shall be subjected to discrimination, including retaliation, because such person opposed any policy or practice prohibited by this title, or because such person made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.".

(c) Age Discrimination Act of 1975.—Section 303 of the Age Discrimination Act of 1975 (42 U.S.C. 6102) is amended—

(1) by striking "Pursuant" and inserting "(a) Pursuant"; and

(2) by adding at the end the following:

"(b)(1)(A) Subject to the conditions described in subsections (b) and (c) of section 304, discrimination (including exclusion from participation and denial of benefits) based on disparate impact is established under this title only if—

"(i) a person aggrieved by discrimination on the basis of age (referred to in this title as an 'aggrieved person') demonstrates that an entity subject to this title (referred to in this title as a 'covered entity') has a policy or practice that causes a disparate impact on the basis of age and the covered entity fails to demonstrate that the challenged policy or practice is related to and necessary to achieve the nondiscriminatory goals of the program or activity alleged to have been operated in a discriminatory manner; or

"(ii) the aggrieved person demonstrates (consistent with the demonstration required under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) with respect to an 'alternative employment practice') that a less discriminatory alternative policy or practice exists, and the covered entity refuses to adopt such alternative policy or practice.

"(B)(i) With respect to demonstrating that a particular policy or practice causes a disparate impact as described in subparagraph (A)(i), the aggrieved person shall demonstrate that each particular challenged policy or practice causes a disparate impact, except that if the aggrieved person demonstrates to the court that the elements of a covered entity's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one policy or practice.

"(ii) If the covered entity demonstrates that a specific policy or practice does not cause the disparate impact, the covered entity shall not be required to demonstrate that such policy or practice is necessary to achieve the goals of its program or activity.

"(2) A demonstration that a policy or practice is necessary to achieve the goals of a program or activity may not be used as a defense against a claim of intentional discrimination under this title.

"(3) In this subsection, the term 'demonstrates' means meets the burdens of production and persuasion.

"(c) No person in the United States shall be subjected to discrimination, including retaliation, because such person opposed any policy or practice prohibited by this title, or because such person made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.".

SEC. 103. RIGHTS OF ACTION.

(a) Civil Rights Act of 1964.—Section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1) is amended—

(1) by inserting "(a)" before "Each Federal department and agency which is empowered"; and

(2) by adding at the end the following:

"(b) Any person aggrieved by the failure of a covered entity to comply with this title, including any regulation promulgated pursuant to this title, may bring a civil action in any Federal or State court of competent jurisdiction to enforce such person's rights.".

(b) Education Amendments of 1972.—Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682) is amended—

(1) by inserting "(a)" before "Each Federal department and agency which is empowered"; and

(2) by adding at the end the following:

"(b) Any person aggrieved by the failure of a covered entity to comply with this title, including any regulation promulgated pursuant to this title, may bring a civil action in any Federal or State court of competent jurisdiction to enforce such person's rights.".

(c) Age Discrimination Act of 1975.—Section 305(e) of the Age Discrimination Act of 1975 (42 U.S.C. 6104(e)) is amended in the first sentence of paragraph (1), by striking "this Act" and inserting "this title, including a regulation promulgated to carry out this title,".

SEC. 104. RIGHT OF RECOVERY.

(a) Civil Rights Act of 1964.—Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000–d et seq.) is amended by inserting after section 602 the following:

"SEC. 602A. ACTIONS BROUGHT BY AGGRIEVED PERSONS.

"(a) Claims Based on Proof of Intentional Discrimination.—In an action brought by an aggrieved person under this title against a covered entity who has engaged in unlawful intentional discrimination (not a practice that is unlawful because of its disparate impact) prohibited under this title (including its implementing regulations), the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages), attorney's fees (including expert fees), and costs, except that punitive damages are not available against a government, government agency, or political subdivision.

"(b) Claims Based on the Disparate Impact Standard of Proof.—In an action brought by an aggrieved person under this title against a covered entity who has engaged in unlawful discrimination based on disparate impact prohibited under this title (including its implementing regulations), the aggrieved person may recover equitable relief, attorney's fees (including expert fees), and costs.".

(b) Education Amendments of 1972.—Title IX of the Education Amendments of 1972 (20

U.S.C. 1681 et seq.) is amended by inserting after section 902 the following:

"SEC. 902A. ACTIONS BROUGHT BY AGGRIEVED PERSONS.

"(a) CLAIMS BASED ON PROOF OF INTENTIONAL DISCRIMINATION.—In an action brought by an aggrieved person under this title against a covered entity who has engaged in unlawful intentional discrimination (not a practice that is unlawful because of its disparate impact) prohibited under this title (including its implementing regulations), the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages), attorney's fees (including expert fees), and costs, except that punitive damages are not available against a government, government agency, or political subdivision.

"(b) CLAIMS BASED ON THE DISPARATE IMPACT STANDARD OF PROOF.—In an action brought by an aggrieved person under this title against a covered entity who has engaged in unlawful discrimination based on disparate impact prohibited under this title (including its implementing regulations), the aggrieved person may recover equitable relief, attorney's fees (including expert fees), and costs.".

(c) AGE DISCRIMINATION ACT OF 1975.—

(1) IN GENERAL.—Section 305 of the Age Discrimination Act of 1975 (42 U.S.C. 6104) is amended by adding at the end the following:

"(g)(1) In an action brought by an aggrieved person under this title against a covered entity who has engaged in unlawful intentional discrimination (not a practice that is unlawful because of its disparate impact) prohibited under this title (including its implementing regulations), the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages), attorney's fees (including expert fees), and costs, except that punitive damages are not available against a government, government agency, or political subdivision.

"(2) In an action brought by an aggrieved person under this title against a covered entity who has engaged in unlawful discrimination based on disparate impact prohibited under this title (including its implementing regulations), the aggrieved person may recover equitable relief, attorney's fees (including expert fees), and costs.".

(2) CONFORMITY OF ADA WITH TITLE VI AND TITLE IX.—

(A) ELIMINATING WAIVER OF RIGHT TO FEES IF NOT REQUESTED IN COMPLAINT.—Section 305(e)(1) of the Age Discrimination Act of 1975 (42 U.S.C. 6104(e)) is amended—

(i) by striking "to enjoin a violation" and inserting "to redress a violation"; and

(ii) by striking the second sentence and inserting the following: "The Court shall award the costs of suit, including a reasonable attorney's fee (including expert fees), to the prevailing plaintiff.".

(B) ELIMINATING UNNECESSARY MANDATES: TO EXHAUST ADMINISTRATIVE REMEDIES; AND TO DELAY SUIT LONGER THAN 180 DAYS TO OBTAIN AGENCY REVIEW.—Section 305(f) of the Age Discrimination Act of 1975 (42 U.S.C. 6104(f)) is amended by striking "With respect to actions brought for relief based on an alleged violation of the provisions of this title," and inserting "Actions brought for relief based on an alleged violation of the provisions of this title may be initiated in a court of competent jurisdiction, pursuant to section 305(e), or before the relevant Federal department or agency. With respect to such actions brought initially before the relevant Federal department or agency,".

(C) ELIMINATING DUPLICATIVE "REASONABLENESS" REQUIREMENT; CLARIFYING THAT "REASONABLE FACTORS OTHER THAN AGE" IS DEFENSE TO A DISPARATE IMPACT CLAIM, NOT AN EXCEPTION TO ADA COVERAGE.—Section 304(b)(1) of the Age Discrimination Act of 1975 (42 U.S.C. 6103(b)(1)) is amended by striking "involved—" and all that follows through the period and inserting "involved such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity.".

(d) REHABILITATION ACT OF 1973.—Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) is amended by adding at the end the following:

"(e)(1) In an action brought by a person aggrieved by discrimination on the basis of disability (referred to in this section as an 'aggrieved person') under this section against an entity subject to this section (referred to in this section as a 'covered entity') who has engaged in unlawful intentional discrimination (not a practice that is unlawful because of its disparate impact) prohibited under this section (including its implementing regulations), the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages), attorney's fees (including expert fees), and costs, except that punitive damages are not available against a government, government agency, or political subdivision.

"(2) In an action brought by an aggrieved person under this section against a covered entity who has engaged in unlawful discrimination based on disparate impact prohibited under this section (including its implementing regulations), the aggrieved person may recover equitable relief, attorney's fees (including expert fees), and costs.".

SEC. 105. CONSTRUCTION.

(a) RELIEF.—Nothing in this subtitle, including any amendment made by this subtitle, shall be construed to limit the scope of, or the relief available under, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), or any other provision of law.

(b) DEFENDANTS.—Nothing in this subtitle, including any amendment made by this subtitle, shall be construed to limit the scope of the class of persons who may be subjected to civil actions under the covered civil rights provisions.

SEC. 106. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle, and the amendments made by this subtitle, are retroactive to April 24, 2001, and effective as of that date.

(b) APPLICATION.—This subtitle, and the amendments made by this subtitle, apply to all actions or proceedings pending on or after April 24, 2001, except as to an action against a State on a claim brought under the disparate impact standard, as to which the effective date is the date of enactment of this Act.

Subtitle B—Harassment

SEC. 111. FINDINGS.

Congress finds the following:

(1) As the Supreme Court has held, covered entities are liable for harassment on the basis of sex under their education programs and activities under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) (referred to in this subtitle as "title IX"). Franklin v. Gwinnett County Public Schools, 503 U.S. 60, 75 (1992) (damages remedy available for harassment of student by a teacher coach); Davis v. Monroe County Board of Education, 526 U.S. 629, 633 (1999) (authorizing damages action against school board for student-on-student sexual harassment).

(2) Courts have confirmed that covered entities are liable for harassment on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (referred to in this subtitle as "title VI"), e.g., Bryant v. Independent School District No. I-38, 334 F.3d 928 (10th Cir. 2003) (liability for student-on-student racial harassment). Moreover, judicial interpretation of the similarly worded Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) has tracked that of title VI and title IX.

(3) As these courts have properly recognized, harassment on a prohibited basis under a program or activity, whether perpetrated by employees or agents of the program or activity, by peers of the victim, or by others who conduct harassment under the program or activity, is a form of unlawful and intentional discrimination that inflicts substantial harm on beneficiaries of the program or activity and violates the obligation of a covered entity to maintain a nondiscriminatory environment.

(4) In a 5 to 4 ruling, the Supreme Court held that students subjected to sexual harassment may receive a damages remedy under title IX only when school officials have "actual notice" of the harassment and are "deliberately indifferent" to it. Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998). See also Davis v. Monroe County Board of Education, 526 U.S. 629 (1999).

(5) The standard delineated in Gebser and followed in Davis has been applied by lower courts regarding the liability of covered entities for damages for harassment based on race, color, or national origin under title VI. E.g., Bryant v. Independent School District No. I-38, 334 F.3d 928 (10th Cir. 2003). Because of the similarities in the wording and interpretation of the underlying statutes, this standard may be applied to claims for damages brought under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as well.

(6) Although they do not affect the relevant standards for individuals to obtain injunctive and equitable relief for harassment on the basis of race, color, sex, national origin, age, or disability under covered programs and activities, Gebser and its progeny severely limit the availability of remedies for such individuals by imposing new, more stringent standards for recovery of damages under title VI and title IX, and potentially under the Age Discrimination Act of 1975 and section 504 of the Rehabilitation Act of 1973. Yet in many cases, damages are the only remedy that would effectively rectify past harassment.

(7) As recognized by the dissenters in Gebser, these limitations on effective relief thwart Congress's underlying purpose to protect students from harassment. By making the "policy choice" to "rank[] protection of the school district's purse above the protection of immature high school students", the Gebser case "is not faithful to the intent of the policymaking branch of our Government". Gebser, 524 U.S. at 306 (Stevens, J., dissenting).

(8) The rulings in Gebser and its progeny create an incentive for covered entities to insulate themselves from knowledge of harassment on the basis of race, color, sex, national origin, age, or disability rather than adopting and enforcing practices that will

minimize the danger of such harassment. The rulings thus undermine the purpose of prohibitions on discrimination in the civil rights laws: "to induce [covered programs or activities] to adopt and enforce practices that will minimize the danger that vulnerable students [or other beneficiaries] will be exposed to such odious behavior". Gebser, 524 U.S. at 300 (Stevens, J., dissenting).

(9) The Gebser ruling contravened the interpretations of title VI and title IX by the Department of Education, which interpretations recognized liability for damages for harassment based on race, color, sex, or national origin based on agency principles. Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, 62 Fed. Reg. 12034 (March 13, 1997); Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance, 59 Fed. Reg. 11448 (March 10, 1994).

(10) Legislative action is necessary and appropriate to reverse Gebser and its progeny and restore the availability of a full range of remedies for harassment based on race, color, sex, national origin, age, or disability. The Gebser majority itself invited Congress to "speak directly on the subject" of damages liability to provide additional guidance to the courts. 524 U.S. at 292.

(11) Restoring the availability of a full range of remedies for harassment will—

(A) ensure that students and other beneficiaries of federally funded programs and activities have protection from harassment on the basis of race, color, sex, national origin, age, or disability that is comparable in strength and effectiveness to that available to employees under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.);

(B) encourage covered entities to adopt and enforce meaningful policies and procedures to prevent and remedy harassment;

(C) deter incidents of harassment; and

(D) provide appropriate remedies for discrimination.

(12) Congress has the same affirmative powers to enact legislation restoring the availability of a full range of remedies for harassment as it did to enact the underlying statutory prohibitions on harassment, including powers under section 5 of the 14th amendment and section 8 of article I of the Constitution.

(13) The right to maintain a private right of action under a provision added to a statute under this subtitle will be effectuated by a waiver of sovereign immunity in the same manner as sovereign immunity is waived under the remaining provisions of that statute.

SEC. 112. RIGHT OF RECOVERY.

(a) Civil Rights Act of 1964.—Section 602A of the Civil Rights Act of 1964, as added by section 104, is amended by adding at the end the following:

"(c) Claims Based on Harassment.—

"(1) Right of recovery.—In an action brought against a covered entity by (including on behalf of) an aggrieved person who has been subjected to unlawful harassment under a program or activity, the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages subject to the provisions of paragraph (2)), attorney's fees (including expert fees), and costs.

"(2) Availability of damages.—

"(A) Tangible action by agent or employee.—If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in a tangible action to the aggrieved person, damages shall be available against the covered entity.

"(B) No tangible action by agent or employee.—If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in no tangible action to the aggrieved person, no damages shall be available against the covered entity if it can demonstrate that—

"(i) it exercised reasonable care to prevent and correct promptly any harassment based on race, color, or national origin; and

"(ii) the aggrieved person unreasonably failed to take advantage of preventive or corrective opportunities offered by the covered entity that—

"(I) would likely have provided redress and avoided the harm described by the aggrieved person; and

"(II) would not have exposed the aggrieved person to undue risk, effort, or expense.

"(C) Harassment by third party.—If a person who is not an agent or employee of a covered entity subjects an aggrieved person to unlawful harassment under a program or activity, and the covered entity involved knew or should have known of the harassment, no damages shall be available against the covered entity if it can demonstrate that it exercised reasonable care to prevent and correct promptly any harassment based on race, color, or national origin.

"(D) Demonstration.—For purposes of subparagraphs (B) and (C), a showing that the covered entity has exercised reasonable care to prevent and correct promptly any harassment based on race, color, or national origin includes a demonstration by the covered entity that it has—

"(i) established, adequately publicized, and enforced an effective, comprehensive, harassment prevention policy and complaint procedure that is likely to provide redress and avoid harm without exposing the person subjected to the harassment to undue risk, effort, or expense;

"(ii) undertaken prompt, thorough, and impartial investigations pursuant to its complaint procedure; and

"(iii) taken immediate and appropriate corrective action designed to stop harassment that has occurred, correct its effects on the aggrieved person and ensure that the harassment does not recur.

"(E) Punitive damages.—Punitive damages shall not be available under this subsection against a government, government agency, or political subdivision.

"(3) Definitions.—As used in this subsection:

"(A) Demonstrates.—The term 'demonstrates' means meets the burdens of production and persuasion.

"(B) Tangible action.—The term 'tangible action' means—

"(i) a significant adverse change in an individual's status caused by an agent or employee of a covered entity with regard to the individual's participation in, access to, or enjoyment of, the benefits of a program or activity; or

"(ii) an explicit or implicit condition by an agent or employee of a covered entity on an individual's participation in, access to, or enjoyment of, the benefits of a program or activity based on the individual's submission to the harassment.

"(C) Unlawful harassment.—The term 'unlawful harassment' means harassment that is unlawful under this title.".

(b) Education Amendments of 1972.—Section 902A of the Civil Rights Act of 1964, as added by section 104, is amended by adding at the end the following:

"(c) Claims Based on Harassment.—

"(1) Right of recovery.—In an action brought against a covered entity by (including on behalf of) aggrieved person who has been subjected to unlawful harassment under a program or activity, the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages subject to the provisions of paragraph (2)), attorney's fees (including expert fees), and costs.

"(2) Availability of damages.—

"(A) Tangible action by agent or employee.—If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in a tangible action to the aggrieved person, damages shall be available against the covered entity.

"(B) No tangible action by agent or employee.—If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in no tangible action to the aggrieved person, no damages shall be available against the covered entity if it can demonstrate that—

"(i) it exercised reasonable care to prevent and correct promptly any harassment based on sex; and

"(ii) the aggrieved person unreasonably failed to take advantage of preventive or corrective opportunities offered by the covered entity that—

"(I) would likely have provided redress and avoided the harm described by the aggrieved person; and

"(II) would not have exposed the aggrieved person to undue risk, effort, or expense.

"(C) Harassment by third party.—If a person who is not an agent or employee of a covered entity subjects an aggrieved person to unlawful harassment under a program or activity, and the covered entity knew or should have known of the harassment, no damages shall be available against the covered entity if it can demonstrate that it exercised reasonable care to prevent and correct promptly any harassment based on sex.

"(D) Demonstration.—For purposes of subparagraphs (B) and (C), a showing that the covered entity has exercised reasonable care to prevent and correct promptly any harassment based on sex includes a demonstration by the covered entity that it has—

"(i) established, adequately publicized, and enforced an effective, comprehensive, harassment prevention policy and complaint procedure that is likely to provide redress and avoid harm without exposing the person subjected to the harassment to undue risk, effort, or expense;

"(ii) undertaken prompt, thorough, and impartial investigations pursuant to its complaint procedure; and

"(iii) taken immediate and appropriate corrective action designed to stop harassment that has occurred, correct its effects on the aggrieved person, and ensure that the harassment does not recur.

"(E) Punitive damages.—Punitive damages shall not be available under this subsection against a government, government agency, or political subdivision.

"(3) Definitions.—As used in this subsection:

"(A) Demonstrates.—The term 'demonstrates' means meets the burdens of production and persuasion.

"(B) Tangible action.—The term 'tangible action' means—

"(i) a significant adverse change in an individual's status caused by an agent or employee of a covered entity with regard to the individual's participation in, access to, or enjoyment of, the benefits of a program or activity; or

"(ii) an explicit or implicit condition by an agent or employee of a covered entity on an individual's participation in, access to, or enjoyment of, the benefits of a program or activity based on the individual's submission to the harassment.

"(C) UNLAWFUL HARASSMENT.—The term 'unlawful harassment' means harassment that is unlawful under this title.".

(c) AGE DISCRIMINATION ACT OF 1975.—Section 305(g) of the Age Discrimination Act of 1975, as added by section 104, is amended by adding at the end the following:

"(3)(A) If an action brought against a covered entity by (including on behalf of) an aggrieved person who has been subjected to unlawful harassment under a program or activity, the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages subject to the provisions of subparagraph (B)), attorney's fees (including expert fees), and costs.

"(B)(i) If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in a tangible action to the aggrieved person, damages shall be available against the covered entity.

"(ii) If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in no tangible action to the aggrieved person, no damages shall be available against the covered entity if it can demonstrate that—

"(I) it exercised reasonable care to prevent and correct promptly any harassment based on age; and

"(II) the aggrieved person unreasonably failed to take advantage of preventive or corrective opportunities offered by the covered entity that—

"(aa) would likely have provided redress and avoided the harm described by the aggrieved person; and

"(bb) would not have exposed the aggrieved person to undue risk, effort, or expense.

"(iii) If a person who is not an agent or employee of a covered entity subjects an aggrieved person to unlawful harassment under a program or activity, and the covered entity knew or should have known of the harassment, no damages shall be available against the covered entity if it can demonstrate that it exercised reasonable care to prevent and correct promptly any harassment based on age.

"(iv) For purposes of clauses (ii) and (iii), a showing that the covered entity has exercised reasonable care to prevent and correct promptly any harassment based on age includes a demonstration by the covered entity that it has—

"(I) established, adequately publicized, and enforced an effective, comprehensive, harassment prevention policy and complaint procedure that is likely to provide redress and avoid harm without exposing the person subjected to the harassment to undue risk, effort, or expense;

"(II) undertaken prompt, thorough, and impartial investigations pursuant to its complaint procedure; and

"(III) taken immediate and appropriate corrective action designed to stop harassment that has occurred, correct its effects on the aggrieved person, and ensure that the harassment does not recur.

"(v) Punitive damages shall not be available under this paragraph against a government, government agency, or political subdivision.

"(C) As used in this paragraph:

"(i) The term 'demonstrates' means meets the burdens of production and persuasion.

"(ii) The term 'tangible action' means—

"(I) a significant adverse change in an individual's status caused by an agent or employee of a covered entity with regard to the individual's participation in, access to, or enjoyment of, the benefits of a program or activity; or

"(II) an explicit or implicit condition by an agent or employee of a covered entity on an individual's participation in, access to, or enjoyment of, the benefits of a program or activity based on the individual's submission to the harassment.

"(iii) The term 'unlawful harassment' means harassment that is unlawful under this title.".

(d) REHABILITATION ACT OF 1973.—Section 504(e) of the Rehabilitation Act of 1973, as added by section 104, is amended by adding at the end the following:

"(3)(A) In an action brought against a covered entity by (including on behalf of) an aggrieved person who has been subjected to unlawful harassment under a program or activity, the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages subject to the provisions of subparagraph (B)), attorney's fees (including expert fees), and costs.

"(B)(i) If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in a tangible action to the aggrieved person, damages shall be available against the covered entity.

"(ii) If an agent or employee of a covered entity engages in unlawful harassment under a program or activity that results in no tangible action to the aggrieved person, no damages shall be available against the covered entity if it can demonstrate that—

"(I) it exercised reasonable care to prevent and correct promptly any harassment based on disability; and

"(II) the aggrieved person unreasonably failed to take advantage of preventive or corrective opportunities offered by the covered entity that—

"(aa) would likely have provided redress and avoided the harm described by the aggrieved person; and

"(bb) would not have exposed the aggrieved person to undue risk, effort, or expense.

"(iii) If a person who is not an agent or employee of a covered entity subjects an aggrieved person to unlawful harassment under a program or activity, and the covered entity knew or should have known of the harassment, no damages shall be available against the covered entity if it can demonstrate that it exercised reasonable care to prevent and correct promptly any harassment based on disability.

"(iv) For purposes of clauses (ii) and (iii), a showing that the covered entity has exercised reasonable care to prevent and correct promptly any harassment based on disability includes a demonstration by the covered entity that it has—

"(I) established, adequately publicized, and enforced an effective, comprehensive, harassment prevention policy and complaint procedure that is likely to provide redress and avoid harm without exposing the person subjected to the harassment to undue risk, effort, or expense;

"(II) undertaken prompt, thorough, and impartial investigations pursuant to its complaint procedure; and

"(III) taken immediate and appropriate corrective action designed to stop harassment that has occurred, correct its effects on the aggrieved person, and ensure that the harassment does not recur.

"(v) Punitive damages shall not be available under this paragraph against a government, government agency, or political subdivision.

"(C) As used in this paragraph:

"(i) The term 'demonstrates' means meets the burdens of production and persuasion.

"(ii) The term 'tangible action' means—

"(I) a significant adverse change in an individual's status caused by an agent or employee of a covered entity with regard to the individual's participation in, access to, or enjoyment of, the benefits of a program or activity; or

"(II) an explicit or implicit condition by an agent or employee of a covered entity on an individual's participation in, access to, or enjoyment of, the benefits of a program or activity based on the individual's submission to the harassment.

"(iii) The term 'unlawful harassment' means harassment that is unlawful under this section.".

SEC. 113. CONSTRUCTION.

Nothing in this subtitle, including any amendment made by this subtitle, shall be construed to limit the scope of the class of persons who may be subjected to civil actions under the covered civil rights provisions.

SEC. 114. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle, and the amendments made by this subtitle, are retroactive to June 22, 1998, and effective as of that date.

(b) APPLICATION.—This subtitle, and the amendments made by this subtitle, apply to all actions or proceedings pending on or after June 22, 1998, except as to an action against a State, as to which the effective date is the date of enactment of this Act.

TITLE II—UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994 AMENDMENT

SEC. 201. AMENDMENT TO THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994.

(a) FINDINGS.—Congress makes the following findings:

(1) The Federal Government has an important interest in attracting and training a military to provide for the National defense. The Constitution grants Congress the power to raise and support an army for purposes of the common defense. The Nation's military readiness requires that all members of the Armed Forces, including those employed in State programs and activities, be able to serve without jeopardizing their civilian employment opportunities.

(2) The Uniformed Services Employment and Reemployment Rights Act of 1994, commonly referred to as "USERRA" and codified as chapter 43 of title 38, United States Code, is intended to safeguard the reemployment rights of members of the uniformed services (as that term is defined in section 4303(16) of title 38, United States Code) and to prevent discrimination against any person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service. Effective enforcement of the Act depends on the ability of private individuals to enforce its provisions in court.

(3) In Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996), the Supreme Court held that congressional legislation enacted pursuant to the commerce clause of Article I, section 8, of the Constitution cannot abrogate the immunity of States under the 11th

amendment to the Constitution. Some courts have interpreted Seminole Tribe of Florida v. Florida as a basis for denying relief to persons affected by a State violation of USERRA. In addition, in Alden v. Maine 527 U.S. 706, 712 (1999), the Supreme Court held that this immunity also prohibits the Federal Government from subjecting "nonconsenting states to private suits for damages in state courts." As a result, although USERRA specifically provides that a person may commence an action for relief against a State for its violation of that Act, persons harmed by State violations of that Act lack important remedies to vindicate the rights and benefits that are available to all other persons covered by that Act. Unless a State chooses to waive sovereign immunity, or the Attorney General brings an action on their behalf, persons affected by State violations of USERRA may have no adequate Federal remedy for such violations.

(4) A failure to provide a private right of action by persons affected by State violations of USERRA would leave vindication of their rights and benefits under that Act solely to Federal agencies, which may fail to take necessary and appropriate action because of administrative overburden or other reasons. Action by Congress to specify such a private right of action ensures that persons affected by State violations of USERRA have a remedy if they are denied their rights and benefits under that Act.

(b) Clarification of Right of Action Under USERRA.—Section 4323 of title 38, United States Code, is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following new paragraph (2):

"(2) In the case of an action against a State (as an employer) by a person, the action may be brought in a district court of the United States or State court of competent jurisdiction.";

(2) by redesignating subsection (j) as subsection (k); and

(3) by inserting after subsection (i) the following new subsection (j):

"(j)(1)(A) A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this chapter for the rights or benefits authorized the employee by this chapter.

"(B) In this paragraph, the term 'program or activity' has the meaning given the term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).

"(2) An official of a State may be sued in the official capacity of the official by any person covered by paragraph (1) who seeks injunctive relief against a State (as an employer) under subsection (e). In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).".

TITLE III—AIR CARRIER ACCESS ACT OF 1986 AMENDMENT

SEC. 301. FINDINGS.

Congress finds the following:

(1) In Love v. Delta Air Lines, 310 F. 3d 1347 (11th Cir. 2002), the United States Court of Appeals for the Eleventh Circuit held that when Congress passed the Air Carrier Access Act of 1986, adding a provision now codified at section 41705 of title 49, United States Code (referred to in this title as the "ACAA"), Congress did not intend to create a private right of action with which individuals with disabilities could sue air carriers in Federal court for discrimination on the basis of disability. The court recognized that other courts of appeals have held that the ACAA created a private right of action. Nevertheless, the court, relying on the Supreme Court's decision in Alexander v. Sandoval, 532 U.S. 275 (2001), concluded that the ACAA did not create a private right of action.

(2) The absence of a private right of action leaves enforcement of the ACAA solely in the hands of the Department of Transportation, which is overburdened and lacks the resources to investigate, prosecute violators for, and remediate all of the violations of the rights of travelers who are individuals with disabilities. Nor can the Department of Transportation bring an action that will redress the injury of an individual resulting from such a violation. The Department of Transportation can take action that fines an air carrier or requires the air carrier to obey the law in the future, but the Department is not authorized to issue orders that redress the injuries sustained by individual air passengers. Action by Congress is necessary to ensure that individuals with disabilities will have adequate remedies available when air carriers violate the ACAA (including its regulations), and only courts may provide this redress to individuals.

(3) When an air carrier violates the ACAA and discriminates against an individual with a disability, frequently the only way to compensate that individual for the harm the individual has suffered is through an award of money damages. For example, violations of the ACAA may result in travelers who are individuals with disabilities missing flights for business appointments or important personal events, or in such travelers suffering humiliating treatment at the hands of air carriers. Those harms cannot be remedied solely through injunctive relief.

(4) Unlike other civil rights statutes, the ACAA does not contain a fee-shifting provision under which a prevailing plaintiff can be awarded attorney's fees. Action by Congress is necessary to correct this anomaly. The availability of attorney's fees is essential to ensuring that persons who have been aggrieved by violations of the ACAA can enforce their rights. The inclusion of a fee-shifting provision in the ACAA will permit individuals to serve as private attorneys general, a necessary role on which enforcement of civil rights statutes depends.

SEC. 302. CIVIL ACTION.

Section 41705 of title 49, United States Code, is amended by adding at the end the following:

"(d) Civil Action.—(1) Any person aggrieved by an air carrier's violation of subsection (a) (including any regulation implementing such subsection) may bring a civil action in the district court of the United States in the district in which the aggrieved person resides, in the district containing the air carrier's principal place of business, or in the district in which the violation took place. Any such action must be commenced within 2 years after the date of the violation.

"(2) In any civil action brought by an aggrieved person pursuant to paragraph (1), the plaintiff may obtain both equitable and legal relief, including compensatory and punitive damages. The court in such action shall, in addition to such relief awarded to a prevailing plaintiff, award reasonable attorney's fees, reasonable expert fees, and costs of the action to the plaintiff.".

TITLE IV—AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Older Workers' Rights Restoration Act of 2004".

SEC. 402. FINDINGS.

Congress finds the following:

(1) Since 1974, the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) (referred to in this section as the 'ADEA') has prohibited States from discriminating in employment on the basis of age. In EEOC v. Wyoming, 460 U.S. 226 (1983), the Supreme Court upheld Congress's constitutional authority to prohibit States from discriminating in employment on the basis of age. The prohibitions of the ADEA remain in effect and continue to apply to the States, as the prohibitions have for more than 25 years.

(2) Age discrimination in employment remains a serious problem both nationally and among State agencies, and has invidious effects on its victims, the labor force, and the economy as a whole. For example, age discrimination in employment—

(A) increases the risk of unemployment among older workers, who will as a result be more likely to be dependent on government resources;

(B) prevents the best use of available labor resources;

(C) adversely effects the morale and productivity of older workers; and

(D) perpetuates unwarranted stereotypes about the abilities of older workers.

(3) Private civil suits by the victims of employment discrimination have been a crucial tool for enforcement of the ADEA since the enactment of that Act. In Kimel v. Florida Board of Regents, 528 U.S. 62 (2000), however, the Supreme Court held that Congress had not abrogated State sovereign immunity to suits by individuals under the ADEA. The Federal Government has an important interest in ensuring that Federal financial assistance is not used to subsidize or facilitate violations of the ADEA. Private civil suits are a critical tool for advancing that interest.

(4) As a result of the Kimel decision, although age-based discrimination by State employers remains unlawful, the victims of such discrimination lack important remedies for vindication of their rights that are available to all other employees covered under that Act, including employees in the private sector, local government, and the Federal Government. Unless a State chooses to waive sovereign immunity, or the Equal Employment Opportunity Commission brings an action on their behalf, State employees victimized by violations of the ADEA have no adequate Federal remedy for violations of that Act. In the absence of the deterrent effect that such remedies provide, there is a greater likelihood that entities carrying out programs and activities receiving Federal financial assistance will use that assistance to violate that Act, or that the assistance will otherwise subsidize or facilitate violations of that Act.

(5) Federal law has long treated nondiscrimination obligations as a core component of programs or activities that, in whole or part, receive Federal financial assistance. That assistance should not be used, directly or indirectly, to subsidize invidious discrimination. Assuring nondiscrimination in employment is a crucial aspect of assuring nondiscrimination in those programs and activities.

(6) Discrimination on the basis of age in programs or activities receiving Federal financial assistance is, in contexts other than employment, forbidden by the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.). Congress determined that it was not necessary for the Age Discrimination Act of 1975 to apply to employment discrimination because the ADEA already forbade discrimination in employment by, and authorized suits

against, State agencies and other entities that receive Federal financial assistance. In section 1003 of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d-7), Congress required all State entities subject to the Age Discrimination Act of 1975 to waive any immunity from suit for discrimination claims arising under the Age Discrimination Act of 1975. The earlier limitation in the Age Discrimination Act of 1975, originally intended only to avoid duplicative coverage and remedies, has in the wake of the Kimel decision become a serious loophole leaving millions of State employees without an important Federal remedy for age discrimination, resulting in the use of Federal financial assistance to subsidize or facilitate violations of the ADEA.

(7) The Supreme Court has upheld Congress's authority to condition receipt of Federal financial assistance on acceptance by the States or other covered entities of conditions regarding or related to the use of that assistance, as in Cannon v. University of Chicago, 441 U.S. 677 (1979). The Court has further recognized that Congress may require a State, as a condition of receipt of Federal financial assistance, to waive the State's sovereign immunity to suits for a violation of Federal law, as in College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999). In the wake of the Kimel decision, in order to assure compliance with, and to provide effective remedies for violations of, the ADEA in State programs or activities receiving or using Federal financial assistance, and in order to ensure that Federal financial assistance does not subsidize or facilitate violations of the ADEA, it is necessary to require such a waiver as a condition of receipt or use of that assistance.

(8) A State's receipt or use of Federal financial assistance in any program or activity of a State will constitute a limited waiver of sovereign immunity under section 7(g) of the ADEA (as added by section 404). The waiver will not eliminate a State's immunity with respect to programs or activities that do not receive or use Federal financial assistance. The State will waive sovereign immunity only with respect to suits under the ADEA brought by employees within the programs or activities that receive or use that assistance. With regard to those programs and activities that are covered by the waiver, the State employees will be accorded only the same remedies that are accorded to other covered employees under the ADEA.

(9) The Supreme Court has repeatedly held that State sovereign immunity does not bar suits for prospective injunctive relief brought against State officials, as in Ex parte Young (209 U.S. 123 (1908)). Clarification of the language of the ADEA will confirm that that Act authorizes such suits. The injunctive relief available in such suits will continue to be no broader than the injunctive relief that was available under that Act before the Kimel decision, and that is available to all other employees under that Act.

(10) In Griggs v. Duke Power Co., 401 U.S. 424, 431 (1971), the Supreme Court recognized that title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) "proscribes not only overt discrimination [in employment] but also [employment] practices that are fair in form, but discriminatory in operation. . . ." In doing so, the Court relied on section 703(a)(2) of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(a)(2)), which contains language identical to section 4(a)(2) of the ADEA, except that the latter substitutes the word age for the grounds of prohibited discrimination specified by title VII of the Civil Rights Act of 1964: "race, color, religion, sex, or national origin." The Court has confirmed that this and other related statutory language, identical to both title VII of the Civil Rights Act of 1964 and the ADEA, supports application of the disparate impact doctrine. Connecticut v. Teal, 457 U.S. 440 (1982); General Electric Co. v. Gilbert, 429 U.S. 125 (1976).

(11) Other indicia of Congress's intent to permit the disparate impact method of proving violations of the ADEA are legion, and include numerous other textual parallels between the ADEA and title VII of the Civil Rights Act of 1964, such as in the two laws' substantive prohibitions. Lorillard v. Pons, 434 U.S. 575, 584 (1978) (the ADEA's substantive prohibitions "were derived in haec verba from Title VII"). Moreover, the ADEA and title VII of the Civil Rights Act of 1964 share "a common purpose: 'the elimination of discrimination in the workplace.'". McKennon v. Nashville Banner Pub. Co., 513 U.S. 352, 358 (1995) (quoting Oscar Mayer & Co. v. Evans, 441 U.S. 750, 756 (1979)). Interpreting title VII of the Civil Rights Act of 1964 in a consistent manner is particularly appropriate when "the two provisions share a common raison d'etre.". Northcross v. Board of Educ. of Memphis City Schools, 412 U.S. 427, 428 (1973).

(12) The ADEA's legislative history confirms Congress's intent to redress all "arbitrary" age discrimination in the workplace, including arbitrary facially neutral policies and practices falling more harshly on older workers. Such policies continue to be based on the kind of "subconscious stereotypes and prejudices" which cannot be "adequately policed through disparate treatment analysis," and thus, require application of the disparate impact theory of proof. Watson v. Fort Worth Bank & Trust, 487 U.S. 977, 990 (1988). As the Supreme Court has noted, these prejudices are "the essence of age discrimination.". Hazen Paper Co. v. Biggins, 507 U.S. 604, 610, n.15 (1993).

(13) In 1991, Congress reaffirmed that title VII of the Civil Rights Act of 1964 permits victims of employment bias to state a cause of action for disparate impact discrimination when it added a provision to title VII of the Civil Rights Act of 1964 to clarify the burden of proof in disparate impact cases in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)).

(14) Subsequently, several lower courts and Federal Courts of Appeal have mistakenly relied on language in the Supreme Court's opinion in Hazen Paper Co. v. Biggins, 507 U.S. 604 (1993), to suggest that the disparate impact method of proof does not apply to claims under the ADEA. Mullin v. Raytheon Co., 164 F.3d 696, 700–01 (1st Cir. 1999); EEOC v. Francis W. Parker School, 41 F.3d 1073, 1076–77 (7th Cir. 1994); Ellis v. United Airlines, Inc., 73 F.3d 999, 1006–07 (10th Cir. 1996); DiBiase v. Smithkline Beecham Corp., 48 F.3d 719, 732 (3d Cir. 1995); Lyon v. Ohio Educ. Ass'n and Prof'l Staff Union, 53 F.3d 135, 139 n.5 (6th Cir. 1995). Congress did not intend the ADEA to be interpreted to provide older workers less protections against discrimination than those protected under title VII of the Civil Rights Act of 1964. As a result, it is necessary to clarify the burden of proof in a disparate impact case under the ADEA, and thereby reaffirm that victims of age discrimination in employment discrimination may state a cause of action based on the disparate impact method of proving discrimination in appropriate circumstances.

SEC. 403. PURPOSES.

The purposes of this title are—

(1) to provide to State employees in programs or activities that receive or use Federal financial assistance the same rights and remedies for practices violating the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) as are available to other employees under that Act, and that were available to State employees prior to the Supreme Court's decision in Kimel v. Florida Board of Regents, 528 U.S. 62 (2000);

(2) to provide that the receipt or use of Federal financial assistance for a program or activity constitutes a State waiver of sovereign immunity from suits by employees within that program or activity for violations of the Age Discrimination in Employment Act of 1967;

(3) to affirm that suits for injunctive relief are available against State officials in their official capacities for violations of the Age Discrimination in Employment Act of 1967; and

(4) to reaffirm the applicability of the disparate impact standard of proof to claims under the Age Discrimination in Employment Act of 1967.

SEC. 404. REMEDIES FOR STATE EMPLOYEES.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following:

"(g)(1)(A) A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this Act for equitable, legal, or other relief authorized under this Act.

"(B) In this paragraph, the term 'program or activity' has the meaning given the term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).

"(2) An official of a State may be sued in the official capacity of the official by any employee who has complied with the procedures of subsections (d) and (e), for injunctive relief that is authorized under this Act. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).".

SEC. 405. DISPARATE IMPACT CLAIMS.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end the following:

"(n)(1) Discrimination based on disparate impact is established under this title only if—

"(A) an aggrieved party demonstrates that an employer, employment agency, or labor organization has a policy or practice that causes a disparate impact on the basis of age and the employer, employment agency, or labor organization fails to demonstrate that the challenged policy or practice is based on reasonable factors that are job-related and consistent with business necessity other than age; or

"(B) the aggrieved party demonstrates (consistent with the demonstration standard under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) with respect to an 'alternative employment practice') that a less discriminatory alternative policy or practice exists, and the employer, employment agency, or labor organization refuses to adopt such alternative policy or practice.

"(2)(A) With respect to demonstrating that a particular policy or practice causes a disparate impact as described in paragraph (1)(A), the aggrieved party shall demonstrate that each particular challenged policy or practice causes a disparate impact, except that if the aggrieved party demonstrates to the court that the elements of an employer, employment agency, or labor organization's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one policy or practice.

"(B) If the employer, employment agency, or labor organization demonstrates that a specific policy or practice does not cause the disparate impact, the employer, employment agency, or labor organization shall not be required to demonstrate that such policy or practice is necessary to the operation of its business.

"(3) A demonstration that a policy or practice is necessary to the operation of the employer, employment agency, or labor organization's business may not be used as a defense against a claim of intentional discrimination under this title.

"(4) In this subsection, the term 'demonstrates' means meets the burdens of production and persuasion.".

SEC. 406. EFFECTIVE DATE.

(a) WAIVER OF SOVEREIGN IMMUNITY.—With respect to a particular program or activity, section 7(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)(1)) applies to conduct occurring on or after the day, after the date of enactment of this title, on which a State first receives or uses Federal financial assistance for that program or activity.

(b) SUITS AGAINST OFFICIALS.—Section 7(g)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)(2)) applies to any suit pending on or after the date of enactment of this title.

TITLE V—CIVIL RIGHTS REMEDIES AND RELIEF

Subtitle A—Prevailing Party

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "Settlement Encouragement and Fairness Act".

SEC. 502. DEFINITION OF PREVAILING PARTY.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§9. Definition of 'prevailing party'

"(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, or of any judicial or administrative rule, which provides for the recovery of attorney's fees, the term 'prevailing party' shall include, in addition to a party who substantially prevails through a judicial or administrative judgment or order, or an enforceable written agreement, a party whose pursuit of a nonfrivolous claim or defense was a catalyst for a voluntary or unilateral change in position by the opposing party that provides any significant part of the relief sought.

"(b)(1) If an Act, ruling, regulation, interpretation, or rule described in subsection (a) requires a defendant, but not a plaintiff, to satisfy certain different or additional criteria to qualify for the recovery of attorney's fees, subsection (a) shall not affect the requirement that such defendant satisfy such criteria.

"(2) If an Act, ruling, regulation, interpretation, or rule described in subsection (a) requires a party to satisfy certain criteria, unrelated to whether or not such party has prevailed, to qualify for the recovery of attorney's fees, subsection (a) shall not affect the requirement that such party satisfy such criteria.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"9. Definition of 'prevailing party'.".

(c) APPLICATION.—Section 9 of title 1, United States Code, as added by this Act, shall apply to any case pending or filed on or after the date of enactment of this subtitle.

Subtitle B—Arbitration

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Preservation of Civil Rights Protections Act of 2004".

SEC. 512. AMENDMENT TO FEDERAL ARBITRATION ACT.

Section 1 of title 9, United States Code, is amended by striking "of seamen" and all that follows through "commerce".

SEC. 513. UNENFORCEABILITY OF ARBITRATION CLAUSES IN EMPLOYMENT CONTRACTS.

(a) PROTECTION OF EMPLOYEE RIGHTS.—Notwithstanding any other provision of law, any clause of any agreement between an employer and an employee that requires arbitration of a dispute arising under the Constitution or laws of the United States shall not be enforceable.

(b) EXCEPTIONS.—

(1) WAIVER OR CONSENT AFTER DISPUTE ARISES.—Subsection (a) shall not apply with respect to any dispute if, after such dispute arises, the parties involved knowingly and voluntarily consent to submit such dispute to arbitration.

(2) COLLECTIVE BARGAINING AGREEMENTS.—Subsection (a) shall not preclude an employee or union from enforcing any of the rights or terms of a valid collective bargaining agreement.

SEC. 514. APPLICATION OF AMENDMENTS.

This subtitle and the amendment made by section 512 shall apply with respect to all employment contracts in force before, on, or after the date of enactment of this subtitle.

Subtitle C—Expert Witness Fees

SEC. 521. PURPOSE.

The purpose of this subtitle is to allow recovery of expert fees by prevailing parties under civil rights fee-shifting statutes.

SEC. 522. FINDINGS.

Congress finds the following:

(1) This subtitle is made necessary by the decision of the Supreme Court in West Virginia University Hospitals Inc. v. Casey, 499 U.S. 83 (1991). In Casey, the Court, per Justice Scalia, ruled that expert fees were not recoverable under section 722 of the Revised Statutes (42 U.S.C. 1988), as amended by the Civil Rights Attorneys' Fees Awards Act of 1976 (Public Law 94-559; 90 Stat. 2641), because the Civil Rights Attorneys' Fees Awards Act of 1976 expressly authorized an award of an "attorney's fee" to a prevailing party but said nothing expressly about expert fees.

(2) This subtitle is especially necessary both because of the important roles played by experts in civil rights litigation and because expert fees often represent a major cost of the litigation. In fact, in Casey itself, as pointed out by Justice Stevens in dissent, the district court had found that the expert witnesses were "essential" and "necessary" to the successful prosecution of the plaintiffs case, and the expert fees were not paltry but amounted to $104,133. Justice Stevens also pointed out that the majority opinion requiring the plaintiff to "assume the cost of $104,133 in expert witness fees is at war with the congressional purpose of making the prevailing party whole.". Casey (499 U.S. at 111).

(3) Much of the rationale for denying expert fees as part of the shifting of attorney's fees under provisions of law such as section 722 of the Revised Statutes (42 U.S.C. 1988), whose language does not expressly include expert fees, was based on the fact that many fee-shifting statutes enacted by Congress "explicitly shift expert witness fees as well as attorney's fees.". Casey (499 U.S. at 88). In fact, Justice Scalia pointed out that in 1976—the same year that Congress amended section 722 of the Revised Statutes (42 U.S.C. 1988) by providing for the shifting of attorney's fees—Congress expressly authorized the shifting of attorney's fees and of expert fees in the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), the Consumer Product Safety Act (15 U.S.C. 2051 et seq.), the Resource Conservation and Recovery Act of 1976 (Public Law 94-580; 90 Stat. 2795), and the Natural Gas Pipeline Safety Act Amendments of 1976 (Public Law 94-477; 90 Stat. 2073). Casey (499 U.S. at 88). Congress had done the same in other years on dozens of occasions. Casey (499 U.S. at 88-90 & n. 4).

(4) In the same year that the Supreme Court decided Casey, Congress responded quickly but only through the Civil Rights Act of 1991 (Public Law 102-166; 105 Stat. 1071) by amending title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and section 722 of the Revised Statutes (42 U.S.C. 1988) with express authorizations of the recovery of expert fees in successful employment discrimination litigation. It is long past time to correct, in Federal civil rights litigation, Casey's denial of expert fees.

SEC. 523. EFFECTIVE PROVISIONS.

(a) SECTION 722 OF THE REVISED STATUTES.—Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended—

(1) in subsection (b), by inserting "(including expert fees)" after "attorney's fee"; and

(2) by striking subsection (c).

(b) FAIR LABOR STANDARDS ACT OF 1938.—Section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is amended by inserting "(including expert fees)" after "attorney's fee".

(c) VOTING RIGHTS ACT OF 1965.—Section 14(e) of the Voting Rights Act of 1965 (42 U.S.C. 1973*l*(e)) is amended by inserting "(including expert fees)" after "attorney's fee".

(d) FAIR HOUSING ACT.—Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) is amended—

(1) in section 812(p), by inserting "(including expert fees)" after "attorney's fee";

(2) in section 813(c)(2), by inserting "(including expert fees)" after "attorney's fee"; and

(3) in section 814(d)(2), by inserting "(including expert fees)" after "attorney's fee".

(e) IDEA.—Section 615(i)(3)(B) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(i)(3)(B)) is amended by inserting "(including expert fees)" after "attorney's fees".

(f) CIVIL RIGHTS ACT OF 1964.—Section 204(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(b)) is amended by inserting "(including expert fees)" after "attorney's fee".

(g) REHABILITATION ACT OF 1973.—Section 505(b) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(b)) is amended by inserting "(including expert fees)" after "attorney's fee".

(h) EQUAL CREDIT OPPORTUNITY ACT.—Section 706(d) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(d)) is amended by inserting "(including expert fees)" after "attorney's fee".

(i) FAIR CREDIT REPORTING ACT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 616(a)(3), by inserting "(including expert fees)" after "attorney's fees"; and

(2) in section 617(a)(2), by inserting "(including expert fees)" after "attorney's fees".

(j) FREEDOM OF INFORMATION ACT.—Section 552(a)(4)(E) of title 5, United States Code, is amended by inserting "(including expert fees)" after "attorney fees".

(k) PRIVACY ACT.—Section 552a(g) of title 5, United States Code, is amended—

(1) in paragraph (2)(B), by inserting "(including expert fees)" after "attorney fees";

(2) in paragraph (3)(B), by inserting "(including expert fees)" after "attorney fees"; and

(3) in paragraph (4)(B), by inserting "(including expert fees)" after "attorney fees".

(l) TRUTH IN LENDING ACT.—Section 130(a)(3) of the Truth in Lending Act (15 U.S.C. 1640(a)(3)) is amended by inserting "(including expert fees)" after "attorney's fee".

Subtitle D—Equal Remedies Act of 2004

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Equal Remedies Act of 2004".

SEC. 532. EQUALIZATION OF REMEDIES.

Section 1977A of the Revised Statutes (42 U.S.C. 1981a), as added by section 102 of the Civil Rights Act of 1991, is amended—

(1) in subsection (b)—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking "section—" and all that follows through the period, and inserting "section, any party may demand a jury trial.".

TITLE VI—PROHIBITIONS AGAINST SEX DISCRIMINATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Paycheck Fairness Act".

SEC. 602. FINDINGS.

Congress makes the following findings:

(1) Women have entered the workforce in record numbers.

(2) Even today, women earn significantly lower pay than men for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions. These pay disparities exist in both the private and governmental sectors. In many instances, the pay disparities can only be due to continued intentional discrimination or the lingering effects of past discrimination.

(3) The existence of such pay disparities—

(A) depresses the wages of working families who rely on the wages of all members of the family to make ends meet;

(B) prevents the optimum utilization of available labor resources;

(C) has been spread and perpetuated, through commerce and the channels and instrumentalities of commerce, among the workers of the several States;

(D) burdens commerce and the free flow of goods in commerce;

(E) constitutes an unfair method of competition in commerce;

(F) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce;

(G) interferes with the orderly and fair marketing of goods in commerce; and

(H) in many instances, may deprive workers of equal protection on the basis of sex in violation of the 5th and 14th amendments.

(4)(A) Artificial barriers to the elimination of discrimination in the payment of wages on the basis of sex continue to exist decades after the enactment of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.).

(B) Elimination of such barriers would have positive effects, including—

(i) providing a solution to problems in the economy created by unfair pay disparities;

(ii) substantially reducing the number of working women earning unfairly low wages, thereby reducing the dependence on public assistance;

(iii) promoting stable families by enabling all family members to earn a fair rate of pay;

(iv) remedying the effects of past discrimination on the basis of sex and ensuring that in the future workers are afforded equal protection on the basis of sex; and

(v) ensuring equal protection pursuant to Congress's power to enforce the 5th and 14th amendments.

(5) With increased information about the provisions added by the Equal Pay Act of 1963 and wage data, along with more effective remedies, women will be better able to recognize and enforce their rights to equal pay for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions.

(6) Certain employers have already made great strides in eradicating unfair pay disparities in the workplace and their achievements should be recognized.

SEC. 603. ENHANCED ENFORCEMENT OF EQUAL PAY REQUIREMENTS.

(a) REQUIRED DEMONSTRATION FOR AFFIRMATIVE DEFENSE.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) is amended by striking "(iv) a differential" and all that follows through the period and inserting the following: "(iv) a differential based on a bona fide factor other than sex, such as education, training or experience, except that this clause shall apply only if—

"(I) the employer demonstrates that—

"(aa) such factor—

"(AA) is job-related with respect to the position in question; or

"(BB) furthers a legitimate business purpose, except that this item shall not apply where the employee demonstrates that an alternative employment practice exists that would serve the same business purpose without producing such differential and that the employer has refused to adopt such alternative practice; and

"(bb) such factor was actually applied and used reasonably in light of the asserted justification; and

"(II) upon the employer succeeding under subclause (I), the employee fails to demonstrate that the differential produced by the reliance of the employer on such factor is itself the result of discrimination on the basis of sex by the employer.

An employer that is not otherwise in compliance with this paragraph may not reduce the wages of any employee in order to achieve such compliance.".

(b) APPLICATION OF PROVISIONS.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) is amended by adding at the end the following: "The provisions of this subsection shall apply to applicants for employment if such applicants, upon employment by the employer, would be subject to any provisions of this section.".

(c) ELIMINATION OF ESTABLISHMENT REQUIREMENT.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended—

(1) by striking ", within any establishment in which such employees are employed,"; and

(2) by striking "in such establishment" each place it appears.

(d) NONRETALIATION PROVISION.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(1) by striking "or has" each place it appears and inserting "has"; and

(2) by inserting before the semicolon the following: ", or has inquired about, discussed, or otherwise disclosed the wages of the employee or another employee, or because the employee (or applicant) has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, hearing, or action under section 6(d)".

(e) ENHANCED PENALTIES.—Section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following: "Any employer who violates section 6(d) shall additionally be liable for such compensatory or punitive damages as may be appropriate, except that the United States shall not be liable for punitive damages.";

(2) in the sentence beginning "An action to", by striking "either of the preceding sentences" and inserting "any of the preceding sentences of this subsection";

(3) in the sentence beginning "No employees shall", by striking "No employees" and inserting "Except with respect to class actions brought to enforce section 6(d), no employee";

(4) by inserting after the sentence referred to in paragraph (3), the following: "Notwithstanding any other provision of Federal law, any action brought to enforce section 6(d) may be maintained as a class action as provided by the Federal Rules of Civil Procedure."; and

(5) in the sentence beginning "The court in"—

(A) by striking "in such action" and inserting "in any action brought to recover the liability prescribed in any of the preceding sentences of this subsection"; and

(B) by inserting before the period the following: ", including expert fees".

(f) ACTION BY SECRETARY.—Section 16(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(c)) is amended—

(1) in the first sentence—

(A) by inserting "or, in the case of a violation of section 6(d), additional compensatory or punitive damages," before "and the agreement"; and

(B) by inserting before the period the following: ", or such compensatory or punitive damages, as appropriate";

(2) in the second sentence, by inserting before the period the following: "and, in the case of a violation of section 6(d), additional compensatory or punitive damages";

(3) in the third sentence, by striking "the first sentence" and inserting "the first or second sentence"; and

(4) in the last sentence—

(A) by striking "commenced in the case" and inserting "commenced—

"(1) in the case";

(B) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(2) in the case of a class action brought to enforce section 6(d), on the date on which the individual becomes a party plaintiff to the class action.".

SEC. 604. TRAINING.

The Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs, subject to the availability of funds appropriated under section

609, shall provide training to Commission employees and affected individuals and entities on matters involving discrimination in the payment of wages.

SEC. 605. RESEARCH, EDUCATION, AND OUTREACH.

The Secretary of Labor shall conduct studies and provide information to employers, labor organizations, and the general public concerning the means available to eliminate pay disparities between men and women, including—

(1) conducting and promoting research to develop the means to correct expeditiously the conditions leading to the pay disparities;

(2) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the media, and the general public the findings resulting from studies and other materials, relating to eliminating the pay disparities;

(3) sponsoring and assisting State and community informational and educational programs;

(4) providing information to employers, labor organizations, professional associations, and other interested persons on the means of eliminating the pay disparities;

(5) recognizing and promoting the achievements of employers, labor organizations, and professional associations that have worked to eliminate the pay disparities; and

(6) convening a national summit to discuss, and consider approaches for rectifying, the pay disparities.

SEC. 606. TECHNICAL ASSISTANCE AND EMPLOYER RECOGNITION PROGRAM.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Labor shall develop guidelines to enable employers to evaluate job categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and responsibility, including decisionmaking responsibility and de facto supervisory responsibility.

(2) USE.—The guidelines developed under paragraph (1) shall be designed to enable employers voluntarily to compare wages paid for different jobs to determine if the pay scales involved adequately and fairly reflect the educational requirements, skill requirements, independence, working conditions, and responsibility for each such job with the goal of eliminating unfair pay disparities between occupations traditionally dominated by men or women.

(3) PUBLICATION.—The guidelines shall be developed under paragraph (1) and published in the Federal Register not later than 180 days after the date of enactment of this title.

(b) EMPLOYER RECOGNITION.—

(1) PURPOSE.—It is the purpose of this subsection to emphasize the importance of, encourage the improvement of, and recognize the excellence of employer efforts to pay wages to women that reflect the real value of the contributions of such women to the workplace.

(2) IN GENERAL.—To carry out the purpose of this subsection, the Secretary of Labor shall establish a program under which the Secretary shall provide for the recognition of employers who, pursuant to a voluntary job evaluation conducted by the employer, adjust their wage scales (such adjustments shall not include the lowering of wages paid to men) using the guidelines developed under subsection (a) to ensure that women are paid fairly in comparison to men.

(3) TECHNICAL ASSISTANCE.—The Secretary of Labor may provide technical assistance to assist an employer in carrying out an evaluation under paragraph (2).

(c) REGULATIONS.—The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out this section.

SEC. 607. ESTABLISHMENT OF THE NATIONAL AWARD FOR PAY EQUITY IN THE WORKPLACE.

(a) IN GENERAL.—There is established the Secretary of Labor's National Award for Pay Equity in the Workplace, which shall be evidenced by a medal bearing the inscription "Secretary of Labor's National Award for Pay Equity in the Workplace". The medal shall be of such design and materials, and bear such additional inscriptions, as the Secretary of Labor may prescribe.

(b) CRITERIA FOR QUALIFICATION.—To qualify to receive an award under this section a business shall—

(1) submit a written application to the Secretary of Labor, at such time, in such manner, and containing such information as the Secretary may require, including at a minimum information that demonstrates that the business has made substantial effort to eliminate pay disparities between men and women, and deserves special recognition as a consequence; and

(2) meet such additional requirements and specifications as the Secretary of Labor determines to be appropriate.

(c) MAKING AND PRESENTATION OF AWARD.—

(1) AWARD.—After receiving recommendations from the Secretary of Labor, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) PRESENTATION.—The President or the designated representative of the President shall present the award under this section with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(d) BUSINESS.—In this section, the term "business" includes—

(1)(A) a corporation, including a nonprofit corporation;

(B) a partnership;

(C) a professional association;

(D) a labor organization; and

(E) a business entity similar to an entity described in any of subparagraphs (A) through (D);

(2) an entity carrying out an education referral program, a training program, such as an apprenticeship or management training program, or a similar program; and

(3) an entity carrying out a joint program, formed by a combination of any entities described in paragraph (1) or (2).

SEC. 608. COLLECTION OF PAY INFORMATION BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

Section 709 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–8) is amended by adding at the end the following:

"(f)(1) Not later than 18 months after the date of enactment of this subsection, the Commission shall—

"(A) complete a survey of the data that is currently available to the Federal Government relating to employee pay information for use in the enforcement of Federal laws prohibiting pay discrimination and, in consultation with other relevant Federal agencies, identify additional data collections that will enhance the enforcement of such laws; and

"(B) based on the results of the survey and consultations under subparagraph (A), issue regulations to provide for the collection of pay information data from employers as described by the sex, race, and national origin of employees.

"(2) In implementing paragraph (1), the Commission shall have as its primary consideration the most effective and efficient means for enhancing the enforcement of Federal laws prohibiting pay discrimination. For this purpose, the Commission shall consider factors including the imposition of burdens on employers, the frequency of required reports (including which employers should be required to prepare reports), appropriate protections for maintaining data confidentiality, and the most effective format for the data collection reports.".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE VII—PROTECTIONS FOR WORKERS

Subtitle A—Protection for Undocumented Workers

SEC. 701. FINDINGS.

Congress finds the following:

(1) The National Labor Relations Act (29 U.S.C. 151 et seq.) (in this subtitle referred to as the "NLRA"), enacted in 1935, guarantees the right of employees to organize and to bargain collectively with their employers. The NLRA implements the national labor policy of assuring free choice and encouraging collective bargaining as a means of maintaining industrial peace. The National Labor Relations Board (in this subtitle referred to as the "NLRB") was created by Congress to enforce the provisions of the NLRA.

(2) Under section 8 of the NLRA, employers are prohibited from discriminating against employees "in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization". (29 U.S.C. 158(a)(3)). Employers who violate these provisions are subject to a variety of sanctions, including reinstatement of workers found to be illegally discharged because of their union support or activity and provision of backpay to those employees. Such sanctions serve to remedy and deter illegal actions by employers.

(3) In Hoffman Plastic Compounds Inc. v. NLRB, 535 U.S. 137 (2002), the Supreme Court held by a 5 to 4 vote that Federal immigration policy, as articulated in the Immigration Reform and Control Act of 1986, prevented the NLRB from awarding backpay to an undocumented immigrant who was discharged in violation of the NLRA because of his support for union representation at his workplace.

(4) The decision in Hoffman has an impact on all employees, regardless of immigration or citizenship status, who try to improve their working conditions. In the wake of Hoffman Plastics, employers may be more likely to report to the Department of Homeland Security minority workers, regardless of their immigration or citizenship status, who pursue claims under the NLRA against their employers. Fear that employers may retaliate against employees that exercise their rights under the NLRA has a chilling effect on all employees who exercise their labor rights.

(5) The NLRA is not the only Federal employment statute that provides for a backpay award as a remedy for an unlawful discharge. For example, courts routinely award backpay to employees who are found to have been discharged in violation of title VII of

the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) (in retaliation for complaining about a failure to comply with the minimum wage). In the wake of the Hoffman decision, defendant employers will now argue that backpay awards to unlawfully discharged undocumented workers are barred under Federal employment statutes and even under State employment statutes.

(6) Because the Hoffman decision prevents the imposition of sanctions on employers who discriminate against undocumented immigrant workers, employers are encouraged to employ such workers for low-paying and dangerous jobs because they have no legal redress for violations of the law. This creates an economic incentive for employers to hire and exploit undocumented workers, which in turn tends to undermine the living standards and working conditions of all Americans, citizens and noncitizens alike.

(7) The Hoffman decision disadvantages many employers as well. Employers who are forced to compete with firms that hire and exploit undocumented immigrant workers are saddled with an economic disadvantage in the labor marketplace. The unintended creation of an economic inducement for employers to exploit undocumented immigrant workers gives those employers an unfair competitive advantage over employers that treat workers lawfully and fairly.

(8) The Court's decision in Hoffman makes clear that "any 'perceived deficiency in the NLRA's existing remedial arsenal' must be 'addressed by congressional action[.]'" Hoffman Plastic Compounds Inc. v. NLRB, 535 U.S. 137, 152 (2002) (quoting Sure-Tan, Inc. v. NLRB, 467 U.S. 883, 904 (1984)). In emphasizing the importance of back pay awards, Justice Breyer noted that such awards against employers "help[] to deter unlawful activity that both labor laws and immigration laws seek to prevent". Hoffman Plastic Compounds Inc. v. NLRB, 535 U.S. 137, 152 (2002). Because back pay awards are designed both to remedy the individual's private right to be free from discrimination as well as to enforce the important public policy against discriminatory employment practices, Congress must take the following corrective action.

SEC. 702. CONTINUED APPLICATION OF BACKPAY REMEDIES.

(a) IN GENERAL.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following:

"(4) BACKPAY REMEDIES.—Backpay or other monetary relief for unlawful employment practices shall not be denied to a present or former employee as a result of the employer's or the employee's—

"(A) failure to comply with the requirements of this section; or

"(B) violation of a provision of Federal law related to the employment verification system described in subsection (b) in establishing or maintaining the employment relationship.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any failure to comply or any violation that occurs prior to, on, or after the date of enactment of this title.

Subtitle B—Fair Labor Standards Act Amendments

SEC. 711. SHORT TITLE.

This subtitle may be cited as the "Workers' Minimum Wage and Overtime Rights Restoration Act of 2004".

SEC. 712. FINDINGS.

Congress finds the following with respect to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) (in this subtitle referred to as the "FLSA"):

(1) Since 1974, the FLSA has regulated States with respect to the payment of minimum wage and overtime rates. In Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985), the Supreme Court upheld Congress's constitutional authority to regulate States in the payment of minimum wages and overtime. The prohibitions of the FLSA remain in effect and continue to apply to the States.

(2) Wage and overtime violations in employment remain a serious problem both nationally and among State and other public and private entities receiving Federal financial assistance, and has invidious effects on its victims, the labor force, and the general welfare and economy as a whole. For example, seven State governments have no overtime laws at all. Fourteen State governments have minimum wage and overtime laws; however, they exclude employees covered under the FLSA. As such, public employees, since they are covered under the FLSA are not protected under these State laws. Additionally, four States have minimum wage and overtime laws which are inferior to the FLSA. Further, the Department of Labor continues to receive a substantial number of wage and overtime charges against State government employers.

(3) Private civil suits by the victims of employment law violations have been a crucial tool for enforcement of the FLSA. In Alden v. Maine, 527 U.S. 706 (1999), however, the Supreme Court held that Congress lacks the power under the 14th amendment to the Constitution to abrogate State sovereign immunity to suits for legal relief by individuals under the FLSA. The Federal Government has an important interest in ensuring that Federal financial assistance is not used to facilitate violations of the FLSA, and private civil suits for monetary relief are a critical tool for advancing that interest.

(4) After the Alden decision, wage and overtime violations by State employers remain unlawful, but victims of such violations lack important remedies for vindication of their rights available to all other employees covered by the FLSA. In the absence of the deterrent effect that such remedies provide, there is a great likelihood that State entities carrying out federally funded programs and activities will use Federal financial assistance to violate the FLSA, or that the Federal financial assistance will otherwise subsidize or facilitate FLSA violations.

(5) The Supreme Court has upheld Congress's authority to condition receipt of Federal financial assistance on acceptance by State or other covered entities of conditions regarding or related to the use of those funds, as in Cannon v. University of Chicago, 441 U.S. 677 (1979).

(6) The Court has further recognized that Congress may require State entities, as a condition of receipt of Federal financial assistance, to waive their State sovereign immunity to suits for a violation of Federal law, as in College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999).

(7) In the wake of the Alden decision, it is necessary, in order to foster greater compliance with, and adequate remedies for violations of, the FLSA, particularly in federally funded programs or activities operated by State entities, to require State entities to consent to a waiver of State sovereign immunity as a condition of receipt of such Federal financial assistance.

(8) The Supreme Court has repeatedly held that State sovereign immunity does not bar suits for prospective injunctive relief brought against State officials acting in their official capacity, as in Ex parte Young (209 U.S. 123 (1908)). The injunctive relief available in such suits under the FLSA will continue to be the same as that which was available under those laws prior to enactment of this subtitle.

SEC. 713. PURPOSES.

The purposes of this subtitle are—

(1) to provide to State employees in programs or activities that receive or use Federal financial assistance the same rights and remedies for practices violating the FLSA as are available to other employees under the FLSA, and that were available to State employees prior to the Supreme Court's decision in Alden v. Maine, 527 U.S. 706 (1999);

(2) to provide that the receipt or use of Federal financial assistance for a program or activity constitutes a State waiver of sovereign immunity from suits by employees within that program or activity for violations of the FLSA; and

(3) to affirm that suits for injunctive relief are available against State officials in their official capacities for violations of the FLSA.

SEC. 714. REMEDIES FOR STATE EMPLOYEES.

Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended by adding at the end the following:

"(f)(1) A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this Act for equitable, legal, or other relief authorized under this Act.

"(2) In this subsection, the term 'program or activity' has the meaning given the term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).".

Mr. HARKIN. Mr. President, I am proud to cosponsor the Fairness and Individual Rights Necessary to Ensure a Stronger Society: The Civil Rights Act of 2004, known as the Fairness Act. In recent years, the Supreme Court has worked to chip away at civil rights laws. This legislation is designed to address many of these decisions, particularly with respect to statutes governing recipients of federal assistance.

This bill is important to all Americans because it ensures that everyone will be treated with fairness and equity under the laws of this country. As a longstanding advocate for disability rights, I am particularly pleased that this bill will reverse some decisions that have limited civil rights protections for people with disabilities.

For example, this legislation will reverse some Supreme Court cases which limit the damage awards for intentional discrimination. A recent egregious example is Barnes v. Gorman, 536 U.S. 181, 2002. This case was brought by an individual who used a wheelchair and was forced into a police van that was not equipped with the proper restraints. Despite his objections to the officers, the individual was strapped in with improper belts that came loose, throwing him to the floor. The Supreme Court held that this individual could not seek punitive damages under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act for this mistreatment. The Fairness Act will restore his rights and those of others who have suffered discrimination.

It will also reverse Buchannon Bd. & Care Home, Inc. v. West Virginia Dep't of Health & Human Resources, 532 U.S. 598, 2001. In that case, the defendant had been sued under the ADA and the Fair Housing Act. The Court held that even if the lawsuit causes the defendants to voluntarily make changes, the plaintiff cannot recover attorneys' fees unless he or she has been awarded relief by a court. This case has made it extremely difficult to find attorneys to take disability cases.

The Fairness Act will also clarify that passengers with disabilities may sue for violations of the Air Carriers Access Act, ACCA, and its regulations. A circuit court recently applied the Supreme Court's decision in Alexander v. Sandoval, 532 U.S. to prohibit suits under the ACAA. Congress intended that individuals have the ability to seek redress for violations of this statute.

The bill, however, does not address individuals with disabilities in some areas because Congress already has provided clear protection for them. So, for example, Congress has clearly indicated that a private right of action exists to enforce disparate impact disability-based discrimination under Section 504 of the Rehabilitation Act. Congress approved of the regulations promulgated to implement section 504 and incorporated these regulations into the statutory requirements of the Americans with Disabilities Act of 1990.

The bill also does not address the disability-specific negative decisions of the Supreme Court. These decisions have undermined the ADA by dramatically narrowing those who are covered under the Act and imposing other restrictions. As the lead sponsor of the ADA in the Senate, I believe that these cases directly conflict with congressional intent. I am working with the disability community and others to address these cases.

The Fairness Act is aptly named. It is designed to ensure that everyone is treated equally under the law and that America will be a Nation that protects and enforces the civil rights of all its citizens.

By Mr. FRIST (for himself, Ms. LANDRIEU, Mr. COCHRAN, Mr. DEWINE, Mr. BOND, Mr. WARNER, Mr. TALENT, and Mrs. HUTCHISON):

S. 2091. A bill to improve the health of health disparity population; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I am proud to join today with Senator MARY LANDRIEU, Senator THAD COCHRAN, Senator MIKE DEWINE, Senator CHRISTOPHER BOND, Senator JAMES TALENT, Senator JOHN WARNER, and Senator KAY BAILEY HUTCHISON to introduce the "Closing the Health Care Gap Act of 2004."

Earlier today, I was pleased to be joined at a press conference by an impressive array of leaders in this fight—Dr. Louis Sullivan, Dr. Rene Rodriguez, Dr. Randall Maxey, Dr. John Maupin, and Dr. James Gavin. I appreciate their support for this legislation, and also appreciate the support of other national leaders committed to closing the health care disparity gap in America.

Last May, in a speech to graduating students and families at Morehouse University's School of Medicine, I outlined a framework for action to combat disparities. Since then, I have reached out broadly and worked with a wide range of stakeholders and leaders to gather their input and ideas to ensure the legislation we are introducing today includes the best possible strategies to eliminate health disparities. I am also proud to be joined today by a number of colleagues who are committed to this cause. I particularly want to thank Senator LANDRIEU for working across party lines on this bipartisan legislation.

As former Surgeon General Louis W. Sullivan, MD, said at a press briefing earlier today on this legislation, "[e]thnic minorities represent the fastest growing segment of the U.S. population, and therefore, it is critical that we have a sustained and coordinated commitment to addressing this national problem. The "Closing the Health Care Gap Act" seeks to do that. . ."

This legislation builds on past bipartisan efforts to address disparities in our health care system—most importantly, the "Minority Health and Health Disparities Research and Education Act of 2000," which I authored with Senator EDWARD KENNEDY.

The legislation we are introducing today goes much farther.

Over recent years, we have made tremendous advances in our knowledge of and fight against disease. But we know that millions of Americans still experience disparities in health outcomes as a result of ethnicity, race, gender, or limited access to quality health care. For example, disparity populations exhibit poorer health outcomes and have higher rates of HIV/AIDS, diabetes, infant mortality, cancer, heart disease, and other illnesses.

African Americans and Native Americans die younger than any other racial or ethnic group.

African Americans and Native American babies die at significantly higher rates than the rest of the population.

African Americans, Native Americans, and Hispanic Americans are at least twice as likely to suffer from diabetes and experience serious complications from diabetes.

These gaps are simply unacceptable in America today. Let me repeat, they are unacceptable. And, today, we begin a new and aggressive effort to address these inequities.

The root causes of the health care disparities are multiple and certainly complex. That is why we need a broad and comprehensive approach to reduce and eliminate these disparities. This legislation takes a bold step in that direction.

Many of our Nation's smartest minds have examined this problem in detail. The Institute of Medicine (IOM) in its landmark report "Unequal Treatment," concluded that health care disparities are caused by socioeconomic factors, language barriers, access to services problems, behavioral risk factors, and cultural issues including, unfortunately, mistrust and misunderstanding of some patients toward the health care system.

The "Closing the Health Care Gap Act" directly addresses the root causes of health care disparities by focusing on five key areas: expanding access to quality health care; strengthening national leadership efforts and coordination; helping increase the diversity of health professionals; promoting more aggressive health professional education intended to reduce barriers to care; and enhancing research to identify sources of racial, ethnic, and geographic disparities and assess promising intervention strategies.

More specifically, this bill: promotes improved understanding of the quality of health care delivered to racial and ethnic minorities and health disparity populations; improves collection and reporting of data on the health care of racial and ethnic minorities and health disparity populations; reduces some of the fragmentation of health care delivery experienced by disparity populations; strengthens the doctor-patient relationship by providing a series of tools to improve communication and continuity of care; supports the use of community health workers; supports the implementation of multidisciplinary treatment and preventive care teams; improves education and information to allow patients to better manage and control their own care; and increases the proportion of racial and ethnic minorities among health professionals.

It is important that we act, as well, because health care disparities magnify many of the quality deficiencies in our overall health care system. This point was well documented by the IOM in a series of reports issued during the past several years. Therefore, the bill takes aggressive steps to improve the quality of health care for all Americans.

A key part of this effort necessarily involves the need to strive for greater standardization of health data collection. At the same time, we must ensure that this information allows us to better identify and address gaps in our health care system by including important information about patients' race and ethnicity.

While the Federal Government has a critical role to play, it is important to remember that government alone is incapable of closing the care and treatment gaps which exist in our health care system. Therefore, the legislation promotes partnerships between the Government and the private sector, and fosters collaboration at the community level to improve care, as well as access to care.

The bill expands access to quality health care for minority and underserved patients through a community-based model that seeks to help patients utilize health coverage that may be available, to provide health system patient navigator services so that they may best utilize available coverage, to emphasize health awareness, prevention and health literacy efforts so that patients can effectively take part in their or their children's treatment decisions, and to improve chronic disease management.

Turning our back on these health disparity problems would be a national failure. Every American deserves the best quality of health care possible, regardless of their race, ethnicity, gender, or where they live.

Again, I appreciate the commitment of many of my colleagues. Together, I know we can make great progress against this critical problem.

There is a growing awareness on the national level of the existence and importance of the serious disparities in the quality of health care that many minority and underserved Americans receive. This presents us with an important opportunity to move forward.

My intention is to continue to build this national awareness, which can provide the basis for bipartisan efforts to fight and reduce these disparities. Today's bipartisan bill introduction represents a key step in this process.

I would like to very quickly thank some of the organizations that are supporting this bill: Interamerican College of Physicians and Surgeons, National Hispanic Medical Association, National Medical Association, The National Conference for Community and Justice, The Association of Minority Health Professions Schools, National Urban League, American Association of Family Physicians, National Patient Advocate Foundation, National Association of Community Health Centers, Health Choice Network, National Association of Public Hospitals, American Hospital Association, The Endocrine Society, St. Thomas Health Services, Ascension Health, The American Society of Transplantation.

With this strong base of initial support, the broad consensus that is beginning to emerge on this issue, and the bipartisan commitment of so many, it is my hope that we can make real progress toward eliminating health care disparities and end—once and for all—this intolerable blight on our Nation.

By Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, and Mr. COCHRAN):

S. 2093. A bill to maintain full marriage tax penalty relief for 2005; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to continue relief from the marriage penalty—the most egregious, antifamily provision of the Tax Code. One of my highest priorities in the U.S. Senate has been to relieve American taxpayers of this punitive burden.

Last year, I worked with my colleagues and President Bush to pass a $350 billion jobs and economic growth package to put Americans back to work and stimulate the economy. We are now seeing the fruits of our efforts. The tax relief has left more money in the pockets of individuals and small businesses, freeing the engines of the economy. Private sector growth is strong, the stock market is up, and jobs are being created.

One of the most important provisions of the legislation provided immediate marriage penalty relief by raising the standard deduction and enlarging the 15-percent tax bracket for married joint filers to twice that of single filers. This provision will save 34 million married couples an average of almost $600 on their 2003 tax bills.

Enacting marriage penalty relief was a giant step for tax fairness, but it may be fleeting. Even as people begin to feel the benefits from the relief, a tax increase looms in the near future. Since the bill was restricted by limitations imposed by Congress, the marriage penalty provisions will only be in effect for 2 years. In 2005, marriage will again be a taxable event for millions of Americans.

Without relief, 48 percent of married couples will again pay more in taxes.

Even as the economy strengthens, many families face difficult choices in making ends meet. We must make sure we do not backtrack on this important reform.

The benefits of marriage are well established, but without marriage penalty relief, the Tax Code provides a significant disincentive for people to walk down the aisle. Marriage is a fundamental institution in our society and should not be discouraged by the IRS. Children living in a married household are far less likely to live in poverty or to suffer from child abuse. Research indicates they are less likely to be depressed or have developmental problems. Scourges such as adolescent drug use are less common in married families, and married mothers are less likely to be victims of domestic violence.

I have sought to make full marriage penalty relief permanent. However, given the current budget constraints and the politics of an election year, this will be difficult. I therefore am offering this bill to extend last year's victory for married couples for 1 year, through 2005.

As Valentine's Day approaches, we should celebrate marriage, not penalize it. We cannot be satisfied until couples never again must decide between love and money. Marriage should not be a taxable event.

I call on the Senate to build on the 2003 tax cuts and say "I do" to extending marriage penalty relief today.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marriage Penalty Relief Extension Act of 2004".

SEC. 2. FULL ELIMINATION OF THE MARRIAGE PENALTY FOR 2005.

(a) STANDARD DEDUCTION.—Paragraph (7) of section 63(c) of the Internal Revenue Code of 1986 (relating to applicable percentage) is amended by striking "174" and inserting "200".

(b) 15-PERCENT BRACKET.—Subparagraph (B) of section 1(f)(8) of the Internal Revenue Code of 1986 (relating to applicable percentage) is amended by striking "180" and inserting "200".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(d) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—Each amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

By Mr. CAMPBELL:

S.J. Res. 27. A joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, it is a privilege to introduce a joint resolution commemorating the 60th anniversary of the June 6, 1944 landings in Normandy that paved the way for the liberation of Europe. Operation Overlord, code named D-Day, was the culmination of months of planning and strategic air attacks. Under cover of darkness 18,000 British and American airborne forces were deployed in the initial phase of the operation commanded by Supreme Allied Commander General Dwight D. Eisenhower. Combined Allied forces landed at Utah, Omaha, Gold, Juno and Sword as part of the largest air, land, and sea invasion ever undertaken. In all, over 5,000 ships and landing craft, 10,000 airplanes and 150,000 Allied forces took part in the operation.

An estimated 70,000 Americans took part in D-Day operations, including 225 U.S. Rangers who scaled the cliffs at Pointe du Hoc to capture German heavy artillery emplacements. American troops also landed at Utah beach, and at Omaha beach where they faced a myriad of challenges, including high seas, mines and elite German infantry forces.

In a radio address and prayer to the American people on the evening of June 6, President Franklin D. Roosevelt laid out the mission undertaken by G.I.s and Allied forces: "They fight not for the lust of conquest, They fight to liberate. They fight to let justice arise, and tolerance and goodwill among all Thy people. They yearn but for the end of battle, for their return to the haven of home." During the evening of June 6, 1944 church bells tolled throughout America and in Philadelphia the Liberty Bell was rung as Americans awaited word from the rocky battlefield of northern France.

On that fateful day, 1,465 Americans laid down their lives on the field of battle. Another 3,184 were wounded, 1,928 missing, and 26 captured. In the days and weeks to follow, thousands more would spill their blood on French soil to liberate Europe. D-Day ushered in a series of battles over the next three months until the liberation of Paris in late August 1944.

In a very real sense, the fate of Europe hung in the balance of the success or failure of the D-Day operations. As a senior member of the Committee on Veterans Affairs, I am especially mindful of the tremendous sacrifice made by those men and women of the uniformed services who served with distinction at D-Day and throughout the course of World War II. Almost forty percent of U.S. service men and women were volunteers, with the duration of service for all troops averaging 33 months. Nearly 300,000 Americans made the supreme sacrifice during World War II, including the valiant troops that took part in D-Day.

I would take this opportunity to recognize the World War II military service of current members of the United States Senate: the Senator from Hawaii, Mr. INOUYE; the Senator from South Carolina, Mr. HOLLINGS; the Senator from Alaska, Mr. STEVENS; the Senator from Virginia, Mr. WARNER; the Senator from New Jersey, Mr. LAUTENBERG; and the Senator from Hawaii, Mr. AKAKA.

As Chairman of the Commission on Security and Cooperation in Europe, I had the privilege to lead a delegation of colleagues to the Normandy American Cemetery in July 2001, where we participated in ceremonies honoring Americans killed in D-Day operations. Maintained by the American Battle Monuments Commission, the cemetery is the final resting place for 9,386 American service men and women and honors the memory of the 1,557 missing. The superintendent of the cemetery noted that each year the sea surrenders the remains of Americans who fought and died in the service of freedom at home and abroad.

The Normandy American Cemetery, Mr. President, is the resting place for 100 Coloradans who gave their lives on the field of battle. From Toffoli and Sweeney to Martinez the roster is a testament to diversity of those from my home state of Colorado who answered the call to defend freedom along the rocky coast of a distant land.

I urge my colleagues to act quickly on this resolution which will commemorate the 60th anniversary of D-Day and honor those who so bravely served in that effort.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 27

Whereas June 6, 2004, marks the 60th anniversary of D-Day, the first day of the Allied landing at Normandy during World War II by American, British, and Canadian troops;

Whereas the D-Day landing, known as Operation Overlord, was the most extensive amphibious operation ever to occur, involving on the first day of the operation 5,000 naval vessels, more than 11,000 sorties by Allied aircraft, and 153,000 soldiers, sailors, and airmen of the Allied Expeditionary Force;

Whereas the bravery and sacrifices of the Allied troops at 5 separate Normandy beaches and numerous paratrooper and glider landing zones began what Allied Supreme Commander Dwight D. Eisenhower called a "Crusade in Europe" to end Nazi tyranny and restore freedom and human dignity to millions of people;

Whereas that great assault by sea and air marked the beginning of the end of Hitler's ambition for world domination;

Whereas American troops suffered over 6,500 casualties on D-Day; and

Whereas the people of the United States should honor the valor and sacrifices of their fellow countrymen, both living and dead, who fought that day for liberty and the cause of freedom in Europe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) recognizes the 60th anniversary of the Allied landing at Normandy during World War II; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the anniversary with appropriate ceremonies and programs to honor the sacrifices of their fellow countrymen to liberate Europe.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 302 EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD NOT SUPPORT THE FEBRUARY 20, 2004, ELECTIONS IN IRAN AND THAT THE UNITED STATES SHOULD SEEK A GENUINE DEMOCRATIC GOVERNMENT IN IRAN THAT WILL RESTORE FREEDOM TO THE IRANIAN PEOPLE AND WILL ABANDON TERRORISM

Mr. BROWNBACK (for himself, Mr. LEAHY, Mr. DEWINE, Mr. MCCAIN, Mr. WYDEN, Mr. BAYH, Mr. KYL, Mr. INHOFE, Mr. COLEMAN, Ms. LANDRIEU, and Mr. CHAMBLISS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 302

Whereas there is a long history of mutual affection, appreciation, and respect between the people of the United States and the people of Iran, including the incalculable efforts by the United States in providing humanitarian, financial, and technological assistance to help the people of Iran;

Whereas the people of Iran have shown support for decency and freedom, and solidarity with the United States, including the demonstration of such support through candlelight vigils attended by the youth of Iran in the wake of the September 11, 2001, attacks upon the United States;

Whereas the Council of Guardians is a 12-member unelected body, composed of the most extreme anti-American, anti-democratic clerics, that has arbitrarily disqualified thousands of candidates, including sitting Members of the Parliament of Iran and members of the reformist movement;

Whereas the elections scheduled to be held on February 20, 2004, in Iran are fatally flawed;

Whereas the Council of Guardians has barred candidates solely for failing to demonstrate blind loyalty to Supreme Leader Ayatollah Khamenei;

Whereas the brave efforts of the people of Iran to promote greater democracy and respect for human rights are being thwarted by the actions of the Council of Guardians;

Whereas the blatant interference of the Council of Guardians in the electoral process ensures that the elections scheduled for February 20, 2004, will be neither free nor fair; and

Whereas the circumstances in Iran clearly demonstrate that authentic pro-democratic reform within the regime of Iran is not possible: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should not legitimize or support the elections in Iran scheduled to take place on February 20, 2004, as such elections stifle the growth of the genuine democratic forces in Iran and do not serve the national security interest of the United States;

(2) the support provided by the United States to Iran should be provided to the people of Iran, and not to any political figure who supports the preservation of the current regime; and

(3) the policy of the United States should be to seek a genuine democratic government

in Iran that will restore freedom to the people of Iran, will abandon terrorism, will protect human rights, and will live in peace and security with the international community.

SENATE RESOLUTION 303—COMMENDING THE CARROLL COLLEGE FIGHTING SAINTS FOOTBALL TEAM FOR WINNING THE 2003 NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS (NAIA) NATIONAL FOOTBALL CHAMPIONSHIP GAME

Mr. BURNS (for himself and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 303

Whereas the Carroll College Fighting Saints football team won the 2003 NAIA national championship game and its second straight national championship by defeating the Northwestern Oklahoma State University Rangers by a score of 41 to 28 at the Jim Carroll Stadium in Savannah, Tennessee, on December 20, 2003;

Whereas the Fighting Saints won 15 straight games, going undefeated in the 2003 regular season to win the Frontier Conference Championship and progressing through 4 rounds of playoffs;

Whereas head coach Mike Van Diest led the Fighting Saints to their second straight championship in his fifth season as head coach and was 1 of 5 coaches to receive the American Football Coaches Association Coach of the Year award;

Whereas Fighting Saints quarterback Tyler Emmert was named NAIA Player of the Year and offensive MVP for the championship game;

Whereas wide receiver Mark Gallik was named NAIA Football.net Offensive Player of the Year;

Whereas both Emmert and Gallik were named to the NAIA First Team All-American;

Whereas 2 players were named to the NAIA Second Team All-American—Spencer Schmitz and Marcus Atkinson—and 4 players received NAIA Honorable Mention All-American honors—Regan Mack, Rhett Crites, Nate Chiovaro, and Brett Bermingham;

Whereas 7 Fighting Saints were named as NAIA All-America Scholar Athletes—Kyle Baker, D.J. Dearcorn, Tyler Emmert, Kevin McCutcheon, Matt Peterson, A.J. Porrini, and Zach Zawacki; and

Whereas the Carroll College community, including the Carroll College Athletic Department, students, administration, board of trustees, faculty, and alumni, the city of Helena, and the entire State of Montana, are to be congratulated for their continuous support of the Carroll College football team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Carroll College Fighting Saints football team for winning the 2003 NAIA national championship;

(2) recognizes the achievements of all the players, coaches, support staff, and fans who were instrumental in helping Carroll College during the 2003 season; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to the president of Carroll College.

SENATE RESOLUTION 304—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD NOT SUPPORT THE FEBRUARY 20, 2004, ELECTIONS IN IRAN AND THAT THE UNITED STATES SHOULD ADVOCATE DEMOCRATIC GOVERNMENT IN IRAN THAT WILL RESTORE FREEDOM TO THE IRANIAN PEOPLE AND WILL ABANDON TERRORISM

Mr. BROWNBACK (for himself, Mr. LEAHY, Mr. BIDEN, and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 304

Whereas there is a long history of mutual affection, appreciation, and respect between the people of the United States and the people of Iran, including the incalculable efforts by the United States in providing humanitarian, financial, and technological assistance to help the people of Iran;

Whereas the people of Iran have shown support for decency and freedom, and solidarity with the United States, including the demonstration of such support through candlelight vigils attended by the youth of Iran in the wake of the September 11, 2001, attacks upon the United States;

Whereas the Council of Guardians is a 12-member unelected body, that has arbitrarily disqualified thousands of candidates, including sitting Members of the Parliament of Iran and members of the reformist movement;

Whereas the elections scheduled to be held on February 20, 2004, in Iran are fatally flawed;

Whereas the brave efforts of the people of Iran to promote greater democracy and respect for human rights are being thwarted by the actions of the Council of Guardians;

Whereas the blatant interference of the Council of Guardians in the electoral process ensures that the elections scheduled for February 20, 2004, will be neither free nor fair; and

Whereas the circumstances in Iran clearly call into serious question whether pro-democratic reform within the regime of Iran is not possible: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should not support the elections in Iran scheduled to take place on February 20, 2004, as such elections stifle the growth of the democratic forces in Iran and do not serve the national security interest of the United States;

(2) the support provided by the United States to Iran should be provided to the people of Iran; and

(3) the policy of the United States should be to advocate a democratic government in Iran that will restore freedom to the people of Iran, will abandon terrorism, will protect human rights, and will live in peace and security with the international community.

SENATE CONCURRENT RESOLUTION 89—EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE CONTINUITY OF THE PRESIDENCY

Mr. CORNYN (for himself and Mr. LOTT) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 89

Resolved by the Senate (the House of Representatives concurring), It is the sense of Congress that during the period preceding the end of a term of office in which a President will not be serving a succeeding term—

(1) that President should submit the nominations of individuals to the Senate who are selected by the President-elect for offices that fall within the line of succession;

(2) the Senate should conduct confirmation hearings and a Senate floor vote on the nominations described under paragraph (1), to the extent feasible, between January 3 and January 20 before the Inauguration; and

(3) that President should agree to sign and deliver commissions on January 20 before the Inauguration of all approved nominations, to ensure continuity of Government.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2558. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2491 submitted by Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 2559. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2492 submitted by Mrs. MURRAY (FOR HERSELF, MS. COLLINS, Mrs. BOXER, MS. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, MS. MIKULSKI, MS. MURKOWSKI, Mr. SCHUMER, MS. SNOWE, AND Mr. STEVENS) AND INTENDED TO BE PROPOSED TO THE BILL S. 1072, SUPRA; WHICH WAS ORDERED TO LIE ON THE TABLE.

SA 2560. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2561. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2562. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2563. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2564. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2565. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2566. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2549 submitted by Mr. GRASSLEY (for himself and Mr. BAUCUS) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2567. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2568. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2569. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2570. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2571. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2572. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2573. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2574. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2575. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2576. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2577. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2578. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2579. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2580. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2581. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2582. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2583. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2584. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2315 submitted by Mr. KYL and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2585. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2315 submitted by Mr. KYL and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2586. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2511 submitted by Mr. DASCHLE and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2587. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2382 submitted by Mr. McCain (for himself and Mr. HOLLINGS) and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2588. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2418 submitted by Mr. CARPER and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2589. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 2414 submitted by Mr. NICKLES and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2590. Mr. ROCKEFELLER (for himself, Mr. BURNS, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2591. Mr. INHOFE proposed an amendment to amendment SA 2388 proposed by Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. McCain, Ms. STABENOW, and Mrs. FEINSTEIN) to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra.

SA 2592. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2593. Mr. HOLLINGS (for himself and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2594. Mr. HOLLINGS (for himself and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2595. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2596. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2597. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2598. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2599. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2600. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2601. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2602. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2603. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2604. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2605. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2388 proposed by Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. McCain, Ms. STABENOW, and Mrs. FEINSTEIN) to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2606. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2607. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2608. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2609. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2610. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2611. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2612. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2613. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2614. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2615. Ms. LANDRIEU (for herself, Mr. BREAUX, Mrs. LINCOLN, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra.

SA 2616. Mr. INHOFE proposed an amendment to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra.

TEXT OF AMENDMENTS

SA 2558. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2491 submitted by Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 38, strike line 22 and all that follows through page 39, line 7, and insert the following:

(13) Infrastructure performance and maintenance program.—For carrying out the infrastructure performance and maintenance program under section 139 of that title $1,328,000,000 for fiscal year 2004.

(14) Construction of ferry boats and ferry terminal facilities.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $150,000,001 for each of fiscal years 2004 through 2009.

SA 2559. Mrs. Murray (for herself, Ms. Collins, Mrs. Boxer, Ms. Cantwell, Mrs. Clinton, Mr. Corzine, Mr. Edwards, Mrs. Feinstein, Mr. Kennedy, Mr. Lautenberg, Ms. Mikulski, Ms. Murkowski, Mr. Schumer, Ms. Snowe, and Mr. Stevens) submitted an amendment intended to be proposed to amendment SA 2492 submitted by Mrs. Murray (for herself, Ms. Collins, Mrs. Boxer, Ms. Cantwell, Mrs. Clinton, Mr. Cochran, Mr. Corzine, Mr. Edwards, Mrs. Feinstein, Mr. Kennedy, Mr. Lautenberg, Ms. Mikulski, Ms. Murkowski, Mr. Schumer, Ms. Snowe, and Mr. Stevens) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES.

(a) In General.—Section 147 of title 23, United States Code, is amended to read as follows:

"§147. Construction of ferry boats and ferry terminal and maintenance facilities

"(a) In General.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal and maintenance facilities in accordance with section 129(c).

"(b) Federal Share.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this section shall be 80 percent.

"(c) Allocation of Funds.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

"(1) carry the greatest number of passengers and vehicles;

"(2) carry the greatest number of passengers in passenger-only service; or

"(3) provide critical access to areas that are not well-served by other modes of surface transportation.

"(d) Set-Aside.—Of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $112,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out this section.".

(b) Conforming Amendments.—

(1) Section 129(c) of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1), by inserting "and maintenance" after "terminal"; and

(B) in paragraph (3), by inserting "or maintenance" after "terminal" each place it appears.

(2) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(3) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SA 2560. Mr. Baucus submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

(h) Highway Trust Fund Expenditures for Highway Use Tax Evasion Projects.—Section 9503(c), as amended by this Act, is amended to add at the end the following new paragraph:

"(5) Highway use tax evasion projects.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

"(A) for each fiscal year after 2003 to the Internal Revenue Service—

"(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

"(ii) $10,000,000 for Xstars, and

"(iii) $10,000,000 for xfirs, and

"(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.".

SA 2561. Mr. Baucus submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, after line 14, insert the following new section:

SEC. 4. CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 is amended—

(1) by inserting "(a) In General.—" before "In regulating"; and

(2) by adding at the end the following:

"(b) Primary Objectives.—The primary objectives of the rail transportation policy of the United States are as follows:

"(1) To promote effective competition among rail carriers at origins and destinations.

"(2) To maintain reasonable rates in the absence of effective competition.

"(3) To maintain consistent and efficient rail transportation service for shippers, including the timely provision of rail cars requested by shippers.

"(4) To ensure that smaller carload and intermodal shippers are not precluded from accessing rail systems due to volume requirements.".

SA 2562. Mr. Baucus submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, after line 14, insert the following new section:

SEC. 4. RAIL CUSTOMER ADVOCATE IN THE DEPARTMENT OF TRANSPORTATION.

(a) Participation of Rail Customer Advocate in STB Proceedings.—

(1) Authority and responsibilities.—Chapter 105 is amended by adding at the end the following new section:

"§10503. Participation of Rail Customer Advocate in Board proceedings

"(a) Authority.—The following persons are authorized to petition the Board for an exercise of authority of the Board regarding rail transportation of any agricultural or forestry commodity or product, and to participate in any proceeding of the Board regarding rail transportation of such a commodity or product:

"(1) The Rail Customer Advocate of the Department of Transportation.

"(2) Any official of the government of a State whose functions are the same as or similar to the functions of the Rail Customer Advocate of the Department of Transportation.

"(b) Consideration of Presentations by Advocate.—(1) The Board shall accord significant persuasive weight to any material evidence, proposal, or view that is presented by an official referred to in subsection (a) with respect to rail transportation of an agricultural or forestry commodity or product.

"(2) In disposing of any matter before the Board in which an official referred to in subsection (a) has participated under the authority of such subsection, the Board shall present in writing a detailed explanation of any disagreement of the Board with matters presented to the Board by that official.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"10503. Participation of Rail Customer Advocate in Board proceedings.".

(b) Establishment and Duties.—

(1) In general.—The Department of Transportation Reorganization Act is amended by adding at the end the following new section:

"SEC. 286. RAIL CUSTOMER ADVOCATE.

"(a) Establishment of Office.—There is established within the Department an Office of Rail Customer Advocacy.

"(b) Rail Customer Advocate.—

"(1) Appointment.—The Secretary shall appoint the Rail Customer Advocate.

"(2) Head of office.—The Rail Customer Advocate is the head of the Office of Rail Customer Advocacy.

"(c) Functions.—The Rail Customer Advocate has the following functions:

"(1) Participation in STB proceedings.—To participate as a party in proceedings of the Surface Transportation Board on petitions for action by the Board regarding the regulation of rail transportation of agricultural or forestry commodities or products, and to initiate any such action.

"(2) Compilation of information.—To collect, compile, and maintain information regarding the cost and efficiency of rail transportation of agricultural commodities and products and forestry commodities and products.

"(3) STUDIES.—To perform studies regarding rail transportation of agricultural commodities and products and forestry commodities and products.

"(d) ACCESS TO STB INFORMATION.—To carry out the functions under subsection (b), the Rail Customer Advocate shall have access to information, including databases, of the Surface Transportation Board.".

(B) in paragraph (5), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(6) the establishment of the Office of Rail Consumer Advocacy of the Department under section 286.".

SA 2563. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, after line 14, insert the following new section:

SEC. 4. PERIODIC STUDY OF COMPETITION AMONG RAIL CARRIERS.

(a) REQUIREMENT FOR STUDY.—

(1) TRIENNIAL STUDY.—Chapter 101 is amended by adding at the end the following new section:

"§ 10103. Periodic study of rail carrier competition and processes of the Board

"(a) REQUIREMENT FOR STUDY.—Every three years, the Secretary of Transportation shall conduct a comprehensive study of rail carrier competition and the processes of the Board. The study shall include an assessment of the following:

"(1) The availability of effective competitive options among and between rail carriers.

"(2) The effectiveness of the processes of the Surface Transportation Board, including the process used for determining the reasonableness of rates of rail carriers.

"(3) The availability to rail users of effective regulatory dispute resolution options.

"(b) STUDY TO INCLUDE ASSESSMENT OF RAIL-TO-RAIL COMPETITION.—In carrying out the study, the Board shall assess the overall level of rail-to-rail competition in the rail carrier industry in the United States. In making the assessment, the Board shall consider the views of users of the services of rail carriers.

"(c) REPORT TO CONGRESS.—Not later than November 15 of each year in which a study is conducted under subsection (a), the Secretary shall submit a report on the results of the study to Congress. The report shall include the following:

"(1) The Board's assessment of the overall level of rail-to-rail competition in the rail carrier industry in the United States.

"(2) The markets that have limited rail-to-rail competition.

"(3) Any recommendations for enhancing rail-to-rail competition, particularly in markets identified as having limited rail-to-rail competition.

"(4) An assessment of the Board's performance of its purpose to promote and enhance competition among and between railroads by—

"(A) addressing complaints regarding rates, charges, and service; and

"(B) promulgating regulations of general applicability or taking other actions.

"(5) Any recommendations for modification of any of the decisions of the Board (or decisions of the former Interstate Commerce Commission continuing in effect) or for modification of the general authority or jurisdiction of the Board.

"(6) Any other findings, analyses, assessments, and recommendations that result from the study.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"10103. Periodic study of rail carrier competition and processes of the Board.".

(b) TIME FOR FIRST STUDY.—The first study under section 10103 of title 49, United States Code (as added by subsection (a)), shall be carried out not later than two years after the date of the enactment of this Act.

SA 2564. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

"SEC. . DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

"(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"178. Delta Region Transportation Development Program

"(a) IN GENERAL.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and metropolitan planning organization may receive and administer funds provided under the program.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter I of title 23, United States Code (as amended by section 1841(b)), is amended by adding at the end the following:

"178. Delta Region Transportation Development Program".

On page 677, line 11, strike "$2,500,000,000" and insert "$1,300,000,000".

On page 677, line 13, strike "$2,000,000,000" and insert "$1,200,000,000".

On page 677, line 15, strike "$500,000,000" and insert "$100,000,000".

On page 678, after line 5, insert the following:

"(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, $400,000,000 for each of fiscal years 2004 through 2009."

SA 2565. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

"SEC. . DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

"(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"178. Delta Region Transportation Development Program

"(a) IN GENERAL.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and metropolitan planning organization may receive and administer funds provided under the program.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter I of title 23, United States Code (as amended by section 1841 (b)), is amended by adding at the end the following:

"178. Delta Region Transportation Development Program.".

On page 678, after line 5, insert the following:

"(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, $400,000,000 for each of fiscal years 2004 through 2009."

SA 2566. Mr. GRASSLEY (for himself, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2549 submitted by Mr. GRASSLEY (for himself and Mr. BAUCUS) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after "(g)" and insert:

PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.".

SA 2567. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal year 2004.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, shall be reduced by $270,000,000 for fiscal year 2004.

SA 2568. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. _____. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provisions of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$255,000,000".

SA 2569. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 10.1 percent.

SA 2570. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$277,000,000".

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 5 percent.

SA 2571. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. ___. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $150,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$150,000,000".

SA 2572. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. ____. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$170,000,000".

SA 2573. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. ____. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal year 2004.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $780,000,000 for fiscal year 2004.

SA 2574. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. ____. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.,

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $330,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$225,000,000".

SA 2575. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $110,000,000 for each of fiscal years 2004 through 2009.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$210,000,000".

(e) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2576. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2004;

"(B) $130,000,000 shall be for fiscal year 2005;

"(C) $130,000,000 shall be for fiscal year 2006;

"(D) $130,000,000 shall be for fiscal year 2007;

"(E) $130,000,000 shall be for fiscal year 2008; and

"(F) $130,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$190,000,000".

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2577. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert

TITLE ___—SOLID WASTE DISPOSAL

SEC. ___01. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

"INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

"SEC. 6005. (a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. ___02. USE OF GRANULAR MINE TAILINGS.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section ___01(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) MINE TAILINGS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section ___01(b)) is amended by adding at the end of the items relating to subtitle F the following:

"Sec. 6006. Use of granular mine tailings.".

SA 2578. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter 1 of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal year 2004.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter:

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $900,000,000 for fiscal year 2004.

SA 2579. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $300,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $300,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$180,000,000" for fiscal years 2005 through 2009.

SA 2580. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

"(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $150,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) Obligation, eligibility, and availability.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) Transportation Infrastructure Finance and Innovation Act.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $100,000,000 for each of fiscal years 2004 through 2009.

(d) Emergency Relief.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$200,000,000".

(e) Transportation Research.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2581. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) In General.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) Eligible Activities.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) Allocation of Funds.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

"(d) Federal Share.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) Funding.—

"(1) In general.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $150,000,000 shall be for fiscal year 2004;

"(B) $150,000,000 shall be for fiscal year 2005;

"(C) $150,000,000 shall be for fiscal year 2006;

"(D) $150,000,000 shall be for fiscal year 2007;

"(E) $150,000,000 shall be for fiscal year 2008; and

"(F) $150,000,000 shall be for fiscal year 2009.

"(2) Obligation, eligibility, and availability.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) Emergency Relief.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking "$300,000,000" and inserting "$170,000,000".

(d) Transportation Research.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2582. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

"(ii) $4,821,335 shall be available to the personal rapid transit system in Morgantown, West Virginia for improvements to its passenger operations under section 5307;"

SA 2583. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert:

SEC. . APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) In General.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) Eligible Activities.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) Allocation of Funds.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

"(d) Federal Share.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) Funding.—

"(1) In general.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

"(A) $45,000,000 shall be for fiscal year 2004;

"(B) $45,000,000 shall be for fiscal year 2005;

"(C) $45,000,000 shall be for fiscal year 2006;

"(D) $45,000,000 shall be for fiscal year 2007;

"(E) $45,000,000 shall be for fiscal year 2008; and

"(F) $45,000,000 shall be for fiscal year 2009.

"(2) Obligation, eligibility, and availability.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

"(C) shall remain available until expended.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Appalachian development highway system completion program.".

(c) Transportation Infrastructure Finance and Innovation Act.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $85,000,000 for each of fiscal years 2004 through 2009.

SA 2584. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2315 submitted by Mr. KYL and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, line 9, strike "October 1, 2004" and insert "October 2, 2004".

SA 2585. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2315 submitted by Mr. KYL and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At end, insert the following:

"(i) RESERVATION OF FUNDS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering for bridges located on Native American Lands".

SA 2586. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2511 submitted by Mr. DASCHLE and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On line 9 strike "$15,000,000" and insert "$14,000,000".

SA 2587. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2382 submitted by Mr. MCCAIN (for himself and Mr. HOLLINGS) and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table: as follows:

Strike lines 1 and 2.

SA 2588. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2418 submitted by Mr. CARPER and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike lines 1 and 2.

SA 2589. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 2414 submitted by Mr. NICKLES and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

H—Additional Revenue Provisions

PART I—ADMINISTRATIVE PROVISIONS

SEC. 5671. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 31, 2004" and inserting "September 30; 2009".

SEC. 5672. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

PART II—FINANCIAL INSTRUMENTS

SEC. 5673. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) CROSS REFERENCE.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 5674. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

"(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

"(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5675. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 5676. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) Unrecognized gain.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Special rule for identified straddles.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle."

(4) Conforming amendment.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) Physically Settled Positions.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) Special rules for physically settled positions.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) Repeal of Stock Exception.—

(1) In general.—Section 1092(d)(3) is repealed.

(2) Conforming amendment.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) Repeal of Qualified Covered Call Exception.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

"(I) Termination.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.".

(e) Effective Date.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 5677. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) In General.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) Effective Date.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART III—CORPORATIONS AND PARTNERSHIPS

SEC. 5678. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) In General.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) Liabilities in Excess of Basis.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) Effective Date.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 5679. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) In General.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 5680. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) In General.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) Application of Existing Rules to Other Code Provisions.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) Brother-sister controlled group definition for provisions other than this part.—

"(A) In general.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) Brother-sister controlled group.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) Applicable provision.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5681. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) In General.—Section 754 is repealed.

(b) Adjustment to Basis of Undistributed Partnership Property.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking "optional" in the heading.

(c) Adjustment to Basis of Partnership Property.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) Election to Adjust Basis for Transfers Upon Death of Partner.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**OPTIONAL**" in the heading.

(d) Conforming Amendments.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 761(e)(2) is amended by striking "optional".

(4) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) Repeal of section 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART IV—DEPRECIATION AND AMORTIZATION

SEC. 5682. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) In General.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) Conforming Amendments.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) Section 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 5683. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) Gas Utility Property.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) Electric Utility Property.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-year property.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) Conforming Amendments.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 5684. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) Start-Up Expenditures.—

(1) Allowance of deduction.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) Conforming amendment.—Subsection (b) of section 195 is amended by striking "Amortize" and inserting "Deduct" in the heading.

(b) Organizational Expenditures.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) Election to Deduct.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) Treatment of Organizational and Syndication Fees or Partnerships.—

(1) In general.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) Dispositions before close of amortization period.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) Conforming amendment.—Subsection (b) of section 709 is amended by striking "Amortization" and inserting "Deduction" in the heading.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2590. Mr. ROCKEFELLER (for himself, Mr. Burns, and Mr. Dorgan) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"Title 49 of the United States Code is amended by adding a new Section 11101, and renumbering all successive sections accordingly, as follows:

SEC. 11101. DUTY TO PROVIDE A RATE TO SHIPPERS.

Upon the request of a shipper, a rail carrier shall provide both a rate, in writing, for, and the transportation service requested by, the shipper between any two points on the system of that carrier where traffic originates, terminates, or may reasonably be interchanged."

SA 2591. Mr. INHOFE proposed an amendment SA 2388 proposed by Mrs. Hutchison (for herself, Mr. Kyl, Mr. Levin, Mr. Graham of Florida, Mr. McCain, Ms. Stabenow, and Mrs. Feinstein) to the amendment SA 2285 proposed by Mr. Inhofe to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the end, add the following:

"Sec. . This section shall take effect one day after enactment of this Act."

SA 2592. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) Ethanol-Blended Gasoline.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is readily available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

"(b) Biodiesel.—

"(1) Definition of biodiesel.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f) of the Energy Policy Act of 1992.

"(2) Requirement.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

"(A) as of the date that is 5 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency.

"(3) REQUIREMENT OF FEDERAL LAW.—This subsection does not constitute a requirement of Federal law for the purposes of section 312 of the Energy Policy Act of 1992.

"(c) EXEMPTION.—This section does not apply to fuel used in vehicles described in subparagraphs (A) through (H) of section 301(9) of the Energy Policy Act of 1992.".

SA 2593. Mr. HOLLINGS (for himself and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

PART —AMTRAK AUTHORIZATIONS

SEC. 1. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

"(5) 'national rail passenger transportation system' means—

"(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

"(B) rail corridors that have been designated by the Secretary of Transportation as highspeed corridors, but only after they have been improved to permit operation of highspeed service;

"(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

"(D) short-distance corridors or routes operated by Amtrak.".

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

"§ 24702. Transportation requested by States, authorities, and other persons

"(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

"(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

"24702. Transportation requested by States, authorities, and other persons".

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-highspeed intercity passenger rail service.

SEC. 2. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

"(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.".

(d) AMTRAK REPORTS.—Section 24315 is amended—

(1) by striking "February 15" in subsection (a) and inserting "January 31st";

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

"(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;";

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

"(D) the total revenue-to-total cost ratio;";

(4) by striking subparagraphs (C), (F), and (G) of subsection (a) (1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking "February 15" in subsection (b) and inserting "January 31st".

SEC. 3. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) IN GENERAL.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) CERTAIN CONDITIONS WAIVED.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) FEDERAL RAILROAD ADMINISTRATION.—

(1) IN GENERAL.—Section 11123 is amended—

(A) by striking "failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation," in subsection (a);

(B) by inserting "or" after the semicolon in subsection (a)(3);

(C) by striking "permits, or" in subsection (a)(4) and inserting "permits.";

(D) by striking paragraph (5) of subsection (a);

(E) by striking "(A) Except as provided in subparagraph (B), when" in subsection (b)(3) and inserting "When";

(F) by striking subparagraph (B) of subsection (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking "11123,".

SEC. 4. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury redeem the debt in its entirety, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $109,500,000.
(B) For fiscal year 2006, $114,700,000.
(C) For fiscal year 2007, $202,900,000.
(D) For fiscal year 2008, $164,300,000.
(E) For fiscal year 2009, $155,800,000.
(F) For fiscal year 2010, $203,500,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.
(B) For fiscal year 2006, $146,300,000.
(C) For fiscal year 2007, $137,500,000.
(D) For fiscal year 2008, $125,300,000.

(E) For fiscal year 2009, $117,100,000.
(F) For fiscal year 2010, $107,800,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that, Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

SEC. 5. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.
(B) For fiscal year 2006, $21,700,000.
(C) For fiscal year 2007, $22,300,000.
(D) For fiscal year 2005, $15,100,000.
(E) For fiscal year 2009, $15,900,000.
(F) For fiscal year 2010, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.
(B) For fiscal year 2006, $19,800,000.
(C) For fiscal year 2007, $19,800,000.
(D) For fiscal year 2008, $19,000,000.
(E) For fiscal year 2009, $19,000,000.
(F) For fiscal year 2010, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.—Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 6. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, D.C., Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in consultation with the State of Maryland $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 7. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.
(2) For fiscal year 2006, $566,700,000.
(3) For fiscal year 2007, $557,700,000.
(4) For fiscal year 2008, $528,500,000.
(5) For fiscal year 2009, $522,000,000.
(6) For fiscal year 2010, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.
(2) For fiscal year 2006, $835,200,000.
(3) For fiscal year 2007, $760,800,000.
(4) For fiscal year 2008, $733,600,000.
(5) For fiscal year 2009, $774,300,000.
(6) For fiscal year 2010, $874,300,000.

(c) REPLACEMENT EQUIPMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.
(2) For fiscal year 2007, $250,000,000.
(3) For fiscal year 2008, $350,000,000.
(4) For fiscal year 2009, $350,000,000.
(5) For fiscal year 2010, $350,000,000.

SEC. 8. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 9. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections _____ 6, _____ 7, and 8.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request, is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 10. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 11. REESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall reestablish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking "January 1, 1999," and inserting "January 1, 2009,".

SEC. 12. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"24302. Board of directors

"(a) COMPOSITION AND TERMS.—

"(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

"(A) The President of Amtrak.

"(B) The Secretary of Transportation.

"(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air, transportation businesses, consumers of passenger rail transportation, and State government.

"(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority

Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

"(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

"(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

"(5) The Secretary may be represented at board meetings by the Secretary's designee.

"(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

"(c) Vacancies.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

"(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.".

SEC. 13. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 14. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for non-passenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service;

(8) lump sum expenditures of $10,000,000 or more and sources of funding;

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 4652 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

SEC. 15. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(e) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 16. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, onboard services, stations, facilities, equipment, and other services.

SEC. 17. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

"(f) ON-TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section _____ 17 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.".

SA 2594. Mr. HOLLINGS (for himself and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill S. 1072. to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PART —AMTRAK AUTHORIZATIONS

SEC. 1. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) In General.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

"(5) 'national rail passenger transportation system' means—

"(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

"(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of highspeed service;

"(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the elate of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

"(D) short-distance corridors or routes operated by Amtrak.".

(b) Amtrak Routes with State Funding.—

(1) In general.—Chapter 247 is amended by inserting after section 24701 the following:

"§ 24702. Transportation requested by States, authorities, and other persons

"(a) Contracts for Transportation.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

"(b) Discontinuance.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.".

(2) Conforming amendment.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

"24702. Transportation requested by States, authorities, and other persons".

(c) Amtrak To Continue To Provide Non-Highspeed Services.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-highspeed intercity passenger rail service.

SEC. 2. GENERAL AMTRAK AUTHORIZATIONS.

(a) Repeal of Self-sufficient Requirements.—

(1) Title 49 amendments.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(4); and

(B) by striking the last sentence of section 24104(a).

(2) Amtrak reform and accountability act amendments.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) Common stock redemption date.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) Lease Arrangements.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) Financiasl Powers.—Section 415(4) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

"(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.".

(d) Amtrak Reports.—Section 24315 is amended—

(1) by striking "February 15" in subsection (a) and inserting "January 31st";

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

"(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;";

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

"(D) the total revenue-to-total cost ratio;";

(4) by striking subparagraphs (C), (F), and (G) of subsection (a)(1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking "February 15" in subsection (b) and inserting "January 31st".

SEC. 3. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) In General.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) Certain Conditions Waived.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) Federal Railroad Administration.—

(1) In general.—Section 11123 is amended—

(A) by striking "failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation," in subsection (a);

(B) by inserting "or" after the semicolon in subsection (a)(3);

(C) by striking "permits; or" in subsection (a)(4) and inserting "permits.";

(D) by striking paragraph (5) of subsection (a);

(E) by striking "(A) Except as provided in subparagraph (B), when" in sub-section (b)(3) and inserting "When";

(F) by striking subparagraph (B) of subsection (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking "11123,".

SEC. 4. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) In General.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) New Debt Prohibition.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) Debt Redemption.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the (date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) Criteria.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) Authorization.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) Amtrak Principal and Interest Payments.—

(1) Principal on debt service.—Unless the Secretary of Transportation and the Secretary of the Treasury redeem the debt in its entirety, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $109,500,000.
(B) For fiscal year 2006, $114,700,000.
(C) For fiscal year 2007, $202,900,000.
(D) For fiscal year 2008, $164,300,000.
(E) For fiscal year 2009, $155,800,000.
(F) For fiscal year 2010, $203,500,000.

(2) Interest on debt.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.
(B) For fiscal year 2006, $146,300,000.
(C) For fiscal year 2007, $137,500,000.
(D) For fiscal year 2008, $125,300,000.
(E) For fiscal year 2009, $117,100,000.
(F) For fiscal year 2010, $107,800,000.

(3) Reductions in authorization levels.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principal and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

SEC. 5. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) Environmental Compliance.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.

(B) For fiscal year 2006, $21,700,000.

(C) For fiscal year 2007, $22,300,000.

(D) For fiscal year 2008, $15,100,000.

(E) For fiscal year 2009, $15,900,000.

(F) h or fiscal year 2010, $16,000,000.

(b) Capital Improvements to Stations.—

(1) In general.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.

(B) For fiscal year 2006, $19,800,000.

(C) For fiscal year 2007, $19,800,000.

(D) For fiscal year 2008, $19,000,000.

(E) For fiscal year 2009, $19,000,000.

(F) For fiscal year 2010, $19,000,000.

(2) Study of compliance requirements at existing intercity rail stations.—Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the, National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 6. TUNNEL LIFE SAFETY.

(a) Life Safety Needs.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, DC, Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) Infrastructure Upgrades.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in consultation with the State of Maryland $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) Financial Contribution From Other Tunnel Users.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects, and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(e) Availability of Funds.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 7. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) Operating Expenses.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.

(2) For fiscal year 2006, $566,700,000.

(3) For fiscal year 2007, $557,700,000.

(4) For fiscal year 2008, $528,500,000.

(5) For fiscal year 2009, $522,000,000.

(6) For fiscal year 2010, $522,000,000.

(b) Capital Backlog and Upgrades.—There are authorized to be appropriated to the Secretary, of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.

(2) For fiscal year 2006, $835,200,000.

(3) For fiscal year 2007, $760,800,000.

(4) For fiscal year 2008, $733,600,000.

(5) For fiscal year 2009, $774,300,000.

(6) For fiscal year 2010, $874,300,000.

(c) Replacement Equipment.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.

(2) For fiscal year 2007, $250,000,000.

(3) For fiscal year 2008, $350,000,000.

(4) For fiscal year 2009, $350,000,000.

(5) For fiscal year 2010, $350,000,000.

SEC. 8. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 9. ESTABLISHMENT OF GRANT PROCESS.

(a) Grant Requests.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections _____6, _____7, and 8.

(b) Procedures for Grant Request.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not late than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) Review and Approval.—

(1) 30-day process.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) Incomplete or deficient requests.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) Revised requests.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 10. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 11. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) Re-establishment of Northeast Corridor Safety Committee.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) Termination Date.—Section 24905(b)(4) is amended by striking "January 1, 1999," and inserting "January 1, 2009,".

SEC. 12. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"§ 24302. Board of directors

"(a) Composition and Terms.—

"(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

"(A) The President of Amtrak.

"(B) The Secretary of Transportation.

"(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

"(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

"(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

"(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

"(5) The Secretary may be represented at board meetings by the Secretary's designee.

"(b) Pay and Expenses.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

"(e) Vacancies.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the terror for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

"(d) Bylaws.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.".

SEC. 13. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) In General.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) Verification of System; Report.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 14. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) Development of 5-Year Financial Plan.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) Contents of 5-Year Financial Plan.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations,

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service.

(8) lump sum expenditures of $10,000,000 or more and sources of funding.

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(c) Standards To Promote Financial Stability.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 4652 when preparing its 5-year financial plan.

(d) Assessment by DOT Inspector General.—

(1) In General.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) Assessment to Be Furnished to the Congress.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

SEC. 15. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) Review.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) Recommendations.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) Submittal to Congress.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) Authorization of Appropriations.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 16. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, onboard services, stations, facilities, equipment, and other services.

SEC. 17. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

(f) On-time Performance and Other Standards.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section 17 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.".

SA 2595. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PART —Railroad Track Modernization

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. ___ 2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) Authority.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track
"22302. State rail plans
"22303. Purposes
"22304. Content
"22305. Approval
"22306. Standards and conditions
"22307. Definitions

"§ 22301. Capital grants for railroad track

"(a) Establishment of Program.—

"(1) Establishment.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

"(2) Regulations.—

"(A) In general.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) Criteria.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

"(iii) ensure that projects are part of a State rail plan.

"(C) Grant allocations.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

"(i) the number of rail miles in active use in the State;

"(ii) the number of rail cars loaded in the States;

"(iii) the number of rail cars unloaded in the State; and

"(iv) the number of railroad and public road grade crossings in the State.

"(b) Federal Share.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) Authorization of Appropriations.—Notwithstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

"§ 22302. State rail plans

"(a) In General.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) Requirements.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) submit the State's approved plan to the Secretary of Transportation for review; and

"(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

"§ 22303. Purposes

"(a) Purposes.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) Coordination.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

"§ 22304. Content

"(a) In General.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(5) A statement of public financing issues for rail projects in the State.

"(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant sake holders.

"(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

"(8) A statement that the State is in compliance with the requirements of section 22102.

"(b) Long-range Service and Investment Program.—

"(1) Program content.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

"(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for inter-city passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) Project list content.—The list of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) Considerations for project list.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"(c) Waiver.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

"§ 22305. Approval

"(a) Criteria.—The Secretary may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan-

"(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

"§ 22306. Standards and conditions

"A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under section 22301—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

"§ 22307. Definitions

In this chapter:

"(1) Private benefit.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SEC. ___ 3. GRANT PROGRAM FUNDING.

(a) IN GENERAL.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

"(D) RAIL INFRASTRUCTURE CATEGORY.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under chapter 223 of title 49, United States Code, or for which appropriations are provided in accordance with authorizations contained in that division.".

(b) BUDGET AUTHORITY OUTLAYS.—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) BUDGET AUTHORITY.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;
(B) $600,000,000 for fiscal year 2006;
(C) $900,000,000 for fiscal year 2007;
(D) $1,200,000,000 for fiscal year 2008;
(E) $1,500,000,000 for fiscal year 2009; and
(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;
(B) $180,000,000 for fiscal year 2006;
(C) $360,000,000 for fiscal year 2007;
(D) $480,000,000 for fiscal year 2008;
(E) $900,000,000 for fiscal year 2009; and
(F) $1,140,000,000 for fiscal year 2010.

SEC. 171. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 31, 2004." and inserting "March 31, 2014".

SA 2596. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

PART —RAIL MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track
"22302. State rail plans
"22303. Purposes
"22304. Content
"22305. Approval
"22306. Standards and conditions
"22307. Definitions

"22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

"(2) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

"(1) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

"(iii) ensure that projects are part of a State rail plan.

"(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

"(i) the number of rail miles in active use in the State;

"(ii) the number of rail cars loaded in the State;

"(iii) the number of rail cars unloaded in the State; and

"(iv) the number of railroad and public road grade crossings in the. State.

"(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation 2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

"§ 22302. State rail plans

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) submit the State's approved plan to the Secretary of Transportation for review; and

"(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

"§ 22303. Purposes

"(a) PURPOSE.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

"§ 22304. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(5) A statement of public financing issues for rail projects in the State.

"(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

"(8) A statement that the State is in compliance with the requirements of section 22102."

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

"(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made bar non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation; and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

"§ 22305. Approval

"(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

"(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

"§ 22306. Standards and conditions

"A person that conducts rail operations over rail infrastructure constructed or unproved with funding provided in whole or in part in a grant made under section 22301—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall he considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

"§ 22307. Definitions

In this chapter:

"(1) PRIVATE BENEFIT.—The terra 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SEC. 3. GRANT PROGRAM FUNDING.

(a) IN GENERAL.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

"(D) RAIL INFRASTRUCTURE CATEGORY.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under chapter 223 of title 49, United States Code, or for which appropriations are provided in accordance with authorizations contained in that division.".

(b) BUDGET AUTHORITY; OUTLAYS;—For purposes of section 251(c) of the Balanced budget and emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) BUDGET AUTHORITY.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;
(B) $600,000,000 for fiscal year 2006;
(C) $900,000,000 for fiscal year 2007;
(D) $1,200,000,000 for fiscal year 2008;
(E) $1,500,000,000 for fiscal year 2009; and
(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;
(B) $180,000,000 for fiscal year 2006;
(C) $360,000,000 for fiscal year 2007;
(D) $480,000,000 for fiscal year 2008;
(E) $900,000,000 for fiscal year 2009; and
(F) $1,140,000,000 for fiscal year 2010.

SEC. 171. EXTENSION OF CUSTOMS USER FEES.

Section 130310(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 31, 2004," and inserting "March 31, 2014".

SA 2597. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

PART —RAIL MODERNIZATION

SEC. —1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. —2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track
"22302. State rail plans
"22303. Purposes
"22304. Content
"22305. Approval
"22306. Standards and conditions
"22307. Definitions

"22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a, program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

"(2) REGULATIONS.—

A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

" (i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

"(iii) ensure that projects are part of a State rail plan.

"(C) GRANT ALLOCATIONS.—Of the total amount made available for-the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula. prescribed by the Secretary to weigh equally for each State—

"(i) the number of rail miles in active use in the State;

"(ii) the number of rail cars loaded in the State;

"(iii) the number of rail cars unloaded in the State; and

"(iv) the number of railroad and public road grade crossings in the State.

"(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Not-withstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

“§ 22302. State rail plans

“(a) In General.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

“(b) Requirements.—For the preparation and periodic revision of a State rail plan, a State shall—

“(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

“(2) establish or designate a State rail plan approval authority to approve the plan;

“(3) submit the State's approved plan to the Secretary of Transportation for review; and

“(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

“§ 22303. Purposes

“(a) Purposes.—The purposes of a State rail plan are as follows:

“(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

“(2) To establish the period covered by the State rail plan.

“(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

“(4) To serve as the basis for Federal and State rail investments within the State.

“(b) Coordination.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

“§ 22304. Content

“(a) In General.—Each State rail plan shall contain the following:

“(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

“(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

“(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

“(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

“(5) A statement of public financing issues for rail projects in the State.

“(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

“(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

“(8) A statement that the State is in compliance with the requirements of section 22102.

“(b) Long-Range Service and Investment Program.—

“(1) Program content.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

“(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

“(B) A detailed funding plan for the projects.

“(2) Project list content.—The list of freight and intercity passenger rail capital projects shall contain—

“(A) a description of the anticipated public and private benefits of each such project; and

“(B) a statement of the correlation between—

“(i) public funding contributions for the projects, and

“(ii) the public benefits.

“(3) Considerations for project list.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

“(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

“(B) Rail capacity and congestion effects.

“(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

“(D) Regional balance.

“(E) Environmental impact.

“(F) Economic and employment impacts.

“(G) Projected ridership and other service measures for passenger rail projects.

“(c) Waiver.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

“§ 22305. Approval

“(a) Criteria.—The Secretary may approve a State rail plan for the purposes of this chapter if—

“(1) the plan meets all of the requirements applicable to State plans under this chapter;

“(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

“(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

“(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

“(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

“§ 22306. Standards and conditions

“A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under section 22301—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall he considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

“(g) Labor Standards.—

“(1) Prevailing wages.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

“(2) Wage rates.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

“§ 22307. Definitions

In this chapter:

“(1) Private benefit.—The term 'private benefit'—

“(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

“(2) Public benefit.—The term 'public benefit'—

“(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.”.

(b) Conforming Amendment.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

“223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301”.

SEC. 3. GRANT PROGRAM FUNDING.

(a) In General.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

“(D) Rail Infrastructure Category.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under chapter 223 of title 49, United States Code, or for which appropriations are provided in accordance with authorizations contained in that division.”.

(b) Budget Authority; Outlays;—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) Budget Authority.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;

(B) $600,000,000 for fiscal year 2006;

(C) $900,000,000 for fiscal year 2007;

(D) $1,200,000,000 for fiscal year 2008;

(E) $1,500,000,000 for fiscal year 2009; and

(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—Thc level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;

(B) $180,000,000 for fiscal year 2006;

(C) $360,000,000 for fiscal year 2007;

(D) $480,000,000 for fiscal year 2008,

(E) $900,000,000 for fiscal year 2009; and

(F) $1,140,000,000 for fiscal year 2010.

SA 2598. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PART —. RAILROAD TRACK MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track
"22302. State rail plans
"22303. Purposes
"22304. Content
"22305. Approval
"22306. Standards and conditions
"22307. Definitions

"§ 22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

(2) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

"(iii) ensure that projects are part of a State rail plan.

"(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

"(i) the number of rail miles in active use in the State;

"(ii) the number of rail cars loaded in the State;

"(iii) the number of rail cars unloaded in the State; and

"(iv) the number of railroad and public road grade crossings in the State.

"(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

"§ 22302. State rail plans

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) submit the State's approved plan to the Secretary of Transportation for review; and

"(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

"§ 22303. Purposes

"(a) PURPOSES.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

"§ 22304. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and commnunity impacts.

"(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(5) A statement of public financing issues for rail projects in the State.

"(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

"(8) A statement that the State is in compliance, with the requirements of section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) "PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

"(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that, the Secretary determines appropriate.

"§ 22305. Approval

"(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

"(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

"§ 22306. Standards and conditions

"A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under section 22301—

"(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

"(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) LABOR STANDARDS.—

"(1) PREVAILING WAGES—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act: 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

"§ 22307. Definitions

In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary, and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRAFTS FOR RAILROAD TRACK .... 22301".

SEC. ___3. GRANT PROGRAM FUNDING.

(a) IN GENERAL.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

"(D) RAIL INFRASTRUCTURE CATEGORY.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under chapter: 223 of title 49, United States Code, or for which appropriations are provided in accordance with authorizations contained in that division.".

(b) BUDGET AUTHORITY; OUTLAYS.—For purposes of section 251(c) of the Balanced budget and emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) BUDGET AUTHORITY.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;

(B) $600,000,000 for fiscal year 2006;

(C) $900,000,000 for fiscal year 2007;

(D) $1,200,000,000 for fiscal year 2008:

(E) $1,500,000,000 for fiscal year 2009; and

(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;

(B) $180,000,000 for fiscal year 2006;

(C) $360,000,000 for fiscal year 2007;

(D) $480,000,000 for fiscal year 2008;

(E) $900,000,000 for fiscal year 2009; and

(F) $1,140,000,000 for fiscal year 2010.

SEC. ___171. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 5Fc(j)(3)) is amended by striking "March 31, 2004," and inserting "March 31, 2014".

SA 2599. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

PART —RAIL MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title, 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL, GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track
"32303. State rail plans
"22303. Purposes
"22304. Content
"22305. Approval
"22306. Standards and conditions
"22307. Definitions

"§ 22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

"(2) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized:

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

"(iii) ensure that projects are part of a State rail plan.

"(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State

"(1) the number of rail miles in active use in the State;

"(ii) the number of rail cars loaded in the State;

"(iii) the number of rail cars unloaded in the State; and

"(iv) the number of railroad and public road grade crossings in the State.

"(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

"§ 22302. State rail plans

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan:

"(3) submit the State's approved plan to the Secretary of Transportation for review; and

"(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

"§ 22303. Purposes

"(a) PURPOSES.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

"§ 22304. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(5) A statement of public financing issues for rail projects in the State.

"(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

"(g) A statement that the State is in compliance with the requirements of section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

"(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made, by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

"22305. Approval

"(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

"(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

"22306. Standards and conditions

"A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under section 22301—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) LABOR STANDARDS.—

"(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

"22307. Definitions

In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SA 2600. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PART —RAILROAD TRACK MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track
"22302. State rail plans
"22303. Purposes
"22304. Content
"22305. Approval
"22306. Standards and conditions
"22307. Definitions

"§ 122301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

“(2) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

“(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria, that—

“(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

“(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

“(iii) ensure that projects are part of a State rail plan.

“(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

“(i) the number of rail miles in active use in the State;

“(ii) the number of rail cars loaded in the State;

“(iii) the number of rail cars unloaded in the State; and

“(iv) the number of railroad and public road grade crossings in the State.

“(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

“(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

“§ 22302. State rail plans

“(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

“(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

“(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

“(2) establish or designate a State rail plan approval authority to approve the plan;

“(3) submit the State's approved plan to the Secretary of Transportation for review; and

“(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for re-approval by the Secretary.

“§ 22303. Purposes

“(a) PURPOSES.—The purposes of a State rail plan are as follows:

“(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

“(2) To establish the period covered by the State rail plan.

“(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

“(4) To serve as the basis for Federal and State rail investments within the State.

“(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice, and opportunity for commitment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

“§ 22304. Content

“(a) IN GENERAL.—Each State rail plan shall contain the following:

“(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

“(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

“(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

“(4) A long-range rail investment program for current and future freight, and passenger infrastructure in the State that meets the requirements of subsection (b).

“(5) A statement of public financing issues for rail projects in the State.

“(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

“(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

“(8) A statement that the State is in compliance with the requirements of section 22102.

“(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

“ (1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

“(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

“(B) A detailed funding plan for the projects.

“(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

“(A) a description of the anticipated public and private benefits of each such in project; and

“(B) a statement of the correlation between—

“(i) public funding contributions for the projects; and

“(ii) the public benefits.

“(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

“(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

“(B) Rail capacity and congestion effects.

“(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

“(D) Regional balance.

“(E) Environmental impact.

“(F) Economic and employment impacts.

“(G) Projected ridership and other service measures for passenger rail projects.

“(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

“§ 22305. Approval

“(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

“(1) the plan meets all of the requirements applicable to State plans under this chapter;

“(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

“(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

“(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

“(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

“§ 22306. Standards and conditions

“A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under section 22301

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

“(g) LABOR STANDARDS.—

“(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

“(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

“§ 22307. Definitions

In this chapter:

“(1) PRIVATE BENEFIT.—The term ‘private benefit’—

“(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

“(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

“(2) PUBLIC BENEFIT.—The term ‘public benefit’—

“(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SA 2601. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PART —RAILROAD TRACK MODERNIZATION

SEC. ___1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track
"22302. State rail plans
"22303. Purposes
"22304. Content
"22305. Approval
"22306. Standards and conditions
"22307. Definitions

"§ 22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

"(2) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable fixture demand for rail services; and

"(iii) ensure that projects are part of a State rail plan.

"(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

"(i) the number of rail miles in active use in the State;

"(ii) the number of rail cars loaded in the State;

"(iii) the number of rail cars unloaded in the State; and

"(iv) the number of railroad and public road grade crossings in the State.

"(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

"§ 22302. State rail plans

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) submit the State's approved plan to the Secretary of Transportation for review; and

"(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

"22303. Purposes

"(a) PURPOSES.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

"22304. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(5) A statement of public financing issues for rail projects in the State.

"(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

"(8) A statement that the State is in compliance with the requirements of section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

" (1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

"(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

"§ 22305. Approval

"(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

"(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental

Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

"§ 22306. Standards and conditions

"A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under section 22301—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act. (43 U.S.C. 151 et seq.).

require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) Labor Standards.—

"(1) Prevailing wages.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) Wage rates.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

"§ 22307. Definitions

In this chapter:

"(1) Private benefit.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(2) Public benefit.—The term 'public benefit'—

"(A) means a, benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.".

(b) Conforming Amendment.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SA 2602. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, beginning with line 13, strike through line 9 on page 1020 and insert the following:

SUBTITLE F—AMTRAK REAUTHORIZATION

SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.

The text of section 24104 of title 49, United States Code, is amended to read as follows:

"There are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 for the benefit of Amtrak for operating and capital expenses.".

SA 2603. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Part —Rail Modernization

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) Authority.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301 Capital grants for railroad track
"22302 State rail plans
"22303 Purposes
"22304 Content
"22305 Approval
"22306 Standards and conditions
"22307 Definitions

"§ 22301. Capital grants for railroad track

"(a) Establishment of Program.—

" (1) Establishment.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

"(A) are listed in a State rail plan approved for such State under chapter 225 of this title; and

"(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

"(2) Regulations.—

"(A) In General.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) Criteria.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

"(iii) ensure that projects are part of a State rail plan.

"(C) Grant Allocations.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

"(i) the number of rail miles in active use in the State;

"(ii) the number of rail cars loaded in the State;

"(iii) the number of rail cars unloaded in the State; and

"(iv) the number of railroad and public road grade crossings in the State.

"(b) Federal Share.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) Authorization of Appropriations.—Notwithstanding section 4635 of the Railroad Track Modernization Act of 2004, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

"§ 22302. State rail plans

"(a) In General.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) Requirements.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) submit the State's approved plan to the Secretary of Transportation for review; and

"(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

"§ 22303. Purposes

"(a) Purposes.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) Coordination.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

"§ 22304. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(5) A statement of public financing issues for rail projects in the State.

"(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

"(8) A statement that the State is in compliance with the requirements of section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(4) shall include the following matters:

"(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

"§ 22305. Approval

"(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

"(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

"§ 22306. Standards and conditions

"A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under section 22301—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

"§ 22307. Definitions

In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SA 2604. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1106. FUNDING FORMULA.

Notwithstanding any other provision of this Act, all transportation funding shall be determined using the formula under the Transportation Equity Act for the 21st Century (Public Law 105–178) as in effect before the date of enactment of this Act.

SA 2605. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2388 proposed by Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN) to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

"(e) FUNDING CAP FROM HIGHWAY TRUST FUND.—Prior to making any apportionments or allocations under Chapter 1 of U.S.C. 23 for fiscal year 2009, the Secretary shall compare the sum of all apportionments and allocations for fiscal years 2004 through 2008 plus the projected apportionments and allocations for fiscal year 2009 to the funding cap of $255,000,000,000. If the total sum of such apportionments and allocations exceeds the funding cap of $255,000,000,000, the Secretary shall proportionally reduce all apportionments and allocations for fiscal year 2009 so the total sum equals $255,000,000,000.

SA 2606. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 of title 49, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "In regulating"; and

(2) by adding at the end the following:

"(b) PRIMARY OBJECTIVES.—The primary objectives of the rail transportation policy of the United States are as follows:

"(1) To promote effective competition among rail carriers at origins and destinations.

"(2) To maintain reasonable rates in the absence of effective competition.

"(3) To maintain consistent and efficient rail transportation service for shippers, including the timely provision of rail cars requested by shippers.

"(4) To ensure that smaller carload and intermodal shippers are not precluded from accessing rail systems due to volume requirements.".

SA 2607. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ARBITRATION OF CERTAIN RAIL RATE, SERVICE, AND OTHER DISPUTES.

(a) IN GENERAL.—

(1) AUTHORITY.—Chapter 117 of title 49, United States Code, is amended by adding after section 11707 the following new section:

"§ 11708. Arbitration of certain rail rate, service, and other disputes

"(a) ELECTION OF ARBITRATION.—A dispute described in subsection (b) shall be submitted for resolution by arbitration upon the election of any party to the dispute that is not a rail carrier.

"(b) COVERED DISPUTES.—(1) Except as provided in paragraph (2), subsection (a) applies to any dispute between a party described in subsection (a) and a rail carrier that—

"(A) arises under section 10701(c), 10701(d), 10702, 10704(a)(1), 10707, 10741, 10745, 10746, 11101(a), 11102, 11121, 11122, or 11706 of this title; and

"(B) involves—

"(i) the payment of money;

"(ii) a rate or charge imposed by the rail carrier; or

"(iii) transportation or other service by the rail carrier.

"(2) Subsection (a) does not apply to a dispute if the resolution of the dispute would necessarily involve the promulgation of regulations generally applicable to all rail carriers.

"(c) ARBITRATION PROCEDURES.—The Secretary of Transportation shall prescribe in regulations the procedures for the resolution of disputes submitted for arbitration under subsection (a). The regulations shall include the following:

"(1) Procedures, including time limits, for the selection of an arbitrator or panel of arbitrators for a dispute from among arbitrators listed on the roster of arbitrators established and maintained by the Secretary under subsection (d)(1).

"(2) Policies, requirements, and procedures for the compensation of each arbitrator for a dispute to be paid by the parties to the dispute.

"(3) Procedures for expedited arbitration of a dispute, including procedures for discovery authorized in the exercise of discretion by the arbitrator or panel of arbitrators.

"(d) SELECTION OF ARBITRATORS.—(1) The Secretary of Transportation shall establish, maintain, and revise as necessary a roster of arbitrators who—

"(A) are experienced in transportation or economic issues within the jurisdiction of the Board or issues similar to those issues;

"(B) satisfy requirements for neutrality and other qualification requirements prescribed by the Secretary;

"(C) consent to serve as arbitrators under this section; and

"(D) are not officers or employees of the United States.

"(2) For a dispute involving an amount not in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a single arbitrator who—

"(A) is selected by the parties to the dispute; or

"(B) if the parties cannot agree, is selected by the Secretary from among the arbitrators listed on the roster of arbitrators under paragraph (1).

"(3)(A) For a dispute involving an amount in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a panel of three arbitrators selected as follows:

"(i) One arbitrator selected by the party electing the arbitration.

"(ii) One arbitrator selected by the rail carrier or all of the rail carriers who are parties to the dispute, as the case may be.

"(iii) One arbitrator selected by the two arbitrators selected under clauses (i) and (ii).

"(B) If a selection of an arbitrator is not made under clause (ii) or (iii) of subparagraph (A) within the time limits prescribed in the regulations, then the Secretary shall select the arbitrator from among the arbitrators listed on the roster of arbitrators under paragraph (1).

"(e) DISPUTES OVER RATES OR CHARGES.—(1) The requirements of this subsection apply to a dispute submitted under this section concerning a rate or charge imposed by a rail carrier.

"(2)(A) Subject to subparagraph (B), the decision of an arbitrator or panel of arbitrators in a dispute on an issue described in paragraph (1) shall be the final offer of one of the parties to the dispute.

"(B) A decision under subparagraph (A) may not provide for a rate for transportation by a rail carrier that would result in a revenue-variable cost percentage for such transportation that is less than 180 percent, as determined under standards applied in the administration of section 10707(d) of this title.

"(3) If the party electing arbitration of a dispute described in paragraph (1) seeks compensation for damages incurred by the party as a result of a specific rate or charge imposed by a rail carrier for the transportation of items for the party and the party alleges an amount of damages that does not exceed $500,000 for any year as a result of the imposition of the specific rate or charge, the arbitrator, in making a decision on the dispute, shall consider the rates or charges, respectively, that are imposed by rail carriers for the transportation of similar items under similar circumstances in rail transportation markets where there is effective competition, as determined under standards applied by the Board in the administration of section 10707 of this title.

"(f) TIME FOR ISSUANCE OF ARBITRATION DECISION.—Notwithstanding any other provision of this subtitle limiting the time for the taking of an action under this subtitle, the arbitrator or panel of arbitrators for a dispute submitted for resolution under this section shall issue a final decision on the dispute within the maximum period after the date on which the arbitrator or panel is selected to resolve the dispute under this section, as follows:

"(1) In the case of a dispute involving $1,000,000 or less, 120 days.

"(2) In the case of a dispute involving more than $1,000,000, 180 days.

"(g) AUTHORIZED RELIEF.—A decision of an arbitrator or panel of arbitrators under this section shall grant relief in either or both of the following forms:

"(1) Monetary damages, to the extent authorized to be provided by the Board in such a dispute under this subtitle.

"(2) An order that requires specific performance under any applicable law, including any law limiting rates to reasonable rates, for any period not in excess of two years beginning on the date of the decision.

"(h) JUDICIAL CONFIRMATION AND REVIEW.—The following provisions of title 9 shall apply to an arbitration decision issued in a dispute under this section:

"(1) Section 9 (relating to confirmation of an award in an arbitration decision), which shall be applied as if the parties had entered into an agreement under title 9 to submit the dispute to the arbitration and had provided in that agreement for a judgment of an unspecified court to be entered on the award made pursuant to the arbitration.

"(2) Section 10 (relating to judicial vacation of an award in an arbitration decision).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 11707 the following:

"11708. Arbitration of certain rail rate, service, and other disputes.".

(b) TIME FOR IMPLEMENTING CERTAIN REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations, prescribe a roster of arbitrators, and complete any other action that is necessary for the implementation of section 11708 of title 49, United States Code (as added by subsection (a)).

SA 2608. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. . AREAS OF INADEQUATE RAIL COMPETITION.

(a) DESIGNATION AND REMEDIES.—

(1) IN GENERAL.—Chapter 105 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 10503. Areas of inadequate rail competition

"(a) DESIGNATION.—The Board shall designate any State or part of a State as an area of inadequate rail competition after finding either of the grounds set forth in subsection (b). An area of inadequate rail competition may be limited to be composed of the facilities of a group of shippers or receivers of one or more specific commodities within a geographic area.

"(b) GROUNDS FOR DESIGNATION.—The grounds for designating a State or part of a State as an area of inadequate rail competition are as follows:

"(1) The State or part of a State encompasses a significant number of rail shipping origins and destinations that are served exclusively by only one Class I railroad.

"(2) A significant number of the persons that ship by rail or receive rail shipments in the State or part of a State—

"(A) usually find it necessary to pay rates for the rail shipments that exceed the rates necessary to yield recovery by the rail carrier of 180 percent of revenue-variable costs, as determined under standards applied in the administration of section 10707(d) of this title; or

"(B) have experienced competitive disadvantage in the marketplace or other economic adversity because of high cost or poor quality of rail service in the State or part of a State, as the case may be.

"(c) AUTHORIZED PETITIONERS.—The following persons are authorized to petition the Board for a designation of a State or part of a State as an area of inadequate rail competition:

"(1) The chief executive of the State or another official of the State who is designated to do so by the chief executive or is authorized to do so under the laws of that State.

"(2) A Member of Congress from the State.

"(3) As provided in section 10504 of this title, the Rail Customer Advocate of the Department of Agriculture and any State official referred to in subsection (a)(2) of such section.

"(4) A person that ships by rail or receives rail shipments in that State or part of a State.

"(d) ACTIONS.—Upon designating a State or a part of a State as an area of inadequate rail competition, the Board shall attempt to resolve, within 60 days after the date of the designation, the conditions described in subsection (b) that justify the designation. In addition to providing other remedies authorized by law, the Board may, when requested in a petition, order any of the following actions:

"(1) Provision of reciprocal switching and access to tracks of another rail carrier beyond the limits specified in section 11102(a) of this title.

"(2) Haulage transportation of railroad cars by a rail carrier to or from facilities that such carrier alone physically serves on behalf of another rail carrier, for a fee prescribed by the Board.

"(3) Regarding rates on any rail segments within or connected to the area of inadequate rail competition on which rail service is susceptible to delay or interruption due to traffic congestion—

"(A) expedited review of the reasonableness of the rates under section 10701(d)(3) of this title; or

"(B) expedited final offer arbitration of the reasonableness of the rates under section 11708(e) of this title.

"(4) Expedited review, under section 10701(d)(3) of this title, of the reasonableness of—

"(A) increases in rates or other charges; and

"(B) new transportation service tariffs.

"(5) Expedited review of whether a rate violates the prohibition against discriminatory rates contained in section 10741 of this title, without regard to subsection (b)(2) of such section.

"(e) LIMITATIONS AND CONDITIONS APPLICABLE TO SPECIFIC REMEDIES.—(1) In the case of a petition for an order for reciprocal switching or access to tracks of another rail carrier under subsection (d)(1), the Board may not require that there be evidence of anticompetitive conduct by a rail carrier as a prerequisite for ordering such action.

"(2) In the case of a petition for expedited review of rates or final offer arbitration of rates under subsection (d)(3)—

"(A) the Board or arbitrator or panel of arbitrators, as the case may be, shall accord, with respect to rail transportation of a specific commodity, significant persuasive weight to evidence comparing—

"(i) rates charged for rail transportation of various quantities of that commodity within the area of inadequate rail competition; and

"(ii) rates charged for rail transportation of similar quantities of that commodity or any similar commodity or commodities in areas where there is competition among rail carriers for shipments of such commodity or commodities; and

"(B) the Board or arbitrator or panel of arbitrators, as the case may be, shall not apply the stand-alone cost test or any other test that the Board applies in determining the reasonableness of rates reviewed in cases not involving rail service in an area of inadequate rail competition.

"(3) In the case of a petition for expedited review, under subsection (d)(4), of an increase of a rate or other charge or the imposition of a new service tariff by a rail carrier—

"(A) the rail carrier shall have the burden of proving the reasonableness of the increase or tariff charge; and

"(B) the Board shall consider any evidence comparing—

"(i) the increased rate or other charge, or the tariff charge, as the case may be; and

"(ii) corresponding rates, other charges, or new service tariff charges, respectively, imposed for rail transportation in areas where there is a significant level of competition among the rail carriers.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10503. Areas of inadequate rail competition.".

(b) STUDY AND REPORT ON AREAS OF INADEQUATE RAIL COMPETITION.—

(1) STUDY REQUIRED.—The Rail Customer Advocate of the Department of Agriculture shall carry out a study of the process provided under section 10503 of title 49, United States Code (as added by subsection (a)), for challenging and remedying conditions described in subsection (b) of such section in States and parts of States designated under such section as areas of inadequate rail competition insofar as such conditions adversely affect rail shippers of agricultural or forestry commodities and products.

(2) FINDINGS ON EFFECTIVENESS OF PROCESS.—The Rail Customer Advocate shall make findings, on the basis of the study under paragraph (1), regarding the effectiveness of the process for remedying the conditions studied, particularly in the case of customers that ship agricultural or forestry commodities and products by rail in annual volumes of 1,500 rail cars or less.

(3) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Rail Customer Advocate shall submit to Congress a report on the results of the study under paragraph (1), including the findings required under paragraph (2).

SA 2609. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. . PERIODIC STUDY OF COMPETITION AMONG RAIL CARRIERS.

(a) REQUIREMENT FOR STUDY.—

(1) TRIENNIAL STUDY.—Chapter 101 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 10103. Periodic study of rail carrier competition and processes of the Board

"(a) REQUIREMENT FOR STUDY.—Every three years, the Secretary of Transportation shall conduct a comprehensive study of rail carrier competition and the processes of the Board. The study shall include an assessment of the following:

"(1) The availability of effective competitive options among and between rail carriers.

"(2) The effectiveness of the processes of the Surface Transportation Board, including the process used for determining the reasonableness of rates of rail carriers.

"(3) The availability to rail users of effective regulatory dispute resolution options.

"(b) STUDY TO INCLUDE ASSESSMENT OF RAIL-TO-RAIL COMPETITION.—In carrying out the study, the Board shall assess the overall level of rail-to-rail competition in the rail carrier industry in the United States. In making the assessment, the Board shall consider the views of users of the services of rail carriers.

"(c) REPORT TO CONGRESS.—Not later than November 15 of each year in which a study is conducted under subsection (a), the Secretary shall submit a report on the results of the study to Congress. The report shall include the following:

"(1) The Board's assessment of the overall level of rail-to-rail competition in the rail carrier industry in the United States.

"(2) The markets that have limited rail-to-rail competition.

"(3) Any recommendations for enhancing rail-to-rail competition, particularly in markets identified as having limited rail-to-rail competition.

"(4) An assessment of the Board's performance of its purpose to promote and enhance competition among and between railroads by—

"(A) addressing complaints regarding rates, charges, and service; and

"(B) promulgating regulations of general applicability or taking other actions.

"(5) Any recommendations for modification of any of the decisions of the Board (or decisions of the former Interstate Commerce Commission continuing in effect) or for modification of the general authority or jurisdiction of the Board.

"(6) Any other findings, analyses, assessments, and recommendations that result from the study.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"10103. Periodic study of rail carrier competition and processes of the Board.".

(b) TIME FOR FIRST STUDY.—The first study under section 10103 of title 49, United States Code (as added by subsection (a)), shall be carried out not later than two years after the date of the enactment of this Act.

SA 2610. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"SEC. ___. DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

"(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 178. Delta Region Transportation Development Program

"(a) IN GENERAL.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and metropolitan planning organization may receive and administer funds provided under the program.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter I of title 23, United States Code (as amended by section 1841(b)), is amended by adding at the end the following:

"178. Delta Regional Transportation Development Program.".

On page 678, after line 5, insert the following:

"(16) DELTA REGIONAL TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, $400,000,000 for each of fiscal years 2004 through 2009."

SA 2611. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"SEC. . DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 178. Delta Region Transportation Development Program

"(a) IN GENERAL.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and metropolitan planning organization may receive and administer funds provided under the program.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter I of title 23, United States Code (as amended by section 1841 (b)), is amended by adding at the end the following:

"178. Delta Region Transportation Development Program.".

On page 677, line 11, strike "$2,500,000,000" and insert "$1,300,000,000".

On page 677, line 13, strike "$2,000,000,000" and insert "$1,200,000,000".

On page 677, line 15, strike "$500,000,000" and insert "100,000,000".

On page 678, after line 5, insert the following:

"(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, $400,000,000 for each of fiscal years 2004 through 2009."

SA 2612. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

"(3) COST TO COMPLETE STUDY.—The Appalachian Regional Commission shall prepare an estimate of the cost to construct highways and access roads for the Appalachian development highway system every 24 months."

SA 2613. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

On page 521, strike line 18 and all that follows through the matter following line 18 on page 720, and insert the following:

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2004".

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) UPDATED TERMINOLOGY.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—Section 5301(a) is amended to read as follows:

"(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

SEC. 3004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus and intercity rail portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by striking paragraph (16);

(3) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively;

(4) by striking paragraph (7) and inserting the following:

"(7) MASS TRANSPORTATION.—The term 'mass transportation' means public transportation.

"(8) MOBILITY MANAGEMENT.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(5) by amending paragraph (11), as redesignated, to read as follows:

"(11) PUBLIC TRANSPORTATION.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.";

(6) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking "and" each place it appears and inserting "or"; and

(7) by amending paragraph (17) to read as follows:

"(17) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

"§ 5303. Metropolitan transportation planning

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers the views of the other identified party; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) Existing metropolitan planning areas in nonattainment.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2004 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

“(5) New metropolitan planning areas in nonattainment.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in accordance with subsection (c)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

“(e) Coordination in Multistate Areas.—

“(1) In general.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) Interstate compacts.—States are authorized—

“(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) Lake Tahoe region.—

“(A) Definition.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

“(B) Transportation planning process.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

“(C) Interstate compact.—

“(i) In general.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

“(ii) Involvement of federal land management agencies.—

“(I) Representation.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) Funding.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) Activities.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

“(f) Coordination of Metropolitan Planning Organizations.—

“(1) Nonattainment areas.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

“(2) Transportation improvements located in multiple metropolitan planning areas.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

“(3) Interregional and interstate project impacts.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

“(4) Coordination with other planning processes.—

“(A) In general.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

“(B) Other considerations.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under this chapter;

“(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iii) recipients of assistance under section 204 of title 23.

“(g) Scope of Planning Process.—

“(1) In general.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

“(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

“(B) increasing the safety of the transportation system for motorized and nonmotorized users;

“(C) increasing the security of the transportation system for motorized and nonmotorized users;

“(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

“(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

“(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

“(G) promoting efficient system management and operation; and

“(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

“(2) Selection of factors.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

“(3) Failure to consider factors.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

“(h) Development of Transportation Plan.—

“(1) In general.—

“(A) Requirement.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

“(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

"(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

"(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

"(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(2) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(3) CONTENTS.—A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

"(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

"(B) a financial plan that—

"(i) demonstrates how the adopted transportation plan can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

"(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

"(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

"(E) proposed transportation and transit enhancement activities.

"(4) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) ISSUES.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

"(A) approved by the metropolitan planning organization; and

"(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

"(i) PARTICIPATION BY INTERESTED PARTIES.—

"(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

"(A) citizens;

"(B) affected public agencies;

"(C) representatives of public transportation employees;

"(D) freight shippers;

"(E) providers of freight transportation services;

"(F) private providers of transportation;

"(G) representatives of users of public transit;

"(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

"(I) other interested parties.

"(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

"(A) shall be developed in a manner the Secretary determines to be appropriate;

"(B) shall be developed in consultation with all interested parties; and

"(C) shall provide that all interested parties have reasonable opportunities to comment on—

"(i) the process for developing the transportation plan; and

"(ii) the contents of the transportation plan.

"(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

"(A) hold any public meetings at convenient and accessible locations and times;

"(B) employ visualization techniques to describe plans; and

"(C) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

"(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT AND UPDATE.—

"(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

"(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

"(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

"(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

"(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

"(i) appropriate public involvement;

"(ii) financial planning;

"(iii) transportation conformity analyses; and

"(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

"(2) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

"(3) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

"(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

"(ii) by the designated recipient, in the case of projects under section 5307; and “(iii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

“(4) PUBLICATION REQUIREMENTS.—

“(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

“(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

“(i) the types of data to be included in the list described in subparagraph (B), including—

“(I) the name, type, purpose, and geocoded location of each project;

“(II) the Federal, State, and local identification numbers assigned to each project;

“(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

“(IV) the status of each project; and

“(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

“(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

“(3) CONGESTION MANAGEMENT SYSTEM.—

“(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

“(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

“(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

“(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

“(C) PENALTY FOR FAILING TO CERTIFY.—

“(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

“(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(*l*) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

“(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

“(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

“(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

“§ 5304. Statewide transportation planning

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a “Plan”) and a statewide transportation improvement program (referred to in this section as a “Program”) for all areas of the State subject to section 5303.

“(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

“(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

“(1) coordinate planning under this section with—

"(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

"(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and freight;

"(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation and efficient use of the existing transportation system.

"(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

"(3) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

"(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

"(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

"(f) STATEWIDE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

"(B) to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A Plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

"(A) demonstrates how the adopted Plan can be implemented;

"(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

"(C) recommends any additional financing strategies for needed projects and programs; and

"(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

"(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

"(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

"(4) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) LISTING OF PROJECTS.—

"(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

"(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

"(C) INDIVIDUAL IDENTIFICATION.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

"(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) FINANCIAL PLAN.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

"(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

"(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

"(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

"(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

"(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

"(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making." after "feasible";

(2) in subsection (b) by striking "5303–5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (*l*), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than 1 State;

"(ii) the portion of the urbanized area includes only 1 State;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.";

(2) by amending paragraph (2) to read as follows:

"(2) SPECIAL RULE FOR FISCAL YEARS 2004 THROUGH 2006—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2004 through 2006, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking "section 5336" and inserting "sections 5336 and 5337".

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end;

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

SEC. 3010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§ 5308. Planning programs

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; or

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

“(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

“(3) SUPPLEMENTAL ALLOCATIONS.—

“(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

“(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

“(d) STATE PLANNING AND RESEARCH PROGRAM.—

“(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

“(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

“(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

“(e) PLANNING CAPACITY BUILDING PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the “Program”) to support and fund innovative practices and enhancements in transportation planning.

“(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

“(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

“(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

“(ii) to conduct research, disseminate information, and provide technical assistance.

“(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

“(i) expend appropriated funds directly; or

“(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

“(f) GOVERNMENT'S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

“(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

“(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

“(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

“(3) of the remaining amount—

“(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

“(B) 17.28 percent shall be allocated to carry out subsection (b).

“(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

“5308. Planning programs.”.

SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows:

“§ 5309. Capital investment grants”.

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking “(1) The Secretary of Transportation may make grants and loans” and inserting the following:

“(1) GRANTS AUTHORIZED.—The Secretary may award grants”;

(B) in subparagraph (A), by striking “alternatives analysis related to the development of systems,”;

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting “, including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and”; and

(F) in subparagraph (D), as redesignated—

(i) by striking “to support fixed guideway systems”; and

(ii) by striking “dedicated bus and high occupancy vehicle”;

(2) by amending paragraph (2) to read as follows:

“(2) GRANTEE REQUIREMENTS.—

“(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

“(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

“(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

“(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project.”; and

(3) by adding at the end the following:

“(3) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.”.

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

“(b) DEFINED TERM.—As used in this section, the term ‘alternatives analysis’ means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

“(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

“(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

“(3) the selection of a locally preferred alternative; and

“(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.”.

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

“(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

“(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

“(2) the applicant has, or will have—

“(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

“(B) satisfactory continuing control over the use of the equipment or facilities; and

“(C) the capability and willingness to maintain the equipment or facilities.”.

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

“(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—

“(1) FULL FUNDING GRANT AGREEMENT.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway capital project that—

“(A) is authorized for final design and construction; and

“(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

“(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

“(A) based on the results of an alternatives analysis and preliminary engineering;

“(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

"(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

"(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

"(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(C) the direct and indirect costs of relevant alternatives;

"(D) factors such as—

"(i) congestion relief;

"(ii) improved mobility;

"(iii) air pollution;

"(iv) noise pollution;

"(v) energy consumption; and

"(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

"(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

"(F) the cost of suburban sprawl;

"(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

"(H) population density and current transit ridership in the transportation corridor;

"(I) the technical capability of the grant recipient to construct the project;

"(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

"(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

"(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

"(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(ii) existing grant commitments;

"(iii) the degree to which financing sources are dedicated to the proposed purposes;

"(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

"(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(5) PROJECT ADVANCEMENT AND RATINGS.—

"(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

"(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

"(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

"(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

"(8) POLICY GUIDANCE.—

"(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

"(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

"(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

"(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

"(i) invite public comment to the policy guidance published under subparagraph (A); and

"(ii) publish a response to the comments received under clause (i).".

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.— Section 5309(f) is amended to read as follows:

"(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.—

"(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

"(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

"(i) is authorized by law; and

"(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

"(B) CONTENTS.—

"(i) IN GENERAL.—An agreement under this paragraph shall specify—

"(I) the scope of the project to be constructed;

"(II) the estimated net cost of the project;

"(III) the schedule under which the project shall be constructed;

"(IV) the maximum amount of funding to be obtained under this subsection;

"(V) the proposed schedule for obligation of future Federal grants; and

"(VI) the sources of non-Federal funding.

"(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

"(2) SELECTION PROCESS.—

"(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

"(i) based on the results of planning and alternatives analysis;

"(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

"(iii) supported by an acceptable degree of local financial commitment.

"(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

"(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

"(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

"(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

"(iii) determine the degree to which the project will have a positive effect on local economic development;

"(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

"(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

"(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

"(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

"(4) IMPACT REPORT.—

"(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

"(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

"(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.".

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

"(C) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

"(dd) analysis of the consistency of predicted project characteristics with the after data.

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

"(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

"(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.".

(h) FEDERAL SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

"(h) FEDERAL SHARE OF ADJUSTED NET PROJECT COST.—

"(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) MAXIMUM FEDERAL SHARE.—

"(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

"(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

"(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

"(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

"(A) an undistributed cash surplus;

"(B) a replacement or depreciation cash fund or reserve; or

"(C) new capital, including any Federal funds that are eligible to be expended for transportation.

"(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

"(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).".

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended

(1) by striking subsections (i), (j), (k), and (*l*);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (*l*), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

"(i) ALLOCATING AMOUNTS.—

"(1) FISCAL YEAR 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

"(A) $1,315,983,615 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

"(B) $1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

"(C) $603,617,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

"(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

"(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

"(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

"(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) BUS AND BUS FACILITY GRANTS.—

"(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs

(1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.".

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

"(m) REPORTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

"(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

"(ii) a recommendation of projects to be funded based on—

"(I) the evaluations and ratings determined under subsection (e) and (f); and

"(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

"(iii) detailed ratings and evaluations on each project recommended for funding.

"(2) TRIENNIAL REPORTS ON PROJECT RATINGS.—

"(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

"(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

"(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

"(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

"(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

"(A) the Committee on Transportation and Infrastructure of the House of Representatives;

"(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

"(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

"(i) estimates made at the time projects are approved for entrance into final design;

"(ii) costs and ridership when the project commences revenue operation; and

"(iii) costs and ridership when the project has been in operation for 2 years.

"(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

"(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

"(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

"(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.".

(*l*) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—

(1) IN GENERAL.—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2004, or accompanying committee reports, that remain available and unobligated may be used for fixed guideway projects under section 5309 of title 49, United States Code.

(2) NEW FUNDS.—Grantees who received funds under paragraph (1) may use new Federal transit assistance provided under the bus and bus facility category for fixed guideway projects under such section 5309.

SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

"§5310. New freedom for elderly persons and persons with disabilities

"(a) GENERAL AUTHORITY.—

"(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

"(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) ALLOTMENTS AMONG STATES.—

"(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) FEDERAL SHARE.—

"(1) MAXIMUM.—

"(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

"(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

"(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

"(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

"(2) CERTIFICATION REQUIREMENTS.—

"(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

"(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

"(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(e) STATE PROGRAM OF PROJECTS.—

"(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

"(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

"(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

"(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(i) FARES NOT REQUIRED.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.".

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

"5310. New freedom for elderly persons and persons with disabilities.".

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

"(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) RECIPIENT.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.".

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) GRANTS AUTHORIZED.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) public transportation capital projects;

"(B) operating costs of equipment and facilities for use in public transportation; and

"(C) the acquisition of public transportation services.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) STATE PROGRAM.—

"(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

"(B) SUBMISSION TO SECRETARY.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

"(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State; and

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.";

(4) in paragraph (3), as redesignated—

(A) by striking "(3) The Secretary of Transportation" and inserting the following:

"(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

"(A) ESTABLISHMENT.—The Secretary";

(B) by striking "make" and inserting "use not more than 2 percent of the amount made available to carry out this section to award"; and

(C) by adding at the end the following:

"(B) DATA COLLECTION.—

"(i) REPORT.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(I) total annual revenue;

"(II) sources of revenue;

"(III) total annual operating costs;

"(IV) total annual capital costs;

"(V) fleet size and type, and related facilities;

"(VI) revenue vehicle miles; and

"(VII) ridership."; and

(5) by adding after paragraph (3) the following:

"(4) Of the amount made available to carry out paragraph (3)—

"(A) not more than 15 percent may be used to carry out projects of a national scope; and

"(B) any amounts not used under subparagraph (A) shall be allocated to the States.".

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

"(A) $6,000,000 for fiscal year 2005.

"(B) $8,000,000 for fiscal year 2006.

"(C) $10,000,000 for fiscal year 2007.

"(D) $12,000,000 for fiscal year 2008.

"(E) $15,000,000 for fiscal year 2009.

"(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

"(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

"(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.".

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking "AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation" and inserting ", PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—"; and

(B) by striking "after September 30, 1993."; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) FEDERAL SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

"(g) FEDERAL SHARE OF COSTS.—

"(1) MAXIMUM FEDERAL SHARE.—

"(A) CAPITAL PROJECTS.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

"(B) OPERATING ASSISTANCE.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

"(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) USE OF FEDERAL GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

"(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking "other agreements" and inserting "other transactions"; and

(B) in paragraph (5), by striking "within the Mass Transit Account of the Highway Trust Fund"; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking "public and private" and inserting "public or private"; and

(B) in paragraph (3), by striking "within the Mass Transit Account of the Highway Trust Fund" .

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

"§ 5312. Research, development, demonstration, and deployment projects".

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) FEDERAL ASSISTANCE.—"; and

(3) by amending subsection (c) to read as follows:

"(c) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

"§ 5313. Transit cooperative research program".

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program.".

SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA COMPLIANCE.—From";

(C) by amending paragraph (3) to read as follows:

"(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.";

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

"(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

"(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) is an agency of a State or unit of local government.

"(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."; and

(2) by amending subsection (b) to read as follows:

"(b) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit.".

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

"(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, $3,000,000 shall be allocated to carry out this subsection.

"(d) ALTERNATIVE FUELS STUDY.—

"(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

"(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

"(3) CONTENTS.—The study shall consider—

"(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

"(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

"(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

"(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

"(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

"(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives".

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

"§ 5314. National research programs".

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

"5314. National research programs.".

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

"(b) DUTIES.—

"(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security."; and

(2) in subsection (d), by striking "mass" each place it appears.

SEC. 3018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking "ESTABLISHMENT.—The Secretary of Transportation shall establish one facility" and inserting "IN GENERAL.—The Secretary shall maintain 1 facility"; and

(B) by striking "established by renovating" and inserting "maintained at"; and

(2) in subsection (d), by striking "section 5309(m)(1)(C) of this title" and inserting "paragraphs (1)(C) and (2)(B) of section 5309(i)".

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking "5307(k)" and inserting "5307(d)(1)(K)".

SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5301, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(2) LIMITATION.—";

(2) by amending subsection (b) to read as follows:

"(b) NOTICE AND PUBLIC HEARING.—

"(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

"(A) provided an adequate opportunity for public review and comment on the project;

"(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) considered the economic, social, and environmental effects of the project; and

"(D) found that the project is consistent with official plans for developing the urban area.

"(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.";

(3) by amending subsection (c) to read as follows:

"(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.";

(4) by amending subsection (d) to read as follows:

"(d) CONDITIONS ON BUS TRANSPORTATION SERVICE.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

"(1) CHARTER BUS SERVICE.—

"(A) In general.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

"(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

"(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

"(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

"(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

"(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and

"(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

"(B) Exception.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to —

"(i) local governments; and

"(ii) social service entities with limited resources.

"(C) Irregularly scheduled events.—Service, other than commuter service, by a recipient to irregularly scheduled events, where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

"(2) Violation of agreements.—

"(A) Complaints.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

"(i) provide a reasonable opportunity for the recipient to respond to the complaint;

"(ii) provide the recipient with an opportunity for an informal hearing; and

"(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

"(B) Appeals.—

"(i) In general.—A decision by the Regional Administrator may be appealed to a panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

"(ii) Standard of review.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

"(iii) Written decision.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

"(C) Correction.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

"(D) Remedies.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

"(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

"(ii) $200,000.

"(3) Regulations.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

"(A) implement this subsection, as revised by such Act; and

"(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

"(4) Public notice.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.";

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking "(1)" and inserting the following:

"(1) In general.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) Exceptions.—This subsection; and

(D) by adding at the end the following:

"(3) Penalty.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(8) by inserting after subsection (e) the following:

"(f) Bond Proceeds Eligible for Local Share.—

"(1) In general.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) Reimbursement by secretary.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

(9) in subsection (g)—

(A) by striking "(f)" each place it appears and inserting "(e)"; and

(B) by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(10) by amending subsection (h) to read as follows:

"(h) Transfer of Lands or Interests in Lands Owned by the United States.—

(1) Request by secretary.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) Transfer of land.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) Reversion.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(11) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004";

(12) by amending subsection (*l*) to read as follows:

"(*l*) Relationship to Other Laws.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(13) in subsection (m), by inserting at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(14) in subsection (*o*), by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "sections 181 through 188 of title 23"; and

(15) by adding at the end the following:

"(p) Prohibited Use of Funds.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) In General.—Section 5324 is amended to read as follows:

"§ 5324. Special provisions for capital projects

"(a) Real Property and Relocation Services.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

“(b) Advance Real Property Acquisitions.—

(1) In general.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

“(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

“(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

“(C) recent appraisals reflect a rapid increase in the fair market value of the property;

“(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

“(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

“(2) Environmental reviews.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(3) Limitation.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary’s objective evaluation of project alternatives.

“(4) Exemption.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

“(c) Railroad Corridor Preservation.—

“(1) In general.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) Environmental reviews.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(d) Consideration of Economic, Social, and Environmental Interests.—

“(1) In general.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary’s findings under this paragraph shall be made a matter of public record.

“(2) Cooperation and consultation.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.”.

(b) Conforming Amendment.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

“5324. Special provisions for capital projects.”.

SEC. 3024. CONTRACT REQUIREMENTS.

(a) In General.—Section 5325 is amended to read as follows:

“§ 5325. Contract requirements

“(a) Competition.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

“(b) Architectural, Engineering, and Design Contracts.—

“(1) In general.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

“(2) Additional requirements.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

“(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

“(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

“(C) After a firm’s indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

“(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

“(c) Efficient Procurement.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

“(d) Design-Build Projects.—

“(1) Defined term.—As used in this subsection, the term ‘design-build project’—

“(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

“(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

“(2) Financial assistance for capital costs.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

“(e) Rolling Stock.—

“(1) Acquisition.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

“(A) with a party selected through a competitive procurement process; or

“(B) based on—

“(i) initial capital costs; or

“(ii) performance, standardization, life cycle costs, and other factors.

“(2) Multiyear contracts.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

“(f) Examination of Records.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

“(g) Grant Prohibition.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

“(h) Bus Dealer Requirements.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

“(i) Awards to Responsible Contractors.—

“(1) In general.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

“(2) Criteria.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

“(A) the integrity of the contractor;

“(B) the contractor’s compliance with public policy;

“(C) the contractor’s past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

“(D) the contractor’s financial and technical resources.”.

(b) Conforming Amendments.—Chapter 53 is amended by striking section 5326.

SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) Project Management Plan Requirements.—Section 5327(a) is amended—

(1) in paragraph (11), by striking “and” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(13) safety and security management.”.

(b) Limitations on Use of Available Amounts.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) In general.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91–143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.";

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) OTHER ALLOWABLE USES.—"; and

(B) by inserting "and security" after "safety"; and

(3) in paragraph (3), by striking "(3) The Government shall" and inserting the following:

"(3) FEDERAL SHARE.—Federal funds shall be used to".

SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§5329. Investigation of safety hazards and security risks

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

"(d) PUBLIC TRANSPORTATION SECURITY.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

"(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

"(A) establish national security standards for public transportation agencies;

"(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

"(C) create a method of coordination with public transportation agencies on security matters; and

"(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

"§5330. Withholding amounts for noncompliance with State safety oversight requirements";

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2) may designate"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting ", transportation facilities or infrastructure, or transportation employees" before the period at the end; and

(2) by adding at the end the following:

"(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ", provided that—

"(A) the protective period shall not exceed 4 years; and

"(B) the separation allowance shall not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

"(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.".

SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309–5311 of this title" and all that follows and inserting "5309 through 5311;";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1)

of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)".

SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311".

SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

"(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(6) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(7) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(9) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this title" and inserting "subsections (a) and (b) of section 5338";

(10) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(11) by adding at the end the following:

"(k) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

"(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

"(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

"(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

"(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

"(*l*) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

"(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§ 5338. Authorizations

"(a) FISCAL YEAR 2004.—

"(1) FORMULA GRANTS.—

"(A) TRUST FUND.—For fiscal year 2004, $3,053,079,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $763,269,980 for fiscal year 2004 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(v) $3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307; and

"(vi) $49,705,000 shall be available to provide financial assistance for buses and bus facilities under section 5309.

"(2) JOB ACCESS AND REVERSE COMMUTE.—

"(A) TRUST FUND.—For fiscal year 2004, $99,410,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $24,852,500 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) CAPITAL PROGRAM GRANTS.—

"(A) TRUST FUND.—For fiscal year 2004, $2,495,191,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $623,797,750 for fiscal year 2004 to carry out section 5309.

"(4) PLANNING.—

"(A) TRUST FUND.—For fiscal year 2004, $58,254,260 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $14,315,040 for fiscal year 2004 to carry out section 5308.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2004, $41,951,020 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $10,736,280 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,219,025 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,201,325 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) UNIVERSITY TRANSPORTATION RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2004, $4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) $1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2004;

“(ii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

“(iii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

“(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

“(7) ADMINISTRATION.—

“(A) TRUST FUND.—For fiscal year 2004, $60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $15,010,910 for fiscal year 2004 to carry out section 5334.

“(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

“(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.”.

“(b) FORMULA GRANTS AND RESEARCH.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

“(A) $6,262,600,000 for fiscal year 2005;
“(B) $6,577,629,000 for fiscal year 2006;
“(C) $6,950,400,000 for fiscal year 2007;
“(D) $7,594,760,000 for fiscal year 2008; and
“(E) $8,275,320,000 for fiscal year 2009.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

“(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

“(B) 1.75 percent shall be available to carry out section 5308;

“(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

“(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

“(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

“(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

“(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

“(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

“(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

“(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

“(H) $25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

“(I) there shall be available to carry out section 5335—

“(i) $3,700,000 in fiscal year 2005;
“(iii) $3,900,000 in fiscal year 2006;
“(iv) $4,200,000 in fiscal year 2007;
“(v) $4,600,000 in fiscal year 2008; and
“(vi) $5,000,000 in fiscal year 2009;

“(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

“(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

“(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

“(3) UNIVERSITY CENTERS PROGRAM.—

“(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

“(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

“(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

“(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

“(A) $839,829,000 for fiscal year 2005;
“(B) $882,075,000 for fiscal year 2006;
“(C) $932,064,000 for fiscal year 2007;
“(D) $1,018,474,000 for fiscal year 2008; and
“(E) $1,109,739,000 for fiscal year 2009.

“(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

“(1) $1,461,072,000 for fiscal year 2005;
“(2) $1,534,568,000 for fiscal year 2006;
“(3) $1,621,536,000 for fiscal year 2007;
“(4) $1,771,866,000 for fiscal year 2008; and
“(5) $1,930,641,000 for fiscal year 2009.

“(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

“(1) $86,500,000 for fiscal year 2005;
“(2) $90,851,000 for fiscal year 2006;
“(3) $96,000,000 for fiscal year 2007;
“(4) $104,900,000 for fiscal year 2008; and
“(5) $114,300,000 for fiscal year 2009.

“(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

“(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

“(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.”.

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

“§5340. Apportionments based on growing States and high density State formula factors

“(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (c).

“(b) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (k) and (*l*).

SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§ 5316. Alternative transportation in parks and public lands

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES. To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other alternative transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in alternative transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

"(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(f) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

"(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

"(g) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would-

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including-

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(i) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

"(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(*l*) REPORTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,265,876,900 for fiscal year 2004;

(2) $8,650,000,000 for fiscal year 2005;

(3) $9,085,123,000 for fiscal year 2006;

(4) $9,600,000,000 for fiscal year 2007;

(5) $10,490,000,000 for fiscal year 2008; and

(6) $11,430,000,000 for fiscal year 2009.

SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 3044. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1101(b) of the Transportation Equity Act of the 21st Century shall apply to all funds authorized or otherwise made available under this title.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

"(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§ 5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

"§ 5574. Intercity bus intermodal passenger facility grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

"§ 5575. Funding

"(a) HIGHWAY ACCOUNT.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

SA 2614. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert in the appropriate place

SECTION 1. TEMPORARY SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL EXPORTERS.

(a) IN GENERAL.—Notwithstanding sections 6416(a)(1) and (c) and 6511 of the Internal Revenue Code of 1986, the amount of any tax imposed on exported coal under section 4121 of such Code shall be refunded to the exporter of such coal and consistent with the requirements of this section and otherwise applicable provisions of such Code.

(b) LIMITATIONS.—

(1) TIME OF FILING.—Subsection (a) shall apply only with respect to amounts of tax for which a return was filed on or after December 28, 1992, and before April 1, 2003.

(2) EXPORTERS RELATED TO PRODUCERS EXCLUDED.—Subsection (a) shall not apply with respect to the amount of tax on any coal if the exporter of such coal is also the producer of such coal—

(A) is related (within the meaning of section 144(a)(3) of such Code) to the producers or seller of such coal, or

(B) has a contract, fee arrangement, or any other agreement with the producer or seller of such coal to sell such coal to a third party on behalf of the producer or seller of such coal.

(c) REQUIREMENTS.—No refund shall be made under this section unless the exporter establishes, through statements, documentation or other evidence—

(1) the amount of the tax imposed under section 4121 of such Code on such coal;

(2) the quarter and year that such tax was required to be remitted or paid by the producer or seller of the coal to the Secretary;

(3) that the amount of such tax was included in the price paid by the exporter for such coal;

(4) that such coal was exported; and

(5) that the exporter—

(A) has not included the tax in the price of such coal and has not collected the amount of such tax from the person who purchased such coal;

(B) has repaid the amount of the tax to the ultimate purchaser of the coal to the making of the refund; or

(C) has filed with the Secretary the written consent of the ultimate purchaser of the coal to the making of the refund.

(d) PRESUMPTION OF PAYMENT.—If the requirements of Subsection (c) are met, it is presumed that the tax was paid or remitted by the exporter to the government, and the exporter shall be treated as the person (and the only person) who paid the tax.

(e) SUNSET.—This section shall not apply to any claim for refund filed after the date which is 1 year after the date of the enactment of this Act.

SA 2615. Ms. LANDRIEU (for herself, Mr. BREAUX, Mrs. LINCOLN, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 39, between lines 22 and 23, insert the following:

(17) FINISH PROGRAM.—For the FINISH program under section 178 of that title, for each of fiscal years 2004 through 2009, an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . FINISH PROGRAM.

(a) IN GENERAL.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. FINISH program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

"(b) ELIGIBLE PROJECTS.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

"(c) APPORTIONMENT.—For each of fiscal years 2004 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

"(1) the estimated amount that may be obligated in the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

"(2) the total estimated amount that may be obligated in the fiscal year for the completion of eligible projects described in subsection (b) in all States.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2004 through 2009, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. FINISH program.".

SA 2616. Mr. INHOFE proposed an amendment to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 39, line 6, strike "$38,000,000" and insert "$50,000,000".

On page 58, line 21, add a period after the closing quotation marks.

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION AND MAINTENANCE.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance

"(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

"(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

"(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

"(A) carry the greatest number of passengers and vehicles;

"(B) carry the greatest number of passengers in passenger-only service; or

"(C) provide critical access to areas that are not well-served by other modes of surface transportation.

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $50,000,000 for each fiscal year to carry out this section.

"(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall be available in advance of an annual appropriation.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

On page 82, line 16, insert "and" after the semicolon.

On page 82, line 18, strike "; and" and insert a period.

On page 82, strike lines 19 through 21.

On page 83, strike line 3.

On page 118, line 3, before "equipment," insert "integrated, interoperable emergency communications,".

On page 120, line 18, after "elements", insert "(including integrated, interoperable emergency communications)".

On page 127, line 23, strike "paragraph (1)" and insert "subsection (c)(1)(D)".

On page 128, strike lines 5 through 20 and insert the following:

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

On page 134, line 25, strike "be available" and insert the following: "be—

"(1) available".

On page 135, line 2, strike the first period, the closing quotation marks, and the following period and insert "; and".

On page 135, between lines 2 and 3, insert the following:

"(2) apportioned in accordance with section 104(b)(5).".

On page 147, after the matter following line 24, add the following:

On page 224, line 23, strike "and".

On page 226, line 10, strike "(4)" and insert "(3)".

On page 257, line 12, strike "B" and insert "(B)".

On page 260, strike lines 3 through 9 and insert the following:

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; or

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.".

On page 261, between lines 5 and 6, insert the following:

(c) RESPONSIBILITY OF STATES.—

(1) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under section 149 of title 23, United States Code, have emission reduction strategies for fleets that are—

(A) used in construction projects located in nonattainment and maintenance areas; and

(B) funded under title 23, United States Code.

(2). EMISSION REDUCTION STRATEGIES.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall develop a nonbinding list of emission reduction strategies and supporting technical information for each strategy, including—

(A) contract preferences;

(B) requirements for the use of anti-idling equipment;

(C) diesel retrofits; and

(D) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

(3) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the emission reduction strategies described in paragraph (1).

On page 288, between lines 2 and 3, insert the following:

SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (Division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199)) is repealed.

Beginning on page 321, strike line 7 and all that follows through page 326, line 12 and insert the following:

Secretary.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(ii) by adding at the end the following:

"(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

"(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

"(iii) SELECTION OF PARTICIPATING TRIBES.—

"(I) PARTICIPANTS.—

"(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

"(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

"(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

"(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

"(aa) has successfully completed the planning phase described in subclause (IV);

"(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

"(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

"(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(IV) PLANNING PHASE.—

"(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

"(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

"(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project."; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) Reservation.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) Funding.—

"(i) Authorization of appropriations.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) Availability.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) Approval requirement.—

"(i) In general.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) Construction and construction engineering.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates."; and

(5) by adding at the end the following:

"(f) Administration of Indian Reservation Roads.—

"(1) Contract authority.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

"(2) Health and safety assurances.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.".

(d) Planning and Agency Coordination.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) Use of Funds.—

"(1) In general.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) Contract.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) Indian reservation roads.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) Federal employment.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) Availability of funds.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) Reservation of funds.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) Maintenance of Indian Reservation Roads.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: "Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of $250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.".

On page 387, line 8, strike "I and II" and insert "I, II, and III".

On page 389, between lines 15 and 16, insert the following:

SEC. 1823. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) Establishment.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry and inland ports through and to the interior of the United States.

(b) Eligible Recipients.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) Eligible Activities.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) Other Provisions Regarding Eligibility.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) Selection Criteria.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port;

(3) traverse at least 3 States; and

(4) are identified by section 115(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) Program Priorities.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) Federal Share.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SEC. 1824. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended—

(1) in paragraph (1), by inserting "(except Arizona)" after "each State"; and

(2) in paragraph (5)(A), by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2004 through 2009".

On page 398, strike lines 5 through 11 and insert the following:

further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(H) $2,000,000 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(I) $3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

On page 403, in the matter following line 2, strike the item relating to section 511 and insert the following:

"511. Multistate corridor operations and management.
"512. Transportation analysis simulation system.".

On page 404, line 7, before "communications" insert "integrated, interoperable emergency".

On page 420, line 23, strike "enhanced" and insert "integrated, interoperable emergency".

On page 476, line 18, strike the period and closing quotation marks.

On page 476, between lines 18 and 19, insert the following:

"§512. Transportation analysis simulation system

"(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall continue the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS') developed by the Los Alamos National Laboratory.

"(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph(1), the Secretary shall—

"(A) further improve TRANSIMS to reduce the cost and complexity of using the TRANSIMS;

"(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

"(C) assist State transportation departments and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance.

"(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section—

"(1) to further develop TRANSIMS for additional applications, including—

"(A) congestion analyses;

"(B) major investment studies;

"(C) economic impact analyses;

"(D) alternative analyses;

"(E) freight movement studies;

"(F) emergency evacuation studies;

"(G) port studies; and

"(H) airport access studies;

"(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

"(3) develop methods to simulate the national transportation infrastructure as a single, integrated system for the movement of individuals and goods;

"(4) provide funding to State transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

"(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent shall be allocated for activities described in subsection (b)(3).

"(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for each of fiscal years 2004 through 2009, the Secretary shall use $1,000,000 to carry out this section.

"(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary.".

On page 489, after line 23, add the following:

SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking "Build an" and inserting "Build or integrate an"; and

(II) by striking "$2,000,000" and inserting "$2,500,000"; and

(ii) in the second sentence—

(I) by striking "300,000 and that" and inserting "300,000,"; and

(II) by inserting before the period at the end the following: ", and includes major transportation corridors serving that metropolitan area";

(B) in clause (ii), by striking all that follows "will be" and inserting "reinvested in the intelligent transportation infrastructure system.";

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking "July 1, 2002" and inserting "the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003";

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) The term "follow-on deployment areas" means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Burlington Vermont, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.";

(4) in subparagraph (F)—

(A) by striking "Of the amounts" and inserting the following:

"(i) THIS ACT.—Of the amounts"; and

(B) by adding at the end the following:

"(ii) SAFETEA.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $5,000,000 for each fiscal year to carry out this paragraph.

"(iii) AVAILABILITY; NO REDUCTION OR SETASIDE.—Amounts made available by this subparagraph—

"(I) shall remain available until expended; and

"(II) shall not be subject to any reduction or setaside."; and

(5) by adding at the end the following:

"(H) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary determines that such use is in the public interest.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.".

(b) CONFORMING AMENDMENT.—Section 5204 of the Transportation Equity Act for the 21st Century (112 Stat. 453) is amended by striking subsection (k) (112 Stat. 2681–478).

On page 874, line 22, strike "and".

On page 875, strike lines 3 through 5.

On page 995, line 20, insert "(a) IN GENERAL.—" before "Section".

On page 996, between lines 5 and 6, insert the following:

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended in the first sentence—

(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund"; and

(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2004.

On page 1020, between lines 9 and 10, insert the following:

SEC. 4663. USE OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT FUNDS FOR BOSTON TO PORTLAND PASSENGER RAIL SERVICE.

Notwithstanding any other provision of law, funds authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through December 15, 2006, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

On page 1310, after line 4, add the following:

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 7001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for 1 round trip by such member between 2 locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

TITLE VIII—SOLID WASTE DISPOSAL

SEC. 8001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. 8002. USE OF GRANULAR MINE TAILINGS.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 8001(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) MINE TAILINGS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 8001(b)) is amended by adding after the item relating to section 6005 the following:

"Sec. 6006. Use of granular mine tailings.".

On page 738, strike lines 5 through 12 and insert the following:

motor vehicles that became effective by December 31, 2002.

"(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect

On page 792, between lines 15 and 16, insert the following:

PART 3—MISCELLANEOUS PROVISIONS

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) NATIONAL OFFICE OF DRIVER LICENSING AND EDUCATION.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

"(2) The head of the National Office of Driver Licensing and Education is the Director.

"(3) The functions of the National Office of Driver Licensing and Education are as follows:

"(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

"(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

"(i) vehicle handling and crash avoidance;

"(ii) driver behavior and risk reduction;

"(iii) roadway features and associated safety implications;

"(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

"(v) parent education; and

"(vi) other issues identified by the Director.

“(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

“(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

“(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

“(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

“(G) To provide States with financial assistance under section 412 of title 23 for—

“(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

“(ii) the establishment or improved administration of multistage graduated licensing systems; and

“(iii) the support of other improvements in motor vehicle driver education and licensing programs.

“(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

“(I) To examine different options for delivering driver education in the States.

“(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

“(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).”.

(b) Grant Program for Improvement of Driver Education and Licensing.—

(1) Authority.—

(A) In general.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

“SEC. 412. DRIVER EDUCATION AND LICENSING.

“(a) Authority.—

“(1) In general.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

“(2) Administrative office.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

“(b) Eligibility Requirements.—

“(1) Regulations.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

“(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

“(i) driver licensing and education programs;

“(ii) instructor certification testing; and

“(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

“(B) Improvement of motor vehicle driver education curricula.

“(C) Training of instructors for motor vehicle driver education programs.

“(D) Testing and evaluation of motor vehicle driver performance.

“(E) Public education and outreach regarding motor vehicle driver education and licensing.

“(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

“(2) Consultation requirement.—In prescribing the regulations, the Secretary shall consult with the following:

“(A) The Administrator of the National Highway Traffic Safety Administration.

“(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

“(C) Appropriate officials of the governments of States and political subdivisions of States.

“(D) Other relevant experts.

“(c) Maximum Amount of Grant.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.”.

(B) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“412. Driver education and licensing.”.

(2) Time for promulgation of regulations.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(c) Grant Program for Public Awareness of Organ Donation Through Driver Licensing Programs.—

(1) Authority.—

(A) In general.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

“SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

“(a) Authority.—

“(1) In general.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

“(2) Administrative office.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

“(b) Eligibility Requirements.—

“(1) Regulations.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

“(2) Consultation requirement.—In prescribing the regulations, the Secretary shall consult with the following:

“(A) The Administrator of the National Highway Traffic Safety Administration.

“(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

“(C) Appropriate officials of the governments of States and political subdivisions of States.

“(D) Representatives of private sector organizations recognized for relevant expertise.”.

(B) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“413. Organ donation through driver licensing.”.

(2) Time for promulgation of regulations.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(d) Study of National Driver Education Standards.—

(1) Requirement for study.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) Time for completion of study. The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) Report.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(e) Authorization of Appropriations. Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out sections 412 and 413 of title 23, United States Code (as added by subsections (b) and (c), respectively).

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) Safety Labeling Requirement. Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

“(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

“(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

“(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

“(A) frontal impact crash test ratings are based on risk of head and chest injury;

“(B) side impact crash test ratings are based on risk of chest injury; and

“(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

“(3) is presented in a legible, visible, and prominent fashion and covers at least—

“(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

"(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking "and" after the semicolon; and

(2) in subsection (f)—

(A) by adding "and" at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2005, if the regulations under subsection (b) are prescribed not later than August 31, 2004; or

(2) September 1, 2006, if the regulations under subsection (b) are prescribed after August 31, 2004.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39. Traffic signal preemption transmitters

"(a) OFFENSES.—

"(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

"(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

"(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

Beginning on page 1005, line 22, strike all through page 1020, line 9, and insert the following:

SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the "Build America Corporation". The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a cost-effective alternative for efficiently maximizing mobility of individuals and goods.

(b) Compliance of Beneficiaries With Certain Standards.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) Qualified Project Defined.—In this section—

(1) In general.—Except as provided in paragraph (2), the term "qualified project" means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) Build America Corporation projects.—

(A) In general.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term "qualified project" means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) Qualified highway project.—The term "qualified highway project" means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) Qualified public transportation project.—The term "qualified public transportation project" means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) Congestion relief project.—The term "congestion relief project" means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) Additional requirements for qualified projects.—For purposes of subparagraph (A)—

(i) Costs of qualified projects.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) Applicability of Federal law.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) Utilization of updated construction technology for qualified projects.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

Part 2—Railroad Track Modernization

SEC. 4631. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) Authority.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

"(a) Establishment of Program.—

"(1) Establishment.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

"(A) directly to the class II or class III railroad; or

"(B) with the concurrence of the class II or class III railroad, to a State or local government.

"(2) State cooperation.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

"(3) Regulations.—

"(A) In general.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) Criteria.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

"(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

"(iv) ensure that all such grants are awarded on a competitive basis.

"(b) Maximum Federal Share.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) Project Eligibility.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

"(d) Use of Funds.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

"(e) Additional Purpose.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

"(f) Employee Protection.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) Labor Standards.—

"(1) Prevailing wages.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) Wage rates.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).".

(b) Conforming Amendment.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SEC. 4633. REGULATIONS.

(a) Regulations.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) Interim regulations.—The Secretary shall prescribe the interim regulations to

implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§ 20154. Capital grants for rail line relocation projects

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

"(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

"(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

"(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

"(3) meets the costs-benefits requirement set forth in subsection (c).

"(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

"(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

"(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

"(3) Equitable treatment of the various regions of the United States.

"(e) ALLOCATION REQUIREMENTS.—

"(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

"(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

"(g) STATE SHARE.—

"(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) COSTS NOT SHARED.—

"(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

On page 738, strike lines 5 through 12 and insert the following:

motor vehicles that became effective by December 31, 2002.

"(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect

Beginning on page 1005, line 22, strike all through page 1020, line 9, and insert the following:

SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the "Build America Corporation". The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,
may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a cost-effective alternative for efficiently maximizing mobility of individuals and goods.

(b) Compliance of Beneficiaries With Certain Standards.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) Qualified Project Defined.—In this section—

(1) In general.—Except as provided in paragraph (2), the term "qualified project" means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) Build America Corporation projects.—

(A) In general.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term "qualified project" means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,
proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) Qualified highway project.—The term "qualified highway project" means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) Qualified public transportation project.—The term "qualified public transportation project" means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) Congestion relief project.—The term "congestion relief project" means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) Additional requirements for qualified projects.—For purposes of subparagraph (A)—

(i) Costs of qualified projects.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) Applicability of federal law.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) Utilization of updated construction technology for qualified projects.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

Part 2—Railroad Track Modernization

SEC. 4631. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) Authority.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

"(a) Establishment of Program.—

"(1) Establishment.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

"(A) directly to the class II or class III railroad; or

"(B) with the concurrence of the class II or class III railroad, to a State or local government.

"(2) State cooperation.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

"(3) Regulations.—

"(A) In general.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) Criteria.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

"(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

"(iv) ensure that all such grants are awarded on a competitive basis.

"(b) Maximum Federal Share.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) Project Eligibility.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

"(d) Use of Funds.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

"(e) Additional Purpose.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

"(f) Employee Protection.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) Labor Standards.—

"(1) Prevailing wages.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) Wage rates.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).".

(b) Conforming Amendment.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SEC. 4633. REGULATIONS.

(a) Regulations.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§20154. Capital grants for rail line relocation projects

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

"(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

"(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

"(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

"(3) meets the costs-benefits requirement set forth in subsection (c).

"(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

"(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

"(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

"(3) Equitable treatment of the various regions of the United States.

"(e) ALLOCATION REQUIREMENTS.—

"(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

"(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

"(g) STATE SHARE.—

"(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) COSTS NOT SHARED.—

"(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

On page 389, between lines 15 and 16, insert the following:

SEC. 18 . PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

"(D) PRIORITY PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—Among the pedestrian and bicycle facility enhancement projects under consideration, the Secretary shall urge that a priority be given to those pedestrian and bicycle facility projects that include a coordinated physical or healthy lifestyle program".

On page 1027, strike lines 3 through 18, and insert the following:

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway

Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.".

(h) Highway Trust Fund Expenditures for Highway Use Tax Evasion Projects.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

"(7) Highway use tax evasion projects.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

"(A) for each fiscal year after 2003 to the Internal Revenue Service—

"(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

"(ii) $10,000,000 for Xstars, and

"(iii) $10,000,000 for xfirs, and

"(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.".

On page 1028, lines 3 and 4, strike "paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively." and insert "paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively."

Beginning on page 1062, line 11, strike all through page 1064, line 2, and insert the following:

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) In General.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) Transfers from the trust fund to the highway trust fund.—

"(A) In general.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) Amounts transferred to mass transit account.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) Conforming Amendments.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

On page 1081, between lines 19 and 20, insert the following:

SEC. 5246. ELECTRONIC REPORTING.

(a) In General.—Section 4101(d), as amended by section 5273 of this Act, is amended by adding at the end the following new sentence: "Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) Effective Date.—The amendments made by this section shall apply on October 1, 2004.

On page 1298, strike lines 16 through 24 and insert the following:

Subtitle H—Additional Revenue Provisions

PART I—ADMINISTRATIVE PROVISIONS

SEC. 5672. EXTENSION OF IRS USER FEES.

(a) In General.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) Effective Date.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 5673. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) In General.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 5674. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

PART II—FINANCIAL INSTRUMENTS

SEC. 5675. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) In General.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Stripped Interests in Bond and Preferred Stock Funds, Etc.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) Cross Reference.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) Cross reference.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) Effective Date.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 5676. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) In General.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Application to partnerships and s corporations.—

"(A) In general.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

"(B) Allocations to certain corporate partners.—If a C corporation is a partner in a partnership—

"(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5677. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) In General.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) Indebtedness satisfied by corporate stock or partnership interest.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) Effective Date.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 5678. MODIFICATION OF STRADDLE RULES.

(a) Rules Relating to Identified Straddles.—

(1) In general.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) In general.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) Identified straddle.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) Unrecognized gain.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Special rule for identified straddles.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle."

(4) Conforming amendment.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) Physically Settled Positions.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) Special rules for physically settled positions.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) Repeal of Stock Exception.—

(1) In general.—Section 1092(d)(3) is repealed.

(2) Conforming amendment.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) Repeal of Qualified Covered Call Exception.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

"(I) Termination.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.".

(e) Effective Date.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 5679. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) In General.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) Effective Date.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART III—CORPORATIONS AND PARTNERSHIPS

SEC. 5680. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) In General.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) Liabilities in Excess of Basis.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) Effective Date.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 5681. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) In General.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 5682. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) In General.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) Application of Existing Rules to Other Code Provisions.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) Brother-sister controlled group definition for provisions other than this part.—

"(A) In general.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) Brother-sister controlled group.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) Applicable provision.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5683. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) In General.—Section 754 is repealed.

(b) Adjustment to Basis of Undistributed Partnership Property.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking "**optional**" in the heading.

(c) Adjustment to Basis of Partnership Property.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) Election to Adjust Basis for Transfers Upon Death of Partner.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**optional**" in the heading.

(d) Conforming Amendments.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 761(e)(2) is amended by striking "optional".

(4) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

SEC. 5685. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 5686. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking "AMORTIZE" and inserting "DEDUCT" in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking "AMORTIZATION" and inserting "DEDUCTION" in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

On page 521, strike line 18 and all that follows through the matter following line 18 on page 720, and insert the following:

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2004".

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) UPDATED TERMINOLOGY.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—Section 5301(a) is amended to read as follows:

"(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

SEC. 3004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus and intercity rail portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by striking paragraph (16);

(3) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively;

(4) by striking paragraph (7) and inserting the following:

"(7) MASS TRANSPORTATION.—The term 'mass transportation' means public transportation.

"(8) MOBILITY MANAGEMENT.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(5) by amending paragraph (11), as redesignated, to read as follows:

"(11) PUBLIC TRANSPORTATION.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.";

(6) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking "and" each place it appears and inserting "or"; and

(7) by amending paragraph (17) to read as follows:

"(17) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

"§ 5303. Metropolitan transportation planning

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers the views of the other identified party; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2004 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in accordance with subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(e) Coordination in Multistate Areas.—

"(1) In general.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) Interstate compacts.—States are authorized—

"(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) Lake Tahoe region.—

"(A) Definition.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

"(B) Transportation planning process.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

"(C) Interstate compact.—

"(i) In general.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

"(ii) Involvement of federal land management agencies.—

"(I) Representation.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) Funding.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) Activities.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(f) Coordination of Metropolitan Planning Organizations.—

"(1) Nonattainment areas.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

"(2) Transportation improvements located in multiple metropolitan planning areas.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

"(3) Interregional and interstate project impacts.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

"(4) Coordination with other planning processes.—

"(A) In general.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

"(B) Other considerations.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under this chapter;

"(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iii) recipients of assistance under section 204 of title 23.

"(g) Scope of Planning Process.—

"(1) In general.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

"(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

"(B) increasing the safety of the transportation system for motorized and nonmotorized users;

"(C) increasing the security of the transportation system for motorized and nonmotorized users;

"(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

"(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

"(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

"(G) promoting efficient system management and operation; and

"(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

"(2) Selection of factors.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

"(3) Failure to consider factors.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

"(h) Development of Transportation Plan.—

"(1) In general.—

"(A) Requirement.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

"(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

"(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

"(B) Coordination factors.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

"(C) Financial estimates.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(2) Mitigation activities.—

"(A) In general.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(3) CONTENTS.— A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

“(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

“(B) a financial plan that—

“(i) demonstrates how the adopted transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

“(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

“(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

“(E) proposed transportation and transit enhancement activities.

“(4) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve—

“(i) comparison of transportation plans with State conservation plans or with maps, if available;

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

“(A) approved by the metropolitan planning organization; and

“(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

“(i) PARTICIPATION BY INTERESTED PARTIES.—

“(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

“(A) citizens;

“(B) affected public agencies;

“(C) representatives of public transportation employees;

“(D) freight shippers;

“(E) providers of freight transportation services;

“(F) private providers of transportation;

“(G) representatives of users of public transit;

“(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

“(I) other interested parties.

“(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

“(A) shall be developed in a manner the Secretary determines to be appropriate;

“(B) shall be developed in consultation with all interested parties; and

“(C) shall provide that all interested parties have reasonable opportunities to comment on—

“(i) the process for developing the transportation plan; and

“(ii) the contents of the transportation plan.

“(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

“(A) hold any public meetings at convenient and accessible locations and times;

“(B) employ visualization techniques to describe plans; and

“(C) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT AND UPDATE.—

“(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

“(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

“(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

“(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

“(i) appropriate public involvement;

“(ii) financial planning;

“(iii) transportation conformity analyses; and

“(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

“(2) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

“(3) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

“(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

“(ii) by the designated recipient, in the case of projects under section 5307; and

“(iii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

“(4) PUBLICATION REQUIREMENTS.—

“(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

"(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

"(i) the types of data to be included in the list described in subparagraph (B), including—

"(I) the name, type, purpose, and geocoded location of each project;

"(II) the Federal, State, and local identification numbers assigned to each project;

"(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

"(IV) the status of each project; and

"(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

"(k) TRANSPORTATION MANAGEMENT AREAS.—

"(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—

"(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

"(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

"(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

"(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

"(C) PENALTY FOR FAILING TO CERTIFY.—

"(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

"(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

"(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

"(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

"(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

"§ 5304. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a "Plan") and a statewide transportation improvement program (referred to in this section as a "Program") for all areas of the State subject to section 5303.

"(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

"(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

"(1) coordinate planning under this section with—

"(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

"(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation and efficient use of the existing transportation system.

“(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

“(3) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

“(I) land use management;

“(II) natural resources;

“(III) environmental protection;

“(IV) conservation; and

“(V) historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

“(I) comparison of transportation plans to State conservation plans or maps, if available;

“(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

“(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

“(B) to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A Plan shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

“(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

“(A) demonstrates how the adopted Plan can be implemented;

“(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

“(C) recommends any additional financing strategies for needed projects and programs; and

“(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

“(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

“(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) LISTING OF PROJECTS.—

"(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

"(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

"(C) INDIVIDUAL IDENTIFICATION.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

"(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) FINANCIAL PLAN.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

"(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

"(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

"(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

"(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

"(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

"(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making," after "feasible";

(2) in subsection (b) by striking "5303–5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (*l*), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than 1 State;

"(ii) the portion of the urbanized area includes only 1 State;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.";

(2) by amending paragraph (2) to read as follows:

"(2) SPECIAL RULE FOR FISCAL YEARS 2004 THROUGH 2006—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2004 through 2006, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking "section 5336" and inserting "sections 5336 and 5337".

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end;

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

SEC. 3010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§ 5308. Planning programs

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; or

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

"(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) SUPPLEMENTAL ALLOCATIONS.—

"(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

"(d) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all

States, as shown by the latest available decennial census.

"(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

"(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

"(e) PLANNING CAPACITY BUILDING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the "Program") to support and fund innovative practices and enhancements in transportation planning.

"(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

"(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

"(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

"(ii) to conduct research, disseminate information, and provide technical assistance.

"(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

"(i) expend appropriated funds directly; or

"(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

"(f) GOVERNMENT'S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

"(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

"(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

"(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

"(3) of the remaining amount—

"(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

"(B) 17.28 percent shall be allocated to carry out subsection (b).

"(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.".

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

"5308. Planning programs.".

SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows:

"§ 5309. Capital investment grants".

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking "(1) The Secretary of Transportation may make grants and loans" and inserting the following:

"(1) GRANTS AUTHORIZED.—The Secretary may award grants";

(B) in subparagraph (A), by striking "alternatives analysis related to the development of systems,";

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting ", including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and"; and

(F) in subparagraph (D), as redesignated—

(i) by striking "to support fixed guideway systems"; and

(ii) by striking "dedicated bus and high occupancy vehicle";

(2) by amending paragraph (2) to read as follows:

"(2) GRANTEE REQUIREMENTS.—

"(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

"(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

"(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project."; and

(3) by adding at the end the following:

"(3) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.".

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

"(b) DEFINED TERM.—As used in this section, the term 'alternatives analysis' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

"(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

"(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

"(3) the selection of a locally preferred alternative; and

"(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.".

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

"(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

"(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

"(2) the applicant has, or will have—

"(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

"(B) satisfactory continuing control over the use of the equipment or facilities; and

"(C) the capability and willingness to maintain the equipment or facilities.".

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

"(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—

"(1) FULL FUNDING GRANT AGREEMENT. The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway capital project that—

"(A) is authorized for final design and construction; and

"(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

"(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

"(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

"(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

"(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(C) the direct and indirect costs of relevant alternatives;

"(D) factors such as—

"(i) congestion relief;

"(ii) improved mobility;

"(iii) air pollution;

"(iv) noise pollution;

"(v) energy consumption; and

"(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

"(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

"(F) the cost of suburban sprawl;

"(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

"(H) population density and current transit ridership in the transportation corridor;

"(I) the technical capability of the grant recipient to construct the project;

"(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

"(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

"(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

"(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(ii) existing grant commitments;

"(iii) the degree to which financing sources are dedicated to the proposed purposes;

"(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

"(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(5) PROJECT ADVANCEMENT AND RATINGS.—

"(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

"(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

"(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

"(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

"(8) POLICY GUIDANCE.—

"(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

"(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

"(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

"(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

"(i) invite public comment to the policy guidance published under subparagraph (A); and

"(ii) publish a response to the comments received under clause (i).".

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.— Section 5309(f) is amended to read as follows:

"(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.—

"(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

"(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

"(i) is authorized by law; and

"(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

"(B) CONTENTS.—

"(i) IN GENERAL.—An agreement under this paragraph shall specify—

"(I) the scope of the project to be constructed;

"(II) the estimated net cost of the project;

"(III) the schedule under which the project shall be constructed;

"(IV) the maximum amount of funding to be obtained under this subsection;

"(V) the proposed schedule for obligation of future Federal grants; and

"(VI) the sources of non-Federal funding.

"(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

"(2) SELECTION PROCESS.—

"(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

"(i) based on the results of planning and alternatives analysis;

"(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

"(iii) supported by an acceptable degree of local financial commitment.

"(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

"(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

"(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

"(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

"(iii) determine the degree to which the project will have a positive effect on local economic development;

"(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

"(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

"(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

"(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

"(4) IMPACT REPORT.—

"(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

"(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

"(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal

Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.”.

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

“(C) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies sources of differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

“(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

“(dd) analysis of the consistency of predicted project characteristics with the after data.

“(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

“(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

“(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.”.

(h) FEDERAL SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

“(h) FEDERAL SHARE OF ADJUSTED NET PROJECT COST.—

“(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM FEDERAL SHARE.—

“(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

“(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

“(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

“(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

“(A) an undistributed cash surplus;

“(B) a replacement or depreciation cash fund or reserve; or

“(C) new capital, including any Federal funds that are eligible to be expended for transportation.

“(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

“(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).”.

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (*l*);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (*l*), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

“(i) ALLOCATING AMOUNTS.—

“(1) FISCAL YEAR 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

“(A) $1,315,983,615 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

“(B) $1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

“(C) $603,617,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

“(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

“(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

“(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

“(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

“(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

“(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

“(6) BUS AND BUS FACILITY GRANTS.—

“(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

“(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

“(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.”.

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

“(m) REPORTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

“(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

“(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

“(ii) a recommendation of projects to be funded based on—

“(I) the evaluations and ratings determined under subsection (e) and (f); and

“(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

“(iii) detailed ratings and evaluations on each project recommended for funding.

“(2) TRIENNIAL REPORTS ON PROJECT RATINGS.—

“(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

“(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

“(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

“(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

“(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

“(A) the Committee on Transportation and Infrastructure of the House of Representatives;

“(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

“(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

“(i) estimates made at the time projects are approved for entrance into final design;

“(ii) costs and ridership when the project commences revenue operation; and

“(iii) costs and ridership when the project has been in operation for 2 years.

“(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

“(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

“(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

“(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.”.

SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

“§5310. New freedom for elderly persons and persons with disabilities

“(a) GENERAL AUTHORITY.—

“(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

“(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

“(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(b) ALLOTMENTS AMONG STATES.—

“(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

“(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

“(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

“(A) a private nonprofit organization;

“(B) a public transportation agency or authority; or

“(C) a governmental authority that—

“(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

“(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

“(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

“(c) FEDERAL SHARE.—

“(1) MAXIMUM.—

“(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

“(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

“(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

“(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(d) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

“(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

“(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

“(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(e) STATE PROGRAM OF PROJECTS.—

“(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

“(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

“(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

"(g) Meal Delivery for Homebound Individuals.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(h) Transfers of Facilities and Equipment.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(i) Fares Not Required.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.".

(b) Conforming Amendment.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

"5310. New freedom for elderly persons and persons with disabilities.".

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) Definitions.—Section 5311(a) is amended to read as follows:

"(a) Definitions.—As used in this section, the following definitions shall apply:

"(1) Recipient.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

"(2) Subrecipient.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.".

(b) General Authority.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Grants authorized.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) public transportation capital projects;

"(B) operating costs of equipment and facilities for use in public transportation; and

"(C) the acquisition of public transportation services.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) State program.—

"(A) In general.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

"(B) Submission to secretary.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

"(C) Approval.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State; and

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.";

(4) in paragraph (3), as redesignated—

(A) by striking "(3) The Secretary of Transportation" and inserting the following:

"(3) Rural transportation assistance program.—

"(A) Establishment.—The Secretary";

(B) by striking "make" and inserting "use not more than 2 percent of the amount made available to carry out this section to award"; and

(C) by adding at the end the following:

"(B) Data Collection.—

"(i) Report.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(I) total annual revenue;

"(II) sources of revenue;

"(III) total annual operating costs;

"(IV) total annual capital costs;

"(V) fleet size and type, and related facilities;

"(VI) revenue vehicle miles; and

"(VII) ridership."; and

(5) by adding after paragraph (3) the following:

"(4) Of the amount made available to carry out paragraph (3)—

"(A) not more than 15 percent may be used to carry out projects of a national scope; and

"(B) any amounts not used under subparagraph (A) shall be allocated to the States.".

(c) Apportionments.—Section 5311(c) is amended to read as follows:

"(c) Apportionments.—

"(1) Public transportation on Indian reservations.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

"(A) $6,000,000 for fiscal year 2005.

"(B) $8,000,000 for fiscal year 2006.

"(C) $10,000,000 for fiscal year 2007.

"(D) $12,000,000 for fiscal year 2008.

"(E) $15,000,000 for fiscal year 2009.

"(2) Remaining amounts.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

"(3) Apportionments based on land area in nonurbanized areas.—

"(A) In general.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) Maximum apportionment.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(4) Apportionments based on population in nonurbanized areas.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.".

(d) Use for Administrative, Planning, and Technical Assistance.—Section 5311(e) is amended—

(1) by striking "and Technical Assistance.—(1) The Secretary of Transportation" and inserting ", Planning, and Technical Assistance.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) Intercity Bus Transportation.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) In general.—"; and

(B) by striking "after September 30, 1993,"; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) Federal Share of Costs.—Section 5311(g) is amended to read as follows:

"(g) Federal Share of Costs.—

"(1) Maximum federal share.—

"(A) Capital projects.—

"(i) In general.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) Exception.—A State described in section 120(d) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

"(B) Operating assistance.—

"(i) In general.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) Exception.—A State described in section 120(d) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

"(2) Other funding sources.—Funds for a project under this section that are not provided for by a grant under this section—

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) Use of federal grant.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

"(4) Exception.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) Waiver Condition.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking "other agreements" and inserting "other transactions"; and

(B) in paragraph (5), by striking "within the Mass Transit Account of the Highway Trust Fund"; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking "public and private" and inserting "public or private"; and

(B) in paragraph (3), by striking "within the Mass Transit Account of the Highway Trust Fund".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

"§ 5312. Research, development, demonstration, and deployment projects".

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) FEDERAL ASSISTANCE.—"; and

(3) by amending subsection (c) to read as follows:

"(c) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

"§ 5313. Transit cooperative research program".

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program.".

SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA COMPLIANCE.—From";

(C) by amending paragraph (3) to read as follows:

"(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.";

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

"(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

"(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) is an agency of a State or unit of local government.

"(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."; and

(2) by amending subsection (b) to read as follows:

"(b) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit.".

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

"(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, $3,000,000 shall be allocated to carry out this subsection.

"(d) ALTERNATIVE FUELS STUDY.—

"(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

"(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

"(3) CONTENTS.—The study shall consider—

"(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

"(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

"(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

"(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

"(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

"(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives".

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

"§ 5314. National research programs".

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

"5314. National research programs.".

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

"(b) DUTIES.—

"(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security."; and

(2) in subsection (d), by striking "mass" each place it appears.

SEC. 3018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking "ESTABLISHMENT.—The Secretary of Transportation shall establish one facility" and inserting "IN GENERAL.—The Secretary shall maintain 1 facility"; and

(B) by striking "established by renovating" and inserting "maintained at"; and

(2) in subsection (d), by striking "section 5309(m)(1)(C) of this title" and inserting "paragraphs (1)(C) and (2)(B) of section 5309(i)".

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking "5307(k)" and inserting "5307(d)(1)(K)".

SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(2) LIMITATION.—";

(2) by amending subsection (b) to read as follows:

"(b) NOTICE AND PUBLIC HEARING.

"(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

"(A) provided an adequate opportunity for public review and comment on the project;

"(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) considered the economic, social, and environmental effects of the project; and

"(D) found that the project is consistent with official plans for developing the urban area.

"(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.";

(3) by amending subsection (c) to read as follows:

"(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.";

(4) by amending subsection (d) to read as follows:

"(d) CONDITIONS ON BUS TRANSPORTATION SERVICE.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

"(1) CHARTER BUS SERVICE.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

"(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

"(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

"(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

"(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

"(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and

"(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

"(B) EXCEPTION.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to—

"(i) local governments; and

"(ii) social service entities with limited resources.

"(C) IRREGULARLY SCHEDULED EVENTS.—Service, other than commuter service, by a recipient to irregularly scheduled events.

where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

"(2) VIOLATION OF AGREEMENTS.—

"(A) COMPLAINTS.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

"(i) provide a reasonable opportunity for the recipient to respond to the complaint;

"(ii) provide the recipient with an opportunity for an informal hearing; and

"(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

"(B) APPEALS.—

"(i) IN GENERAL.—A decision by the Regional Administrator may be appealed to a panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

"(ii) STANDARD OF REVIEW.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

"(iii) WRITTEN DECISION.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

"(C) CORRECTION.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

"(D) REMEDIES.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

"(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

"(ii) $200,000.

"(3) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

"(A) implement this subsection, as revised by such Act; and

"(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

"(4) PUBLIC NOTICE.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.";

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

"(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(8) by inserting after subsection (e) the following:

"(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

(9) in subsection (g)—

(A) by striking "(f)" each place it appears and inserting "(e)"; and

(B) by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(10) by amending subsection (h) to read as follows:

"(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

"(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(11) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004";

(12) by amending subsection (*l*) to read as follows:

"(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(13) in subsection (m), by inserting at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(14) in subsection (*o*), by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "sections 181 through 188 of title 23"; and

(15) by adding at the end the following:

"(p) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

"§ 5324. Special provisions for capital projects

"(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

"(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

"(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

"(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

"(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

"(C) recent appraisals reflect a rapid increase in the fair market value of the property;

"(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

"(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

"(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

"(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(c) RAILROAD CORRIDOR PRESERVATION.—

"(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

"(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.".

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

"5324. Special provisions for capital projects.".

SEC. 3024. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

"§ 5325. Contract requirements

"(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

"(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

"(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

"(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

"(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

"(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

"(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

"(d) DESIGN-BUILD PROJECTS.—

"(1) DEFINED TERM.—As used in this subsection, the term 'design-build project'—

"(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

"(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

"(e) ROLLING STOCK.—

"(1) ACQUISITION.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(A) with a party selected through a competitive procurement process; or

"(B) based on—

"(i) initial capital costs; or

"(ii) performance, standardization, life cycle costs, and other factors.

"(2) MULTIYEAR CONTRACTS.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

"(f) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

"(g) GRANT PROHIBITION.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

"(h) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

"(i) AWARDS TO RESPONSIBLE CONTRACTORS.—

"(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

"(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

"(A) the integrity of the contractor;

"(B) the contractor's compliance with public policy;

"(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

"(D) the contractor's financial and technical resources.".

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended by striking section 5326.

SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended

(1) in paragraph (11), by striking "and" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91-143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.";

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) OTHER ALLOWABLE USES.—"; and

(B) by inserting "and security" after "safety"; and

(3) in paragraph (3), by striking "(3) The Government shall" and inserting the following:

"(3) FEDERAL SHARE.—Federal funds shall be used to".

SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§5329. Investigation of safety hazards and security risks

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

"(d) PUBLIC TRANSPORTATION SECURITY.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

"(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

"(A) establish national security standards for public transportation agencies;

"(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

"(C) create a method of coordination with public transportation agencies on security matters; and

"(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

"§5330. Withholding amounts for noncompliance with State safety oversight requirements";

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2) may designate"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting ", transportation facilities or infrastructure, or transportation employees" before the period at the end; and

(2) by adding at the end the following:

"(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ", provided that—

"(A) the protective period shall not exceed 4 years; and

"(B) the separation allowance shall not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

"(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.".

SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309–5311 of this title" and all that follows and inserting "5309 through 5311;";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1) of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)".

SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311".

SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

"(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(6) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(7) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(9) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this title" and inserting "subsections (a) and (b) of section 5338";

(10) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(11) by adding at the end the following:

"(k) Small Transit Intensive Cities Factors.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

"(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

"(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

"(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

"(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

"(l) Study on Incentives in Formula Programs.—

"(1) Study.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) Report.—

"(A) In general.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) Contents.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§ 5338. Authorizations

"(a) Fiscal Year 2004.—

"(1) Formula grants.—

"(A) Trust fund.—For fiscal year 2004, $3,053,079,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $763,269,980 for fiscal year 2004 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(v) $3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307; and

"(vi) $49,705,000 shall be available to provide financial assistance for buses and bus facilities under section 5309..

"(2) Job access and reverse commute.—

"(A) Trust fund.—For fiscal year 2004, $99,410,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) General fund.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $24,852,500 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) Capital program grants.—

"(A) Trust fund.—For fiscal year 2004, $2,495,191,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $623,797,750 for fiscal year 2004 to carry out section 5309.

"(4) Planning.—

"(A) Trust fund.—For fiscal year 2004, $58,254,260 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $14,315,040 for fiscal year 2004 to carry out section 5308.

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) Research.—

"(A) Trust fund.—For fiscal year 2004, $41,951,020 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $10,736,280 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) Allocation of funds.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,219,025 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,201,325 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) University transportation research.—

"(A) Trust fund.—For fiscal year 2004, $4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

"(B) General fund.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) $1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2004;

"(ii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

"(iii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

"(C) Special rule.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

"(7) Administration.—

"(A) Trust fund.—For fiscal year 2004, $60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

"(B) General fund.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $15,010,910 for fiscal year 2004 to carry out section 5334.

"(8) Grants as contractual obligations.—

"(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.".

"(b) FORMULA GRANTS AND RESEARCH.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

"(A) $6,262,600,000 for fiscal year 2005;

"(B) $6,577,629,000 for fiscal year 2006;

"(C) $6,950,400,000 for fiscal year 2007;

"(D) $7,594,760,000 for fiscal year 2008; and

"(E) $8,275,320,000 for fiscal year 2009.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

"(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

"(B) 1.75 percent shall be available to carry out section 5308;

"(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

"(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

"(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

"(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

"(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

"(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

"(H) $25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

"(I) there shall be available to carry out section 5335—

"(i) $3,700,000 in fiscal year 2005;

"(iii) $3,900,000 in fiscal year 2006;

"(iv) $4,200,000 in fiscal year 2007;

"(v) $4,600,000 in fiscal year 2008; and

"(vi) $5,000,000 in fiscal year 2009;

"(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

"(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

"(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

"(3) UNIVERSITY CENTERS PROGRAM.—

"(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

"(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

"(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

"(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

"(A) $839,829,000 for fiscal year 2005;

"(B) $882,075,000 for fiscal year 2006;

"(C) $932,064,000 for fiscal year 2007;

"(D) $1,018,474,000 for fiscal year 2008; and

"(E) $1,109,739,000 for fiscal year 2009.

"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

"(1) $1,461,072,000 for fiscal year 2005;

"(2) $1,534,568,000 for fiscal year 2006;

"(3) $1,621,536,000 for fiscal year 2007;

"(4) $1,771,866,000 for fiscal year 2008; and

"(5) $1,930,641,000 for fiscal year 2009.

"(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(1) $86,500,000 for fiscal year 2005;

"(2) $90,851,000 for fiscal year 2006;

"(3) $96,000,000 for fiscal year 2007;

"(4) $104,900,000 for fiscal year 2008; and

"(5) $114,300,000 for fiscal year 2009.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.".

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

"§ 5340. Apportionments based on growing States and high density State formula factors

"(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (c).

"(b) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (k) and (*l*).

SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§5316. Alternative transportation in parks and public lands

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other alternative transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in alternative transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

"(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(f) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

"(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

"(g) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would—

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including—

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(i) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

"(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) Coordination of Research and Deployment of New Technologies.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) Innovative Financing.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(*l*) Reports.—

"(1) In general.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) Annual and supplemental reports.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) Conforming Amendments.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,265,876,900 for fiscal year 2004;

(2) $8,650,000,000 for fiscal year 2005;

(3) $9,085,123,000 for fiscal year 2006;

(4) $9,600,000,000 for fiscal year 2007;

(5) $10,490,000,000 for fiscal year 2008; and

(6) $11,430,000,000 for fiscal year 2009.

SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) In General.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) Fixed Guideway Modernization Adjustment.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 3044. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1101(b) of the Transportation Equity Act of the 21st Century shall apply to all funds authorized or otherwise made available under this title.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

(a) In General.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

"(a) Development and Enhancement of Intermodal Passenger Facilities.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) General Purposes.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§ 5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

"§ 5574. Intercity bus intermodal passenger facility grants

"(a) General Authority.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) Competitive Grant Selection.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) Share of Net Project Costs.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) Regulations.—The Secretary may promulgate such regulations as are necessary to carry out this section.

"§ 5575. Funding

"(a) Highway Account.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

Beginning on page 1309 strike lines 17 thru page 1310 line 1 and insert the following:

(b) MASS TRANSIT CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2004, $7,265,877,000;
(2) for fiscal year 2005, $8,650,000,000;
(3) for fiscal year 2006, $9,085,123,000;
(4) for fiscal year 2007, $9,600,000,000;
(5) for fiscal year 2008, $10,490,000,000 and
(6) for fiscal year 2009, $11,430,000,000.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, February 26 at 2:30 p.m., in 366 Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Susan Johnson Grant, to be Chief Financial Officer, Department of Energy.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224-1327.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, February 12, 2004, at 10 a.m., to conduct an oversight hearing on the semi-annual monetary policy report of the Federal Reserve.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 12 at 10 a.m. to consider the President's fiscal year 2005 budget for the Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, February 12, 2004, at 2 p.m., in 215 Dirksen Senate Office Building, to hear testimony concerning the Revenue Proposals in the President's fiscal year 2005 Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 12, 2004 at 9:30 a.m. to hold a hearing on the State Department: Policy/Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 12, 2004 at 2:30 p.m. to hold a hearing on Trade and Human Rights U.S./Vietnam.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, February 12, 2004, at 9:30 a.m. in Dirksen Senate Building Room 226.

Agenda

I. Nominations

William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit, Raymond W. Gruender to be U.S. Circuit Judge for the Eighth Circuit, Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit, Judith C. Herrera to be United States District Judge for the District of New Mexico, F. Dennis Saylor to be United States District Judge for the District of Massachusetts, Sandra L. Townes to be United States District Judge for the Eastern District of New York, Louis Guirola, Jr. to be United States District Judge for the Southern District of Mississippi, Virginia E. Hopkins to be United States District Judge for the Northern District of Alabama, Kenneth M. Karas to be United States District Judge for the Southern District of New York, Michele M. Leonhart to be Deputy Administrator of Drug Enforcement, and Domingo S. Herraiz to be Director of the Bureau of Justice Assistance, United States Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled, "The President's FY2005 Budget Request for the SBA" on Thursday, February 12, 2004, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 12, 2004 at 2:30 p.m. to hold a closed Business Meeting.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration, Border Security and Citizenship be authorized to meet to conduct a hearing on "Evaluating a Temporary Guest Worker Proposal" on Thursday, February 12, 2004 at 2:30 p.m. in Dirksen 226.

Witness List

Panel I: The Honorable Asa Hutchinson, Undersecretary for Border and Transportation Security Directorate, Department of Homeland Security, Washington, DC; The Honorable Eduardo Aguirre, Director, U.S. Citizenship and Immigration Services, Department of Homeland Security, Washington, DC; The Honorable Steven J. Law, Deputy Secretary, Department of Labor, Washington, DC.

Panel II: Albert C. Zapanta, President, U.S.-Mexico Chamber of Commerce, Washington, DC; Richard R. Birkman, President, Texas Roofing Company, Austin, TX; Dr. Vernon Briggs, Professor of Industrial and Labor Relations, Cornell University, Ithaca, NY; Demetrios Papademetriou, Co-director, Migration Policy Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 12 at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska natives; S. 1466, to facilitate the transfer of land in the state of Alaska, and for other purposes; S. 1649, to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes; and S. 1910, to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Thursday, February 12, 2004, at 9:30 a.m., for a hearing entitled "DOD Contractors Who Cheat on Their Taxes and What Should be Done About It."

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 2061

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of Calendar No. 429, S. 2061, the OB/GYN medical malpractice bill.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003—MOTION TO PROCEED

CLOTURE MOTION

Mr. FRIST. Mr. President, with that objection, I now move to proceed to the consideration of S. 2061, the OB/GYN medical malpractice bill, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 429, S. 2061, a bill to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

Bill Frist, Judd Gregg, Kay Bailey Hutchison, Lisa Murkowski, Susan Collins, Elizabeth Dole, Michael B. Enzi, James Inhofe, John Ensign, Craig Thomas, John Cornyn, Pat Roberts, Sam Brownback, Orrin Hatch, Chuck Grassley, Mitch McConnell, Jon Kyl.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum under rule XXII be waived, and I ask unanimous consent that this vote occur at 5 p.m. on Tuesday, February 24.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENSION FUNDING EQUITY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 3108, the pensions bill, and that the Senate insist upon its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on behalf of the Senate at a ratio of 3 to 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. CHAMBLISS) appointed Mr. GRASSLEY, Mr. GREGG, Mr. MCCONNELL, Mr. BAUCUS, and Mr. KENNEDY conferees on the part of the Senate.

Mr. FRIST. Mr. President, the Senate has been at a standstill since late last month over the pension bill.

It passed on January 28 with an overwhelming 86–9 vote, 2 weeks ago.

Of course, the regular order on a bill of this type would have been to insist on the Senate position and appoint conferees to begin negotiations with the House over the contents of this bill. Normally, this would occur without comment.

Sadly, that has not been the case.

Instead, the Senate has been diverted into an argument over past patterns and practices—how many times a bill has gone to conference, or been preconferenced, or simply agreed to by the other body; or, who has been at what meeting, when, or where. This argument may mean much to a few, but it stands in the way of the many.

The Senate and the House are different institutions, with different rules, different pressures, different Members, and different outlooks. The most reasonable way for them to blend these differences is together, with representatives from both bodies sitting down at a table, reconciling legislation that each house has endorsed as its best idea to resolve pressing national problems.

The pension legislation passed both the House and the Senate with large bipartisan majorities. In the Senate, the legislation was developed over 3 months with bipartisan input from across the ideological and party spectrum. Both leaders, as well as the chairmen and ranking members of the HELP and the Finance Committee, wrote the bill, negotiated with multiple interested members, and spearheaded the legislation to passage.

When it comes to the pension legislation, I have listened carefully to what the minority leader has said. I am gratified by the leader's assurance, given on the floor February 4, that he is "not asking for any predetermined outcome," and that he is "not asking for a certain set of expectations with regard to the legislation itself." Such an expectation on the part of any Member would be a change about how we do our work here.

It is the regular order that we go to conference on this legislation. I have discussed this with the minority leader and will share with my colleagues that I also believe it is the regular order that our Senate conferees, majority and minority, participate in conference deliberations as compromise between the House and Senate is developed.

I certainly can make plain to the minority leader that I will work with my Senate majority colleagues to validate that commitment. We should not be stymied over process when there is so much substance for us to work on as the year progresses.

WASHINGTON'S FAREWELL ADDRESS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the resolution of the Senate of January 24, 1901, on Monday, February 23, 2004, immediately following the prayer, the Pledge of Allegiance to the flag, and disposition of the Journal, the traditional reading of Washington's Farewell Address take place.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate on January 24, 1901, as modified by the order of February 12, 2004, appoints the Senator from Louisiana, Mr. BREAUX, to read Washington's Farewell Address on Monday, February 23, 2004.

The Chair, on behalf of the Democratic Leader, after consultation with the members of the Committee on Health, Education, Labor, and Pensions, and the Committee on Aging, pursuant to Public Law 100-175, as amended by Public Laws 102-375, 103-171, and 106-501, appoints the following individuals as members of the Policy Committee to the White House Conference on Aging:

The Senator from Iowa (Mr. HARKIN) and the Senator from Nevada (Mr. REID).

EXECUTIVE SESSION

NOMINATION OF SAMUEL W. BODMAN TO BE DEPUTY SECRETARY OF THE TREASURY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the nomination of Samuel W. Bodman to be Deputy Secretary of the Treasury, which was reported by the Finance Committee today. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF TREASURY

Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of the Treasury.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

COMMENDING THE CARROLL COLLEGE FIGHTING SAINTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 303, submitted by Senators BURNS and BAUCUS earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant journal clerk read as follows:

A resolution (S. Res. 303) commending the Carroll College Fighting Saints football team for winning the 2003 National Association of Intercollegiate Athletics (NAIA) national football championship game.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAUCUS. Mr. President, I rise today to honor the Carroll College Fighting Saints and to congratulate them on their second consecutive NAIA National Championship.

The Fighting Saints won their second straight NAIA National Championship by defeating Northwestern Oklahoma State University Rangers. And what was the score? 41 to 28.

We were very worried what kind of game this was going to be, and I was just elated when we broke the game open early and just kept the feet to the fire of the other team and we won by a large margin.

Mr. NICKLES. Will the Senator yield?

Mr. BAUCUS. To the Senator from Oklahoma, I am sure this is a very sensitive topic for him and I would be glad to yield to the Senator.

Mr. NICKLES. We have been in mourning over the terrible upset at the hands of—is it the Montana Rangers?

Mr. BAUCUS. Saints.

Mr. NICKLES. Montana Saints. Is that an acronym?

Mr. BAUCUS. Saints generally prevail.

Mr. NICKLES. Mr. President, I did not usually put Montana and saints in the same sentence, but I understand the Montana Saints prevailed and I wish to congratulate the Senator from Montana.

Mr. BAUCUS. I appreciate that. It is the Carroll College Fighting Saints. I might say the University of Montana has won AA national championships a couple of times in the last several years, too. We love football in Montana. I think—I know as much as people in Oklahoma love football, with the Sooners and the great history Oklahoma has had in football.

I might say, too, although the game was magical—it is always magical when you win—magic really did not play a large part in the Fighting Saints' victory. It was just good old-fashioned hard work and teamwork. Coach Van Diest is one very special guy, a Montanan, a real basic down-to-Earth guy who inspires such teamwork, just working together, hard work, making sure nobody takes credit for anything. This is a team game. We all work together to get this done.

When you meet the coach and see the team practice with him, it is very apparent. They are very humble. That is why we were very worried about this game with Oklahoma. We don't take anything for granted. I am so proud of the team.

It is hard work on the football field. It is hard work in the weight room. It is hard work in the classroom. These are great guys, led by a group of very honorable young men through a solid season and an incredible string of 12 playoff games. Mike was one of five coaches to receive the American Football Coaches Association Coach of the Year award, one of five in the Nation, because he is such an inspirational, hard-working, no-nonsense, wonderful guy, representing the high caliber of the team and of Carroll College. We are extremely proud.

I might say, too, I am proud because this is my hometown. The Saints are from a college in Helena, MT. I thank the Saints, thank Coach Van Diest, thank them all for their hard work.

We may give Oklahoma a few points the next time we play them. We wish them well, too.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 303) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 303

Whereas the Carroll College Fighting Saints football team won the 2003 NAIA national championship game and its second straight national championship by defeating the Northwestern Oklahoma State University Rangers by a score of 41 to 28 at the Jim Carroll Stadium in Savannah, Tennessee, on December 20, 2003;

Whereas the Fighting Saints won 15 straight games, going undefeated in the 2003 regular season to win the Frontier Conference Championship and progressing through 4 rounds of playoffs;

Whereas head coach Mike Van Diest led the Fighting Saints to their second straight championship in his fifth season as head coach and was 1 of 5 coaches to receive the American Football Coaches Association Coach of the Year award;

Whereas Fighting Saints quarterback Tyler Emmert was named NAIA Player of the Year and offensive MVP for the championship game;

Whereas wide receiver Mark Gallik was named NAIA Football.net Offensive Player of the Year;

Whereas both Emmert and Gallik were named to the NAIA First Team All-American;

Whereas 2 players were named to the NAIA Second Team All-American—Spencer Schmitz and Marcus Atkinson—and 4 players received NAIA Honorable Mention All-American honors—Regan Mack, Rhett Crites, Nate Chiovaro, and Brett Bermingham;

Whereas 7 Fighting Saints were named as NAIA All-America Scholar Athletes—Kyle Baker, D.J. Dearcorn, Tyler Emmert, Kevin McCutcheon, Matt Peterson, A.J. Porrini, and Zach Zawacki; and

Whereas the Carroll College community, including the Carroll College Athletic Department, students, administration, board of trustees, faculty, and alumni, the city of Helena, and the entire State of Montana, are to be congratulated for their continuous support of the Carroll College football team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Carroll College Fighting Saints football team for winning the 2003 NAIA national championship;

(2) recognizes the achievements of all the players, coaches, support staff, and fans who were instrumental in helping Carroll College during the 2003 season; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to the president of Carroll College.

POVERTY REDUCTION AND PREVENTION ACT

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 414, S. 1786.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant journal clerk read as follows:

A bill (S. 1786) to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Poverty Reduction and Prevention Act".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.

[TITLE I—COMMUNITY SERVICES BLOCK GRANT ACT

[Sec. 101. Purposes.
[Sec. 102. Definitions.
[Sec. 103. Authorization of appropriations.
[Sec. 104. Establishment of program.
[Sec. 105. Use of funds.
[Sec. 106. Application and plan.
[Sec. 107. Designation of eligible entities in underserved areas.
[Sec. 108. Tripartite boards.
[Sec. 109. Training, technical assistance, and other activities.
[Sec. 110. Monitoring.
[Sec. 111. Corrective action; termination and reduction of funding.
[Sec. 112. Fiscal controls, audits, and withholding.
[Sec. 113. Accountability and reporting requirement.
[Sec. 114. Limitations on use of funds.
[Sec. 115. Operational rule.
[Sec. 116. Discretionary authority of the secretary.
[Sec. 117. Community food and nutrition programs.
[Sec. 118. National or regional programs designed to provide instructional activities for low-income youth.
[Sec. 119. Short title and conforming amendments.

[TITLE II—LOW-INCOME HOME ENERGY ASSISTANCE

[Sec. 201. Short title.
[Sec. 202. Reauthorization.
[Sec. 203. Natural disasters and other emergencies.
[Sec. 204. Residential Energy Assistance Challenge option.
[Sec. 205. Report to Congress.

[TITLE III—ASSETS FOR INDEPENDENCE ACT

[Sec. 301. Short title.
[Sec. 302. Reauthorization of the Assets for Independence Act.

[TITLE I—COMMUNITY SERVICES BLOCK GRANT ACT

[SEC. 101. PURPOSES.

[Section 672 of the Community Services Block Grant Act (42 U.S.C. 9901) is amended to read as follows:

["SEC. 672. PURPOSES.

["The purpose of this subtitle is to reduce poverty—

["(1) by strengthening and coordinating local efforts to expand opportunities for individuals and families to become economically self-sufficient and to improve and revitalize the communities in which low-income Americans live, by providing resources to States for support of local eligible entities and their partners to—

["(A) plan, coordinate, and mobilize a broad range of Federal, State, local, and private assistance or investment in such a manner as to use these resources effectively to reduce poverty and in initiatives that are responsive to specific local needs and conditions;

["(B) organize multiple services that meet the needs of low-income families and individuals, especially low-wage workers and their families, and that assist them in developing the assets and skills needed to become self sustaining while ensuring that these services are provided efficiently, in appropriate combinations, and in effective sequence; and

["(C) design and implement comprehensive approaches to assist individuals transitioning from the Temporary Assistance to Needy Families Program to work;

["(2) by improving and revitalizing the communities in which low-income Americans live by providing resources to—

["(A) broaden the financial resource base of initiatives and projects directed to the elimination of poverty and the re-development of the low-income community, including partnerships with non-governmental and governmental institutions to develop the community assets and services that reduce poverty, such as—

["(i) other private, charitable, neighborhood-based, and religious organizations;

["(ii) individual citizens, and businesses, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor; and

["(iii) local government leadership; and

["(B) coordinate or create community-wide assets and services that will have a significant, measurable impact on the causes of poverty in the community and that will help families and individuals to achieve economic self-sufficiency, and test innovative, community-based approaches to attacking the causes and effects of poverty and of community breakdown, including—

["(i) innovative initiatives to prevent and reverse loss of investment, jobs, public services, and infrastructure in low- and moderate-income communities; and

["(ii) innovative partnerships to develop the assets and services that reduce poverty, as provided for in subparagraph (A); and

["(3) by ensuring maximum participation of residents of low-income communities and of members of the groups served by programs under this subtitle in guiding the eligible entities and in their programs funded under this subtitle to ameliorate the particular problems and needs of low-income residents of their communities and to develop the permanent social and economic assets of the low-income community in order to reduce the incidence of poverty.".

[SEC. 102. DEFINITIONS.

[Section 673 of the Community Services Block Grant Act (42 U.S.C. 9902) is amended—

[(1) in paragraph (1)(A)(ii), by striking "or other mechanism"; and

[(2) in paragraph (2)—

[(A) in the first sentence—

[(i) by striking "Office of Management and Budget" and inserting "Department of Health and Human Services"; and

[(ii) by inserting before the period the following: "and increased, as the Secretary determines appropriate, to take into account higher costs-of-living for a State"; and

[(B) by striking the last sentence and inserting the following: "Whenever a State determines that is has served the objectives of the block grant program established under this subtitle, the State may revise the poverty line, while placing a priority in serving those who are most in need, so that 125 percent of the official poverty line is the minimum level that a State shall be permitted to set as its maximum eligibility requirement and 60 percent of the State's median income is the maximum level that a State shall be permitted to set as its maximum eligibility requirement. The State may revise the poverty line only upon a determination that eligible entities are providing, coordinating, or partnering with means-tested support services for low and moderate-income individuals and families above the official poverty line. Nothing in this paragraph shall be construed to prevent eligible entities from continuing to support individuals and families during their transition from program eligibility to achieve specific goals for their economic security and long-term self-sufficiency as long as priority is given to serving the lowest income individuals who seek services.".

[SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

[Section 674 of the Community Services Block Grant Act (42 U.S.C. 9903) is amended—

[(1) in subsection (a), by striking "1999 through 2003" and inserting "2004 through 2009"; and

[(2) in subsection (b)(2)—

[(A) in subparagraph (A), by striking "or associations" and inserting "and associations"; and

[(B) in subparagraph (B)—

[(i) by striking "½ of the remainder" and inserting "not less than ½ of the remainder"; and

[(ii) by striking "evaluation and" and inserting "evaluation and training and technical assistance activities and".

[SEC. 104. ESTABLISHMENT OF PROGRAM.

[Section 675 of the Community Services Block Grant Act (42 U.S.C. 9904) is amended by striking "through the program" and all that follows through the period and inserting "to States for the purpose of ameliorating the causes of poverty and the conditions caused by poverty in their communities.".

[SEC. 105. USE OF FUNDS.

[Section 675C(b) of the Community Services Block Grant Act (42 U.S.C. 9907) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A), by striking "entities in need of such training and assistance" and inserting "eligible entities and their statewide associations that strengthens their managerial or programmatic capabilities to reduce poverty"; and

[(B) by striking subparagraphs (B) through (H), and inserting the following:

["(B) supporting statewide coordination and communication among eligible entities and State-operated or supported programs and services, and other locally-operated programs and services targeted to low-income individuals and their children and families, so as to ensure that local eligible entities' services are integrated in a manner that allows such low-income individual and their families to have access to as many sources of assistance as are appropriate to support their progress to economic stability and self-sufficiency;

["(C) supporting innovative partnerships, programs, and activities conducted by community action agencies and their partners including other community-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization, including asset-building programs for low-income individuals, such as programs supporting individual development accounts, and home or business ownership;

["(D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;

["(E) supporting State charity tax credits as described in subsection (c);

["(F) supporting the identification of exemplary grantee agencies or programs as Centers of Innovation and methodology for disseminating innovative programs and other best practices from those agencies statewide;

["(G) supporting the development of eligible entities' partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners; and

["(H) supporting other activities, consistent with the purposes of this subtitle.";

[(2) in paragraph (2), by adding at the end the following: ". The State shall also ensure that all funds distributed under subsection (a) are not used for excessive administrative expenses and that all funds distributed under such subsection used for salaries by a local entity are fair and equitable. The State has the authority to determine the appropriate level of funds distributed under subsection (a) that an eligible entity shall use for administrative expenses.".

[SEC. 106. APPLICATION AND PLAN.

[Section 676 of the Community Services Block Grant Act (42 U.S.C. 9908) is amended—

[(1) in subsection (b)—

[(A) in the matter preceding paragraph (1), by inserting "for the Secretary's approval" after "to the Secretary";

[(B) by striking paragraphs (1) through (6) and inserting the following:

["(1) an assurance that funds made available through the grant or allotment will be used—

["(A) to support activities directly and through eligible entities that are designed to expand opportunities for and assist low-income individuals and their families (including low-income workers) to become self-sufficient, including low-income workers, families, and individuals receiving assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals—

["(i) to remove obstacles and solve problems that block the achievement of self-sufficiency by organizing and coordinating support for those served under paragraph (3);

["(ii) to secure and retain employment that provides adequate income with essential benefits;

["(iii) to attain an adequate education, with particular attention toward improving literacy and communications and technical skills of the low-income families in the communities involved;

["(iv) to make better use of available income and build household assets;

["(v) to obtain and maintain adequate housing and a suitable living environment;

["(vi) to obtain assistance that is needed to resolve family emergencies and individual needs, to prevent further hardships, and to secure economic independence; and

["(vii) to participate fully in the public affairs and management of their communities and the governance of eligible entities; and

["(B) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts);

["(2) a description of how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community-based initiatives of eligible entities and their partners related to the purposes of this subtitle;

["(3) an assurance that the State has integrated programs of general relevance in its plan, to the extent appropriate to the needs of low-income communities served by the eligible entities, including a description of innovative community and neighborhood-based initiatives such as—

["(A) initiatives with the goal of strengthening families and encouraging effective parenting, including fatherhood initiatives;

["(B) initiatives to assist those moving from welfare to work to obtain jobs at decent wages with benefits, including those low-income individuals and their families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act;

["(C) programs for the establishment of violence-free zones that would involve youth development and intervention models that promote youth success (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs);

["(D) family literacy initiatives;

["(E) initiatives to increase the development of household assets of individuals such as individual development accounts and homeownership opportunities;

["(F) public and private partnerships to foster community development, affordable housing, job creation, and other means of building the assets of low-income communities;

["(G) partnerships with local law enforcement agencies, which may include participation in community policing, and activities to assist community residents and public safety officials in the event of emergencies, including threats to national security;

["(H) initiatives to improve economic conditions and mobilize new resources in rural areas and other at-risk areas to eliminate obstacles to the self sufficiency of families and individuals in those communities;

["(I) initiatives to help reduce the concentration of poverty in cities and inner suburbs and provide economic opportunities for individuals and families in those areas; and

["(J) partnerships with nonprofit or community-based organizations that demonstrate effectiveness in child abuse prevention, including with programs that are school-based and that focus on adolescent victims, and victimizers;

["(4) an assurance that the State will provide information, including—

["(A) a description of the State measurement system and results for the performance goals established under section 678E(a)(1)(C);

["(B) a description of the service delivery system, for services provided or coordinated with funds made available through grants made under section 675C(a), targeted to low-income individuals and families in communities within the State;

["(C) a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations, and to support mobilization of new resources and partnerships;

["(D) a description of how funds made available through grants made under section 675C(a) will be coordinated with other public and private resources; and

["(E) a description of how the local entity will use the funds to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

["(5) an assurance that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

["(6) an assurance that the State has, to avoid duplication of such services, and to ensure that program gaps are addressed, identified and coordinated with eligible entity programs, with State and local agencies, and with programs that assist low-income individuals and their families, including—

["(A) programs carried out under part A of title IV of the Social Security Act, the Workforce Investment Act, and other programs designed to coordinate work-related supportive services for families;

["(B) programs for expanding housing opportunities, reducing homelessness, and developing community investment projects;

["(C) education programs, including those for preschool and school-aged children and for adults to obtain an adequate education; and

["(D) programs designed to support youth, the homeless, migrants, senior citizens, and individuals with disabilities, including programs under the Low-Income Home Energy Assistance Act of 1981;";

[(C) in paragraph (12), by striking "not later than fiscal year 2001" and inserting "annually";

[(D) in paragraph (13), by striking the period and inserting "in sufficient detail to permit verification; and";

[(E) by adding at the end the following:

["(14) beginning with fiscal year 2006, and in each fiscal year thereafter, an assurance that the State is using the procedures described in section 678B(b) to monitor eligible entities."; and

[(2) by striking subsection (f).

[SEC. 107. DESIGNATION OF ELIGIBLE ENTITIES IN UNDERSERVED AREAS.

[Section 676A(b) of the Community Services Block Grant Act (42 U.S.C. 9909(b)) is amended by adding at the end the following: "In granting such designation, the State shall deem private nonprofit eligible entities that are providing related services in the unserved area to be of demonstrated effectiveness, consistent with the needs identified by a community needs assessment.".

[SEC. 108. TRIPARTITE BOARDS.

[Section 676B(b) of the Community Services Block Grant Act (42 U.S.C. 9910(b)) is amended—

[(1) by striking "through—" and all that follows through "a tripartite" in paragraph (1) and inserting "through a tripartite";

[(2) by striking paragraph (2);

[(3) in subparagraph (C), by striking "; or" and inserting a period; and

[(4) by redesignating subparagraphs (A) through (C) as paragraph (1) through (3), respectively and realigning the margins of such paragraphs accordingly.

[SEC. 109. TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.

[Section 678A of the Community Services Block Grant Act (42 U.S.C. 9913) is amended—

[(1) in subsection (a)(1)—

[(A) in subparagraph (A), by striking "corrective action" and all that follows through "; and" and inserting "monitoring and such additional corrective actions as may be needed to strengthen the management and programmatic practices of eligible entities;";

[(B) by striking subparagraph (B) and inserting the following:

["(B) for State and local performance reporting and program data collection activities related to programs carried out under this subtitle;

[''(C) for the preparation of reports provided for in section 678F;

[''(D) for the development and promulgation of a common State Financial and Organizational Protocol that is required to be used by States under section 678B(b); and

[''(E) to distribute amounts in accordance with subsection (c).'';

[(2) in subsection (b)(2), by striking ''an ongoing procedure for obtaining input from the national and State networks of eligible entities'' and inserting ''a strategic plan for annual technical assistance developed in consultation with the national and State networks of eligible entities regarding their management support needs''; and

[(3) in subsection (c)(1), by striking ''management information'' and all that follows through the period, and inserting ''improving management information and reporting systems, measuring of program results, ensuring responsiveness to identified local needs, and reporting and disseminating successful practices and initiatives''.

[SEC. 110. MONITORING.

[Section 678B of the Community Services Block Grant Act (42 U.S.C. 9914) is amended—

[(1) in the section heading by striking ''**OF ELIGIBLE ENTITIES**'';

[(2) in subsection (a)—

[(A) by striking the subsection heading and inserting ''Monitoring of Eligible Entities'';

[(B) in paragraph (1)—

[(i) by inserting ''biennial'' after ''onsite''; and

[(ii) by striking ''at least once during each 3 year period'';

[(C) by striking paragraph (2);

[(D) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

[(E) in paragraph (2) (as so redesignated), by inserting ''annual'' after ''Follow-up'';

[(3) by redesignating subsections (b) and (c) as subsection (c) and (d), respectively;

[(4) by inserting after subsection (a) the following:

[''(b) Financial and Organizational Assessment Protocol.—Beginning in fiscal year 2006, States shall implement a financial and organizational assessment protocol to monitor and evaluate the compliance of eligible entities with the financial and administrative requirements of this section. Such protocol shall incorporate the fiscal and organizational review procedures and standards appropriate to the management of Federal funds under this subtitle and the governance of the eligible private non-profit corporations or other eligible entities. The Secretary shall require the protocol to be developed jointly by the States and eligible entities and shall assist States in developing appropriate training for personnel monitoring the uses of funds under this subtitle according to the requirements of this section.''; and

[(5) in subsection (d), as so redesignated, strike the last sentence and insert the following: ''The Secretary shall annually submit a report including the results of the evaluations conducted under this subtitle, the State performance reports provided for pursuant to section 678E(a)(1)(C), and other material as provided by section 678E(b)(2) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.''.

[SEC. 111. CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.

[Section 678C of the Community Services Block Grant Act (42 U.S.C. 9915) is amended—

[(1) in subsection (a)—

[(A) in paragraph (4), by striking ''and'' at the end; and

[(B) by striking paragraph (5) and inserting the following:

[''(5) if the eligible entity fails to correct the deficiency, notify the entity—

[''(A) that the State intends to initiate proceedings to terminate the designation of the entity as an eligible entity or to reduce, from the previous year, the proportion of the total funding received by the State under this subtitle that is allocated to the eligible entity;

[''(B) that the eligible entity has the right to a hearing on the record to determine if there is cause for such termination or reduction in funding, as defined in section 676(c), and that the request for a hearing must be made in writing to the State within 30 days of receipt of the notice from the State; and

[''(C) of the legal basis for the proposed termination or reduction in funding, the factual findings on which the proposed termination or reduction in funding is based or a reference to specific findings in another document that form the basis for the proposed termination or reduction in funding (such as a reference to item numbers in an on-site review report or instrument), and citation to any statutory provisions, agreements, regulations, or State plan; and

[''(6) if the eligible entity requests a hearing, conduct a hearing on the record to determine if there is cause for termination or a reduction in funding, as defined in section 676(c).'';

[(2) in subsection (b)—

[(A) by striking ''review such a determination'' and inserting ''review and either approve, or disapprove and reverse, such a determination'';

[(B) by striking ''90 days'' each place that such appears and inserting ''30 days''; and

[(C) by striking ''90th day'' and inserting ''30th day''; and

[(3) in subsection (c), by adding at the end the following: ''The Secretary shall continue to fund an eligible entity, in an amount equal to the same proportion of total funds received by the State under this subtitle as was allocated to the eligible entity the previous year, until the Secretary approves, or disapproves and reverses, the determination of termination or reduction in funding with respect to the State.''.

[SEC. 112. FISCAL CONTROLS, AUDITS, AND WITHHOLDING.

[Section 678D of the Community Services Block Grant Act (42 U.S.C. 9916) is amended—

[(1) in subsection (a)(1)—

[(A) in subparagraph (C), by striking ''and'' at the end;

[(B) by redesignating subparagraph (D) as subparagraph (F); and

[(C) by inserting after subparagraph (C), the following:

[''(D) notwithstanding paragraph (2)(B), beginning in fiscal year 2005, and not less than every 2 years thereafter, each State shall submit to the Secretary a separate audit of the funds appropriated under this subtitle that meets the standards in paragraph (2)(A); and

[''(E) submit full financial reports to the Secretary not later than 6 months following the end of each fiscal year; and''; and

[(2) in subsection (b)(1), by adding at the end the following: ''The Secretary, after providing adequate notice, shall withhold administrative funds described in section 675C(b)(2) from any State that fails to comply with the provisions of sections 678A through 678D(a), and may, after an opportunity for a hearing conducted within the affected State, withhold funds from the State and provide such funds directly to the eligible entities in such State upon a demonstration of the compliance by such entities with the requirements of this subtitle.''

[SEC. 113. ACCOUNTABILITY AND REPORTING REQUIREMENT.

[Section 678E of the Community Services Block Grant Act (42 U.S.C. 9917) is amended to read as follows:

[''SEC. 678E. ACCOUNTABILITY AND REPORTING REQUIREMENTS.

[''(a) State Accountability and Reporting Requirements.—

[''(1) Performance measurement of eligible entities.—

[''(A) In general.—Each State that receives funds under this subtitle shall participate, and shall ensure that all eligible entities in the State participate, in a performance measurement system, which may be a performance measurement system for which the Secretary facilitated development pursuant to subsection (b), or an alternative system that the Secretary is satisfied meets the requirements of subsection (b).

[''(B) Local agencies.—The State may elect to have local agencies that are subcontractors of the eligible entities under this subtitle participate in the performance measurement system. If the State makes that election, references in this section to eligible entities shall be considered to include the local agencies.

[''(C) Performance measurement of states.—Not later than 1 year after the date of enactment of the Poverty Reduction and Prevention Act, the Secretary shall establish, in consultation with States and eligible entities, performance standards for the State administration of block grant funds. Such standards shall include standards relating to—

[''(i) the timeliness of the availability of State plans for public comment as required under section 676(a)(2)(B) and of submission of such plans to the Secretary as required in section 676(b);

[''(ii) the utilization of the financial and organizational assessment protocol established under section 678B(b), including the training and skills of State personnel responsible for such oversight, the completion of annual monitoring, the identification of opportunities for improvement, and the implementation of plans to enhance the management capacity and infrastructure of eligible entities;

[''(iii) the timeliness of the distribution of block grants funds to eligible entities as provided in section 675C(a);

[''(iv) the resources made available for management development at eligible entities, including monitoring, training, and assistance with financial management and program information and assessment systems;

[''(v) the results of State efforts to coordinate eligible entity programs with other State programs for low-income individuals and their families, especially participants in the Temporary Assistance for Needy Families Program and other working families, and to ensure the participation of eligible entities in the development of statewide strategies to reduce poverty; and

[''(vi) the assistance provided to eligible entities in securing private partnerships as required in section 676(b).

[''(2) Annual report.—Each State shall annually prepare and submit to the Secretary a report on the measured performance of the State and the eligible entities in the

State. The State shall include in the report any information collected by the State relating to such performance. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the community services block grant program, including an accounting of funds spent on administrative costs by the State and the eligible entities, funds spent by eligible entities on the direct delivery of local services, and the achievement of national goals established under the procedures described in this section, and shall include information on the number of and characteristics of clients served under this subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State under section 678C(a)(3) during the year covered by the report.

["(b) LOCAL ENTITY ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

["(1) LOCAL ENTITY DETERMINED GOALS.—In order to be designated as an eligible entity and to receive a grant under this subtitle, a grantee shall establish grantee determined goals for reducing poverty in the community, including goals for—

["(A) leveraging community resources;

["(B) fostering coordination of Federal, State, local, private, and other assistance; and

["(C) promoting community involvement.

["(2) DEMONSTRATION THAT GOALS WERE MET.—In order to receive a grant subsequent to the first grant that is provided to an eligible entity following the date of enactment of the Poverty Reduction and Prevention Act, the entity shall demonstrate to the State that substantial progress has been made in meeting the goals of the entity as described in paragraph (1).

["(3) GOALS OR PERFORMANCE MEASURES.—Any specific goals or performance measures, for an individual eligible entity, that are used in any monitoring or review process under this subtitle, shall be—

["(A) determined by the entity;

["(B) agreed on by the State involved and the entity, during the planning process leading to the grant involved; and

["(C) incorporated into the grant agreement between the State and entity for each subsequent award cycle.

["(c) SECRETARY'S ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

["(1) FEDERAL PERFORMANCE MEASUREMENT.—The Secretary shall establish goals for the Department of Health and Human Services Office of Community Services with respect to—

["(A) the timeliness of the distribution of funds under this subtitle, including funds for training and technical assistance;

["(B) the monitoring of States as provided for in section 678D;

["(C) the coordination of other Office of Community Service programs with the activities of States and eligible entities under this subtitle; and

["(D) the full and timely reporting as required in this section.

["(2) LOCAL PERFORMANCE MEASUREMENT.—

["(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall coordinate reporting requirements for all programs of the Department of Health and Human Services that are managed by eligible entities so as to consolidate and reduce the number of reports required relating to individuals, families, and uses of grant funds, specifically funds under the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, child care programs administered by the Department, and health related service programs administered by the Department.

["(B) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, including support for the enhancement of electronic data systems, to States and to eligible entities to enhance their capability to collect and report data for such a system and to aid in their participation in such a system.

["(C) LOCAL ENTITY PERFORMANCE MEASUREMENT SYSTEM.—The Secretary shall assist in the implementation of a local entity performance measurement system, and other voluntary programmatic and results reporting systems, developed by States, eligible entities, and their national associations acting together. The Secretary and the developers of such systems shall ensure that the set of measures are numerous enough to cover the full range of services offered by all local eligible entities. Under such a system, local eligible entities shall only be compelled to collect data on the subset of performance measures that reflect their community-specific programs and services currently adopted. Grantees shall not be required under this subparagraph to alter the collection of data for any reports provided for other programs within the Department of Health and Human Services or other Federal agencies. States shall compile annual Results Oriented Management and Accountability System reports for the Secretary under this subparagraph.

["(3) REPORTING REQUIREMENTS.—For each fiscal year the Secretary shall, directly or by grant or contract, prepare a report containing—

["(A) a summary of the planned use of funds by each State, and the eligible entities in the State, under the community services block grant program, as contained in each State plan submitted pursuant to section 676;

["(B) a description of how funds were actually spent by the State and eligible entities in the State, including a breakdown of funds spent on administrative costs and on the direct delivery of local programs by eligible entities;

["(C) information on the number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and such demographic data on the low-income populations served by eligible entities as is determined by the Secretary to be feasible;

["(D) a comparison of the planned uses of funds for each State and the actual uses of the funds;

["(E) a summary of each State's performance results, and the results for the eligible entities, as collected and submitted by the States in accordance with subsection (a)(2); and

["(F) any additional information that the Secretary considers to be appropriate to carry out this subtitle, if the Secretary informs the States of the need for such additional information and allows a reasonable period of time for the States to collect and provide the information.

["(4) SUBMISSION.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the report described in paragraph (2), and any comments the Secretary may have with respect to such report. The report shall include definitions of direct and administrative costs used by the Department of Health and Human Services for programs funded under this subtitle.

["(5) COSTS.—Of the funds reserved under section 674(b)(3), not more than $500,000 shall be available to carry out the reporting requirements contained in paragraph (3).".

[SEC. 114. LIMITATIONS ON USE OF FUNDS.

[Section 678F(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9918(c)(1)) is amended by inserting "religion," after "race,".

[SEC. 115. OPERATIONAL RULE.

[Section 679(a) of the Community Services Block Grant Act (42 U.S.C. 9920(a)) is amended by inserting "and such organization meets the requirements of this subtitle" before the first period;

[SEC. 116. DISCRETIONARY AUTHORITY OF THE SECRETARY.

[Section 680 of the Community Services Block Grant Act (42 U.S.C. 9921) is amended—

[(1) in subsection (a)—

[(A) in paragraph (2)—

[(i) by redesignating subparagraphs (B) through (E) as subparagraph (D) through (G), respectively;

[(ii) by striking subparagraph (A) and inserting the following:

["(A) ECONOMIC DEVELOPMENT ACTIVITIES.—The Secretary shall make grants described in paragraph (1) on a competitive basis to private, nonprofit organizations that are community development corporations to provide technical and financial assistance for economic development activities, including business, economic, and community development projects, designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities. Such assistance shall include—

["(i) long term loans (up to 15 years) or investments for private business enterprises;

["(ii) providing capital to businesses owned by community development corporations; and

["(iii) marketing and management assistance for businesses providing jobs and business opportunities to low income individuals.

["(B) FEDERAL INTEREST.—

["(i) IN GENERAL.—The Secretary shall establish procedures that permit a grantee who receives funds under a grant to carry out this paragraph, or intangible assets acquired with such funds, to become the sole owner of the funds or assets before the end of the 12-year period beginning at the end of the fiscal year for which the grant is made.

["(ii) CONDITIONS.—To be eligible to become the sole owner, the grantee shall agree—

["(I) to use the funds or assets for the purposes and uses for which the grant was made, or purposes and uses consistent with this subtitle, during and after the 12-year period described in clause (i), whether or not the grantee continues to be supported by Federal funds; and

["(II) that, when the grantee no longer needs the funds or assets for purposes and uses described in subclause (I), the grantee shall request instructions from the Secretary about the disposition of the funds or assets.

["(iii) ENCUMBERING.—The grantee may not encumber the assets without the approval of the Secretary.

["(C) ADMINISTRATIVE REQUIREMENTS.—In a case in which an eligible project under grant made under this section cannot, for good cause, be implemented, the Secretary shall establish a policy to permit the substitution of other eligible projects. Such policy shall require that such project have the same impact area, the same goals, and the same objectives as the original project and outcomes that are substantially the same as the original project.";

[(iii) in subparagraph (E) (as so redesignated), by striking "community" and inserting "service area"; and

[(iv) in subparagraph (G) (as so redesignated), by striking "1 percent" and inserting "2 percent"; and

[(B) in paragraph (3)(B), by striking "community" and inserting "water and waste water"; and

[(C) in paragraph (4), by striking "individual and families" and inserting "individual and their families"; and

[(2) in subsection (c), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions".

[SEC. 117. COMMUNITY FOOD AND NUTRITION PROGRAMS.

[Section 681 of the Community Services Block Grant Act (42 U.S.C. 9922) is amended—

[(1) in subsection (c), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions"; and

[(2) in subsection (d), by striking "1999 through 2003" and inserting "2004 through 2009".

[SEC. 118. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

[Section 682 of the Community Services Block Grant Act (42 U.S.C. 9923) is amended—

[(1) in subsection (b)(2), by striking "or treatment"; and

[(2) in subsection (g), by striking "$15,000,000 for each of fiscal years 1999 through 2003" and inserting "$18,000,000 for each of fiscal years 2004 through 2009".

[SEC. 119. SHORT TITLE AND CONFORMING AMENDMENTS.

[(a) In General.—Section 671 of the Community Services Block Grant Act (42 U.S.C. 9901 note) is amended by striking "Community Services Block Grant Act" and inserting "Poverty Reduction and Prevention Act".

[(b) Conforming Amendments.—

[(1) Community Services Block Grant Act.—The heading for subtitle B of title VI of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

["Subtitle B—Poverty Reduction and Prevention Program".

[(2) Other Provisions of Law.—The following provisions of law are each amended by striking "Community Services Block Grant Act" each place that such appears and inserting "Poverty Reduction and Prevention Act":

[(A) Section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)).

[(B) Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

[(C) Section 201A(7) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501(7)).

[(D) Section 172(13) of the Program for Investment in Microentrepreneurs Act of 1999 (15 U.S.C. 6901(13)).

[(E) Sections 201(b)(3), 435(o)(1)(A)(ii), and 435(o)(1)(B)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1021(b)(3), 1085(o)(1)(A)(ii), and 1085(o)(1)(B)(ii)).

[(F) Section 131(b)(2) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2351(b)(2)).

[(G) Section 9109(33) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(33)).

[(H) Section 231(a)(2) of the Museum and Library Services Act (20 U.S.C. 9141(a)(2)).

[(I) Sections 101(36), 112(b)(8)(A)(vii), 121(b)(1)(B)(x), and 501(b)(2)(O) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(36), 2822(b)(8)(A)(vii), and 2841(b)(1)(B)(x), and 20 U.S.C. 9271((b)(2)(O)).

[(J) Section 303(9) of the Early Learning Opportunities Act (20 U.S.C. 9402(9)).

[(K) Sections 6501(4)(B) and 6703(a)(2) of title 31, United States Code.

[(L) Section 549(c)(3)(B)(ii) of title 40, United States Code.

[(M) Section 317M(c)(3)(B)(ii) of the Public Health Service Act (42 U.S.C. 247b-14(c)(3)(B)(ii)).

[(N) Section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

[(O) Sections 102(38), 203(b)(13), 213, 306(a)(6)(C), and 503(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3002(38), 3013(b)(13), 3020d, 3026(a)(6)(C), and 3056a(b)(2)).

[(P) Sections 103(a)(6), 105(b)(2)(A), 211(e)(1), and 421(6) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4953(a)(6), 4955(b)(2)(A), 5011(e)(1), and 5061(6)).

[(Q) Sections 2603(8) and 2607B(e)(2)(B)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622(8) and 8626b(e)(2)(B)(i)).

[(R) Sections 407(b)(2) and 408(a)(1)(C) of the Human Services Reauthorization of 1986 (42 U.S.C. 9812a(b)(2) and 9925(a)(1)(C)).

[(S) Section 630(a) of the Community Economic Development Act of 1981 (42 U.S.C. 9819(a)).

[(T) Sections 158(b) and 178(i)(1) of the National and Community Service Act of 1990 (42 U.S.C. 12618(b) and 12638(i)(1)).

[(U) The 5th unnumbered paragraph (relating to poverty line) of section 30401 of the Community Schools Youth Services and Supervision Grant Program Act of 1994 (42 U.S.C. 13791).

[TITLE II—LOW-INCOME HOME ENERGY ASSISTANCE

[SEC. 201. SHORT TITLE.

[This title may be cited as the "Low-Income Home Energy Assistance Amendments of 2003".

[SEC. 202. REAUTHORIZATION.

[(a) In General.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended in the first sentence by striking "such sums" and all that follows through the period and inserting "and $3,400,000,000 for each of fiscal years 2004 through 2006, and such sums as may be necessary for each fiscal year thereafter.".

[(b) Program Year.—Section 2602(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(c)) is amended by inserting "authorized" after "programs and activities".

[(c) Incentive Program for Leveraging Non-Federal Resources.—Section 2602(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(d)) is amended—

[(1) in paragraph (1), by striking "1994 through 2004" and inserting "2004 through 2010"; and

[(2) in paragraph (2), "1994 through 2004" and inserting "2004 through 2010".

[SEC. 203. NATURAL DISASTERS AND OTHER EMERGENCIES.

[Section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) is amended by adding at the end the following flush sentences:

"Notwithstanding any other provision of this section, for purposes of making determinations under section 2603(1)(C), if the Secretary determines that there is an increase of at least 20 percent in the cost of home energy over the previous 5-year average for a duration of a month or more in one or more States or regions, the Secretary shall declare an energy emergency in the affected area and shall make available funds as provided in this subsection. Notwithstanding any other provision of this section, for purposes of making such determinations, if the Secretary determines that the number of heating degree days or cooling days for a month was more than 100 above the 30-year average in one or more States or regions, the Secretary shall declare an energy emergency in the affected area and shall make available funds as provided in this subsection.".

[SEC. 204. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION.

[(a) Evaluation.—The Comptroller General of the United States shall conduct an evaluation of the Residential Energy Assistance Challenge program described in section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b).

[(b) Report.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

[(1) the findings resulting from the evaluation described in subsection (a); and

[(2) the State evaluations described in paragraphs (1) and (2) of section 2607B(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b(b)).

[SEC. 205. REPORT TO CONGRESS.

[(a) Study.—

[(1) In general.—The Secretary of Health and Human Services shall conduct a study on the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.)

[(2) Requirements.—In conducting the study under subparagraph (A), the Secretary of Health and Human Services shall—

[(A) evaluate the performance of the Low-Income Home Energy Assistance Program, including who the program is serving, the benefits of the program to recipients, and the ability of the program to reduce utility arrearage and shut-offs among low-income households;

[(B) develop a protocol for States to collect information from energy distribution companies, including electric, natural gas, heating oil, and propane companies, concerning the following residential customer statistics—

[(i) the number of accounts certified as eligible for energy assistance;

[(ii) the number of accounts certified as eligible for energy assistance and that are past due;

[(iii) the total revenue owed on accounts eligible for energy assistance and that are past due;

[(iv) the number of disconnection notices issued on accounts eligible for energy assistance;

[(v) the number of disconnections for nonpayment;

[(vi) the number of reconnections;

[(vii) the number of accounts eligible for energy assistance and determined uncollectible; and

[(viii) the energy burden of accounts eligible for energy assistance;

[(C) analyze the public health and safety threats of hypothermia and hyperthermia due to a lack of home heating or home cooling, including mortality, morbidity, and decrease in caloric intake;

[(D) analyze the affect of the standard of housing and housing age on energy costs to low-income households;

[(E) evaluate regional difference in cost-of-living and the ability of low-income families to meet home energy requirements; and

[(F) determine the programmatic impacts of using 60 percent of State median income to determine low-income households.

[(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report containing the results of the study conducted under subsection (a).

[(c) DEFINITION.—In this section, the term "State" means each of the 50 States and the District of Columbia.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal year 2004 and 2005.

[(e) CONTRACTS.—Using amounts appropriated under subsection (d), the Secretary of Health and Human Services may enter into contracts or jointly financed cooperative agreements or interagency agreements with States and public agencies and private nonprofit organizations to conduct the study under subsection (a).

[TITLE III—ASSETS FOR INDEPENDENCE ACT

[SEC. 301. SHORT TITLE.

[This title may be cited as the "Assets for Independence Reauthorization Act".

[SEC. 302. REAUTHORIZATION OF THE ASSETS FOR INDEPENDENCE ACT.

[(a) DEFINITION OF QUALIFIED EXPENSES.—Section 404(8) of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

[(1) in subparagraph (A)—

[(A) in the matter preceding clause (i), by inserting "or to a vendor following approval by a qualified entity upon submission of an approved qualified education purchase plan" before the period; and

[(B) by adding at the end the following:

["(iii) QUALIFIED EDUCATION PURCHASE PLAN.—The term 'qualified education purchase plan' means a document that explains the education item to be purchased which—

["(I) is approved by a qualified entity; and

["(II) includes a description of the good to be purchased.";

[(2) in subparagraph (D), by striking "eligible"; and

[(3) by adding at the end the following:

["(E) SAVING IN IDAS FOR DEPENDENTS.—Amounts paid to an individual development account established for the benefit of a dependent (as such terms is defined for purposes of subparagraph (D)(ii)) of an eligible individual for the purpose of post-secondary education.".

[(b) REPEAL OF PROVISION.—Section 405 of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking subsection (g).

[(c) RESERVE FUND.—Section 407 of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

[(1) in subsection (b)—

[(A) in paragraph (1)—

[(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

[(ii) by inserting before subparagraph (B) (as so redesignated) the following:

["(A) all grant funds provided to the qualified entity from the Secretary for the purpose of the demonstration project as described under subsection (c)(1);" and

[(B) by adding at the end the following:

["(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1)(A) shall be construed to preclude a qualified entity from depositing other demonstration project funds into the Reserve Fund."; and

[(2) in subsection (d), by inserting "the date that is 12 months after" after "upon the".

[(d) USE OF AMOUNTS.—Section 407(c) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by adding at the end the following:

["(4) USE OF NONFEDERAL FUNDS.—

["(A) IN GENERAL.—Notwithstanding paragraph (3), not more than 20 percent of the amount of non-Federal funds committed to a project as matching contributions in accordance with the application submitted by the qualified entity under section 405(c)(4) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).

["(B) PRIORITY.—In awarding grants under section 406(b), the Secretary shall give priority to qualified entities that submit applications that, with respect to the commitment of non-Federal funds under section 5(c)(4), provide assurances that are not to exceed 15 percent of such non-Federal funds will be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).".

[(e) ELIGIBILITY FOR PARTICIPATION.—Section 408(a)(1) of the Assets for Independence Act (42 U.S.C. 604 note) is amended to read as follows:

["(1) INCOME TEST.—The—

["(A) gross income of the household is—

["(i) equal to or less than 200 percent of the poverty line (as determined by the Office of Management and Budget);

["(ii) the earned income amount described in section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household); or

["(iii) equal to or less than 80 percent of the Area Median Income (as determined by the Department of Housing and Urban Development); or

["(B) the modified adjusted gross income of the household for the previous year does not exceed $18,000 for an individual filer, $30,000 for a head of household, or $38,000 for a joint filer.".

[(f) DEPOSITS BY QUALIFIED ENTITIES.—Section 410 of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

[(1) in subsection (a), by striking "qualified entity—" and all that follows through the end and inserting the following: "qualified entity, a matching contribution of not less than $0.50 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of Internal Revenue Code of 1986) deposited in the account and interest earned on that account by a project participant during that period. Matching contributions shall be made—

["(1) from the non-Federal funds described in section 405(c)(4); and

["(2) from the grant made under section 406(b);

"based on a ratio relating to the sources of funds described in paragraph (1) and (2) as determined by the qualified entity.";

[(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

[(3) by inserting after subsection (a), the following:

["(b) USE OF EXCESS INTEREST ON MATCHING FUNDS EARNED ON THE RESERVE FUND.—Interest that accrues on the matching funds earned and held in the Reserve Fund, over and above the interest required to match an individuals deposits and interest earned in the individual development account, shall be used by the qualified entity to fund existing individual development accounts or additional individual development accounts.".

[(g) AUTHORIZATION OF APPROPRIATIONS.—Section 416 of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "and 2003" and inserting "and 2003, $25,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008,".

[(h) APPLICATION OF AMENDMENTS.—In administering the Assets for Independence Act (42 U.S.C. 604 note), the Secretary of Health and Human Services may apply the amendments made by this section to individual account holders and entities that received grants under such Act either before or after the date of enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Poverty Reduction and Prevention Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY SERVICES BLOCK GRANT ACT

Sec. 101. Purposes.
Sec. 102. Definitions.
Sec. 103. Authorization of appropriations.
Sec. 104. Establishment of program.
Sec. 105. Use of funds.
Sec. 106. Application and plan.
Sec. 107. Designation of eligible entities in underserved areas.
Sec. 108. Tripartite boards.
Sec. 109. Training, technical assistance, and other activities.
Sec. 110. Monitoring.
Sec. 111. Corrective action; termination and reduction of funding.
Sec. 112. Fiscal controls, audits, and withholding.
Sec. 113. Accountability and reporting requirement.
Sec. 114. Limitations on use of funds.
Sec. 115. Operational rule.
Sec. 116. Discretionary authority of the Secretary.
Sec. 117. Community food and nutrition programs.
Sec. 118. National or regional programs designed to provide instructional activities for low-income youth.

TITLE II—LOW-INCOME HOME ENERGY ASSISTANCE

Sec. 201. Short title.
Sec. 202. Reauthorization.
Sec. 203. Natural disasters and other emergencies.
Sec. 204. Residential Energy Assistance Challenge option.
Sec. 205. Report to Congress.

TITLE III—ASSETS FOR INDEPENDENCE ACT

Sec. 301. Short title.
Sec. 302. Reauthorization of the Assets for Independence Act.

TITLE I—COMMUNITY SERVICES BLOCK GRANT ACT

SEC. 101. PURPOSES.

Section 672 of the Community Services Block Grant Act (42 U.S.C. 9901) is amended to read as follows:

"SEC. 672. PURPOSES.

"The purpose of this subtitle is to reduce poverty—

"(1) by strengthening and coordinating local efforts to expand opportunities for individuals and families to become economically self-sufficient and to improve and revitalize the communities in which low-income Americans live, by providing resources to States for support of local eligible entities and their partners to—

"(A) plan, coordinate, and mobilize a broad range of Federal, State, local, and private assistance or investment in such a manner as to use these resources effectively to reduce poverty and in initiatives that are responsive to specific local needs and conditions;

"(B) organize multiple services that meet the needs of low-income families and individuals, especially low-wage workers and their families, and that assist them in developing the assets and skills needed to become self sustaining while ensuring that these services are provided efficiently, in appropriate combinations, and in effective sequence; and

"(C) design and implement comprehensive approaches to assist individuals transitioning from the program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to work;

"(2) by improving and revitalizing the communities in which low-income Americans live by providing resources to—

"(A) broaden the financial resource base of initiatives and projects directed to the elimination of poverty and the re-development of the low-income community, including partnerships with non-governmental and governmental institutions to develop the community assets and services that reduce poverty, such as—

"(i) other private, charitable, neighborhood-based, and religious organizations;

"(ii) individual citizens, and businesses, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor; and

"(iii) local government leadership; and

"(B) coordinate or create community-wide assets and services that will have a significant, measurable impact on the causes of poverty in the community and that will help families and individuals to achieve economic self-sufficiency, and test innovative, community-based approaches to attacking the causes and effects of poverty and of community breakdown, including—

"(i) innovative initiatives to prevent and reverse loss of investment, jobs, public services, and infrastructure in low- and moderate-income communities; and

"(ii) innovative partnerships to develop the assets and services that reduce poverty, as provided for in subparagraph (A); and

"(3) by ensuring maximum participation of residents of low-income communities and of members of the groups served by programs under this subtitle in guiding the eligible entities and in their programs funded under this subtitle to ameliorate the particular problems and needs of low-income residents of their communities and to develop the permanent social and economic assets of the low-income community in order to reduce the incidence of poverty.".

SEC. 102. DEFINITIONS.

Section 673 of the Community Services Block Grant Act (42 U.S.C. 9902) is amended—

(1) in paragraph (1)(A)(ii), by striking "or other mechanism"; and

(2) in paragraph (2)—

(A) in the first sentence—

(i) by striking "Office of Management and Budget" and inserting "Department of Health and Human Services"; and

(ii) by inserting before the period the following: "and increased, as the Secretary determines appropriate, to take into account higher costs-of-living for a State"; and

(B) by striking the last sentence and inserting the following: "Whenever a State determines that it has served the objectives of the block grant program established under this subtitle, the State may revise the poverty line, while placing a priority in serving those who are most in need, so that 125 percent of the official poverty line is the minimum level that a State shall be permitted to set as its maximum eligibility requirement and 60 percent of the State's median income is the maximum level that a State shall be permitted to set as its maximum eligibility requirement. The State may revise the poverty line only upon a determination that eligible entities are providing, coordinating, or partnering with means-tested support services for low and moderate-income individuals and families above the official poverty line. Nothing in this paragraph shall be construed to prevent eligible entities from continuing to support individuals and families during their transition from program eligibility to achieve specific goals for their economic security and long-term self-sufficiency as long as priority is given to serving the lowest income individuals who seek services.".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 674 of the Community Services Block Grant Act (42 U.S.C. 9903) is amended—

(1) in subsection (a), by striking "1999 through 2003" and inserting "2004 through 2009"; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking "or associations" and inserting "and associations"; and

(B) in subparagraph (B)—

(i) by striking "½ of the remainder" and inserting "not less than ½ of the remainder"; and

(ii) by striking "evaluation and" and inserting "evaluation and training and technical assistance activities and".

SEC. 104. ESTABLISHMENT OF PROGRAM.

Section 675 of the Community Services Block Grant Act (42 U.S.C. 9904) is amended by striking "through the program" and all that follows through the period and inserting "to States for the purpose of ameliorating the causes of poverty and the conditions caused by poverty in their communities.".

SEC. 105. USE OF FUNDS.

Section 675C(b) of the Community Services Block Grant Act (42 U.S.C. 9907(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "entities in need of such training and assistance" and inserting "eligible entities and their statewide associations that strengthens their managerial or programmatic capabilities to reduce poverty"; and

(B) by striking subparagraphs (B) through (H) and inserting the following:

"(B) supporting statewide coordination and communication among eligible entities and State-operated or supported programs and services, and other locally-operated programs and services targeted to low-income individuals and their children and families, so as to ensure that local eligible entities' services are integrated in a manner that allows such low-income individual and their families to have access to as many sources of assistance as are appropriate to support their progress to economic stability and self-sufficiency;

"(C) supporting innovative partnerships, programs, and activities conducted by community action agencies and their partners including other community-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization, including asset-building programs for low-income individuals, such as programs supporting individual development accounts, and home or business ownership;

"(D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;

"(E) supporting State charity tax credits as described in subsection (c);

"(F) supporting the identification of exemplary eligible entities or programs as Centers of Innovation and methodology for disseminating innovative programs and other best practices from those agencies statewide;

"(G) supporting the development of eligible entities' partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners; and

"(H) supporting other activities, consistent with the purposes of this subtitle."; and

(2) in paragraph (2), by adding at the end the following: "The State shall also ensure that all funds distributed under subsection (a) are not used for excessive administrative expenses and that all funds distributed under such subsection used for salaries by a local entity are fair and equitable. The State has the authority to determine the appropriate level of funds distributed under subsection (a) that an eligible entity shall use for administrative expenses.".

SEC. 106. APPLICATION AND PLAN.

Section 676 of the Community Services Block Grant Act (42 U.S.C. 9908) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "for the Secretary's approval" after "to the Secretary";

(B) by striking paragraphs (1) through (6) and inserting the following:

"(1) an assurance that funds made available through the grant or allotment will be used—

"(A) to support activities directly and through eligible entities that are designed to expand opportunities for and assist low-income individuals and their families (including low-income workers) to become self-sufficient, including low-income workers, families, and individuals receiving assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals—

"(i) to remove obstacles and solve problems that block the achievement of self-sufficiency by organizing and coordinating support for those served under paragraph (3);

"(ii) to secure and retain employment that provides adequate income with essential benefits;

"(iii) to attain an adequate education, with particular attention toward improving literacy and communications and technical skills of the low-income families in the communities involved;

"(iv) to make better use of available income and build household assets;

"(v) to obtain and maintain adequate housing and a suitable living environment;

"(vi) to obtain assistance that is needed to resolve family emergencies and individual needs, to prevent further hardships, and to secure economic independence; and

"(vii) to participate fully in the public affairs and management of their communities and the governance of eligible entities; and

"(B) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts);

"(2) a description of how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community-based initiatives of eligible entities and their partners related to the purposes of this subtitle;

"(3) an assurance that the State has integrated programs of general relevance in its plan, to the extent appropriate to the needs of low-income communities served by the eligible entities, including a description of innovative community and neighborhood-based initiatives such as—

"(A) initiatives with the goal of strengthening families and encouraging effective parenting, including fatherhood initiatives;

"(B) initiatives to assist those moving from welfare to work to obtain jobs at decent wages with benefits, including those low-income individuals and their families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(C) programs for the establishment of violence-free zones that would involve youth development and intervention models that promote youth success (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs);

"(D) family literacy initiatives;

"(E) initiatives to increase the development of household assets of individuals such as individual development accounts and homeownership opportunities;

"(F) public and private partnerships to foster community development, affordable housing, job creation, and other means of building the assets of low-income communities;

"(G) partnerships with local law enforcement agencies, which may include participation in community policing, and activities to assist community residents and public safety officials in the event of emergencies, including threats to national security;

"(H) initiatives to improve economic conditions and mobilize new resources in rural areas and other at-risk areas to eliminate obstacles to the self sufficiency of families and individuals in those communities;

"(I) initiatives to help reduce the concentration of poverty in cities and inner suburbs and provide economic opportunities for individuals and families in those areas; and

"(J) partnerships with nonprofit or community-based organizations that demonstrate effectiveness in child abuse prevention, including with programs that are school-based and that focus on adolescent victims, and victimizers;

"(4) an assurance that the State will provide information, including—

"(A) a description of the State measurement system and results for the performance goals established under section 678E(a)(1)(C);

"(B) a description of the service delivery system, for services provided or coordinated with funds made available through grants made under section 675C(a), targeted to low-income individuals and families in communities within the State;

"(C) a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations, and to support mobilization of new resources and partnerships;

"(D) a description of how funds made available through grants made under section 675C(a) will be coordinated with other public and private resources; and

"(E) a description of how the local entity will use the funds to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

"(5) an assurance that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

"(6) an assurance that the State has, to avoid duplication of such services, and to ensure that program gaps are addressed, identified and coordinated with eligible entity programs, with State and local agencies, and with programs that assist low-income individuals and their families, including—

"(A) programs carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), and other programs designed to coordinate work-related supportive services for families;

"(B) programs for expanding housing opportunities, reducing homelessness, and developing community investment projects;

"(C) education programs, including those for preschool and school-aged children and for adults to obtain an adequate education; and

"(D) programs designed to support youth, the homeless, migrants, senior citizens, and individuals with disabilities, including programs under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);";

(C) in paragraph (12)—

(i) by striking "not later than fiscal year 2001" and inserting "annually"; and

(ii) by striking "and" at the end;

(D) in paragraph (13), by striking the period and inserting "in sufficient detail to permit verification; and"; and

(E) by adding at the end the following:

"(14) beginning with fiscal year 2006, and in each fiscal year thereafter, an assurance that the State is using the procedures described in section 678B(b) to monitor eligible entities."; and

(2) by striking subsection (f).

SEC. 107. DESIGNATION OF ELIGIBLE ENTITIES IN UNDERSERVED AREAS.

Section 676A(b) of the Community Services Block Grant Act (42 U.S.C. 9909(b)) is amended by adding at the end the following: "In granting such designation, the State shall deem private nonprofit eligible entities that are providing related services in the unserved area to be of demonstrated effectiveness, consistent with the needs identified by a community needs assessment.".

SEC. 108. TRIPARTITE BOARDS.

Section 676B(b) of the Community Services Block Grant Act (42 U.S.C. 9910(b)) is amended—

(1) by striking "through—" and all that follows through "a tripartite" in paragraph (1) and inserting "through a tripartite";

(2) by striking paragraph (2);

(3) in subparagraph (C), by striking "; or" and inserting a period; and

(4) by redesignating subparagraphs (A) through (C) as paragraph (1) through (3), respectively and realigning the margins of such paragraphs accordingly.

SEC. 109. TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.

Section 678A of the Community Services Block Grant Act (42 U.S.C. 9913) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking "corrective action" and all that follows through "; and" and inserting "monitoring and such additional corrective actions as may be needed to strengthen the management and programmatic practices of eligible entities;"; and

(B) by striking subparagraph (B) and inserting the following:

"(B) for State and local performance reporting and program data collection activities related to programs carried out under this subtitle;

"(C) for the preparation of reports provided for in section 678E;

"(D) for the development and promulgation of a common State Financial and Organizational Protocol that is required to be used by States under section 678B(b); and

"(E) to distribute amounts in accordance with subsection (c).";

(2) in subsection (b)(2), by striking "an ongoing procedure for obtaining input from the national and State networks of eligible entities" and inserting "a strategic plan for annual technical assistance developed in consultation with the national and State networks of eligible entities regarding their management support needs"; and

(3) in subsection (c)(1), by striking "management information" and all that follows through the period, and inserting "improving management information and reporting systems, measuring of program results, ensuring responsiveness to identified local needs, and reporting and disseminating successful practices and initiatives.".

SEC. 110. MONITORING.

Section 678B of the Community Services Block Grant Act (42 U.S.C. 9914) is amended—

(1) in the section heading by striking "**OF ELIGIBLE ENTITIES**"*;*

(2) in subsection (a)—

(A) by striking the subsection heading and inserting "MONITORING OF ELIGIBLE ENTITIES";

(B) in paragraph (1)—

(i) by inserting "biennial" after "onsite"; and

(ii) by striking "at least once during each 3 year period";

(C) by striking paragraph (2);

(D) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(E) in paragraph (2) (as so redesignated), by inserting "annual" after "Followup";

(3) by redesignating subsections (b) and (c) as subsection (c) and (d), respectively;

(4) by inserting after subsection (a) the following:

"(b) FINANCIAL AND ORGANIZATIONAL ASSESSMENT PROTOCOL.—Beginning in fiscal year 2006, States shall implement a financial and organizational assessment protocol to monitor and evaluate the compliance of eligible entities with the financial and administrative requirements of this section. Such protocol shall incorporate the fiscal and organizational review procedures and standards appropriate to the management of Federal funds under this subtitle and the governance of the eligible private non-profit corporations or other eligible entities. The Secretary shall require the protocol to be developed jointly by the States and eligible entities and shall assist States in developing appropriate training for personnel monitoring the uses of funds under this subtitle according to the requirements of this section."; and

(5) in subsection (d), as so redesignated, by striking the last sentence and inserting the following: "The Secretary shall annually submit a report including the results of the evaluations conducted under this subtitle, the State performance reports provided for pursuant to section 678E(a)(1)(C), and other material as provided by section 678E(b)(2) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.".

SEC. 111. CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.

Section 678C of the Community Services Block Grant Act (42 U.S.C. 9915) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking "and" at the end; and

(B) by striking paragraph (5) and inserting the following:

"(5) if the eligible entity fails to correct the deficiency, notify the entity—

"(A) that the State intends to initiate proceedings to terminate the designation of the entity as an eligible entity or to reduce, from the previous year, the proportion of the total funding received by the State under this subtitle that is allocated to the eligible entity;

"(B) that the eligible entity has the right to a hearing on the record to determine if there is cause for such termination or reduction in funding, as defined in section 676(c), and that the request for a hearing must be made in writing to

the State within 30 days of receipt of the notice from the State; and

"(C) of the legal basis for the proposed termination or reduction in funding, the factual findings on which the proposed termination or reduction in funding is based or a reference to specific findings in another document that form the basis for the proposed termination or reduction in funding (such as a reference to item numbers in an on-site review report or instrument), and citation to any statutory provisions, agreements, regulations, or State plan; and

"(6) if the eligible entity requests a hearing, conduct a hearing on the record to determine if there is cause for termination or a reduction in funding, as defined in section 676(c).";

(2) in subsection (b)—

(A) by striking "review such a determination" and inserting "review and either approve, or disapprove and reverse, such a determination";

(B) by striking "90 days" each place that it appears and inserting "30 days"; and

(C) by striking "90th day" and inserting "30th day"; and

(3) in subsection (c), by adding at the end the following: "The Secretary shall continue to fund an eligible entity, in an amount equal to the same proportion of total funds received by the State under this subtitle as was allocated to the eligible entity the previous year, until the Secretary approves, or disapproves and reverses, the determination of termination or reduction in funding with respect to the State.".

SEC. 112. FISCAL CONTROLS, AUDITS, AND WITHHOLDING.

Section 678D of the Community Services Block Grant Act (42 U.S.C. 9916) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (C), by striking "and" at the end;

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C), the following:

"(D) notwithstanding paragraph (2)(B), beginning in fiscal year 2004, and not less than every 4 years thereafter, each State shall submit to the Secretary a separate audit of the funds appropriated under this subtitle that—

"(i) shall apply only to—

"(I) State disbursement of funds to eligible entities;

"(II) use of funds for State administrative expenses; and

"(III) State disbursement of assistance provided under section 680; and

"(ii) shall be funded—

"(I) first, through the funds available for administrative expenses under section 675C(b)(2); and

"(II) second, from any funds received by the State through assistance provided under section 680; and

"(E) submit full financial reports to the Secretary not later than 6 months following the end of each fiscal year; and"; and

(2) in subsection (b)(1), by adding at the end the following: "The Secretary, after providing adequate notice, shall withhold administrative funds described in section 675C(b)(2) from any State that fails to comply with the provisions of sections 678A through 678D(a), and may, after an opportunity for a hearing conducted within the affected State, withhold funds from the State and provide such funds directly to the eligible entities in such State upon a demonstration of the compliance by such entities with the requirements of this subtitle."

SEC. 113. ACCOUNTABILITY AND REPORTING REQUIREMENT.

Section 678E of the Community Services Block Grant Act (42 U.S.C. 9917) is amended to read as follows:

"SEC. 678E. ACCOUNTABILITY AND REPORTING REQUIREMENTS.

"(a) STATE ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) PERFORMANCE MEASUREMENT OF ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—Each State that receives funds under this subtitle shall participate, and shall ensure that all eligible entities in the State participate, in a performance measurement system, which may be a performance measurement system for which the Secretary facilitated development pursuant to subsection (b), or an alternative system that the Secretary is satisfied meets the requirements of subsection (b).

"(B) LOCAL AGENCIES.—The State may elect to have local agencies that are subcontractors of the eligible entities under this subtitle participate in the performance measurement system. If the State makes that election, references in this section to eligible entities shall be considered to include the local agencies.

"(C) PERFORMANCE MEASUREMENT OF STATES.—Not later than 1 year after the date of enactment of the Poverty Reduction and Prevention Act, the Secretary shall establish, in consultation with States and eligible entities, performance standards for the State administration of block grant funds. Such standards shall include standards relating to—

"(i) the timeliness of the availability of State plans for public comment as required under section 676(a)(2)(B) and of submission of such plans to the Secretary as required in section 676(b);

"(ii) the utilization of the financial and organizational assessment protocol established under section 678B(b), including the training and skills of State personnel responsible for such oversight, the completion of annual monitoring, the identification of opportunities for improvement, and the implementation of plans to enhance the management capacity and infrastructure of eligible entities;

"(iii) the timeliness of the distribution of block grants funds to eligible entities as provided in section 675C(a);

"(iv) the resources made available for management development at eligible entities, including monitoring, training, and assistance with financial management and program information and assessment systems;

"(v) the results of State efforts to coordinate eligible entity programs with other State programs for low-income individuals and their families, especially participants in the program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other working families, and to ensure the participation of eligible entities in the development of statewide strategies to reduce poverty; and

"(vi) the assistance provided to eligible entities in securing private partnerships as required in section 676(b).

"(2) ANNUAL REPORT.—Each State shall annually prepare and submit to the Secretary a report on the measured performance of the State and the eligible entities in the State. The State shall include in the report any information collected by the State relating to such performance. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the community services block grant program, including an accounting of funds spent on administrative costs by the State and the eligible entities, funds spent by eligible entities on the direct delivery of local services, and the achievement of national goals established under the procedures described in this section, and shall include information on the number of and characteristics of clients served under this subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State under section 678C(a)(3) during the year covered by the report.

"(b) LOCAL ENTITY ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) LOCAL ENTITY DETERMINED GOALS.—In order to be designated as an eligible entity and to receive a grant under this subtitle, an entity shall establish entity-determined goals for reducing poverty in the community, including goals for—

"(A) leveraging community resources;

"(B) fostering coordination of Federal, State, local, private, and other assistance; and

"(C) promoting community involvement.

"(2) DEMONSTRATION THAT GOALS WERE MET.—In order to receive a grant subsequent to the first grant that is provided to an eligible entity following the date of enactment of the Poverty Reduction and Prevention Act, the entity shall demonstrate to the State that substantial progress has been made in meeting the goals of the entity as described in paragraph (1).

"(3) GOALS OR PERFORMANCE MEASURES.—Any specific goals or performance measures, for an individual eligible entity, that are used in any monitoring or review process under this subtitle, shall be—

"(A) determined by the entity;

"(B) agreed on by the State involved and the entity, during the planning process leading to the grant involved; and

"(C) incorporated into the grant agreement between the State and entity for each subsequent award cycle.

"(4) PROCEDURES.—If the State determines that a failure to meet goals established under this subsection shall be a basis for terminating the designation or reducing the funds of an eligible entity under this subtitle, and determines that an eligible entity has failed to meet the goals, the procedures set forth in section 678C shall apply.

"(c) SECRETARY'S ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) FEDERAL PERFORMANCE MEASUREMENT.—The Secretary shall establish goals for the Department of Health and Human Services Office of Community Services with respect to—

"(A) the timeliness of the distribution of funds under this subtitle, including funds for training and technical assistance;

"(B) the monitoring of States as provided for in section 678D;

"(C) the coordination of other Office of Community Service programs with the activities of States and eligible entities under this subtitle; and

"(D) the full and timely reporting as required in this section.

"(2) LOCAL PERFORMANCE MEASUREMENT.—

"(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall coordinate reporting requirements for all programs of the Department of Health and Human Services that are managed by eligible entities so as to consolidate and reduce the number of reports required relating to individuals, families, and uses of grant funds, specifically funds under the Head Start Act (42 U.S.C. 9831 et seq.), the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), child care programs administered by the Department, and health related service programs administered by the Department.

"(B) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, including support for the enhancement of electronic data systems, to States and to eligible entities to enhance their capability to collect and report data for such a system and to aid in their participation in such a system.

"(C) LOCAL ENTITY PERFORMANCE MEASUREMENT SYSTEM.—The Secretary shall assist in the *implementation of a local entity performance measurement system, and other voluntary programmatic and results reporting systems, developed by States, eligible entities, and their national associations acting together. The Secretary and the developers of such systems shall ensure that the set of measures are numerous enough to cover the full range of services offered by all local eligible entities. Under such a system, local eligible entities shall only be compelled to collect data on the subset of performance measures that reflect their community-specific programs and services currently adopted. Eligible entities shall not be required under this subparagraph to alter the collection of data for any reports provided for other programs within the Department of Health and Human Services or other Federal agencies. States shall compile annual Results Oriented Management and Accountability System reports for the Secretary under this subparagraph.*

"(3) REPORTING REQUIREMENTS.—For each fiscal year the Secretary shall, directly or by grant or contract, prepare a report containing—

"(A) a summary of the planned use of funds by each State, and the eligible entities in the State, under the community services block grant program, as contained in each State plan submitted pursuant to section 676;

"(B) a description of how funds were actually spent by the State and eligible entities in the State, including a breakdown of funds spent on administrative costs and on the direct delivery of local programs by eligible entities;

"(C) information on the number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and such demographic data on the low-income populations served by eligible entities as is determined by the Secretary to be feasible;

"(D) a comparison of the planned uses of funds for each State and the actual uses of the funds;

"(E) a summary of each State's performance results, and the results for the eligible entities, as collected and submitted by the States in accordance with subsection (a)(2); and

"(F) any additional information that the Secretary considers to be appropriate to carry out this subtitle, if the Secretary informs the States of the need for such additional information and allows a reasonable period of time for the States to collect and provide the information.

"(4) SUBMISSION.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the report described in paragraph (2), and any comments the Secretary may have with respect to such report. The report shall include definitions of direct and administrative costs used by the Department of Health and Human Services for programs funded under this subtitle.

"(5) COSTS.—Of the funds reserved under section 674(b)(3), not more than $500,000 shall be available to carry out the reporting requirements contained in paragraph (3).".

SEC. 114. LIMITATIONS ON USE OF FUNDS.

Section 678F(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9918(c)(1)) is amended by inserting "religion," after "race,".

SEC. 115. OPERATIONAL RULE.

Section 679(a) of the Community Services Block Grant Act (42 U.S.C. 9920(a)) is amended by inserting "and such organization meets the requirements of this subtitle" before the first period.

SEC. 116. DISCRETIONARY AUTHORITY OF THE SECRETARY.

Section 680 of the Community Services Block Grant Act (42 U.S.C. 9921) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (B) through (E) as subparagraph (D) through (G), respectively;

(ii) by striking subparagraph (A) and inserting the following:

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—The Secretary shall make grants described in paragraph (1) on a competitive basis to private, nonprofit organizations that are community development corporations to provide technical and financial assistance for economic development activities, including business, economic, and community development projects, designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities. Such assistance shall include—

"(i) long term loans (up to 15 years) or investments for private business enterprises;

"(ii) providing capital to businesses owned by community development corporations; and

"(iii) marketing and management assistance for businesses providing jobs and business opportunities to low-income individuals.

"(B) FEDERAL INTEREST.—

"(i) IN GENERAL.—The Secretary shall establish procedures that permit an eligible entity who receives funds under a grant to carry out this paragraph, or intangible assets acquired with such funds, to become the sole owner of the funds or assets before the end of the 12-year period beginning at the end of the fiscal year for which the grant is made.

"(ii) CONDITIONS.—To be eligible to become the sole owner, the eligible entity shall agree—

"(I) to use the funds or assets for the purposes and uses for which the grant was made, or purposes and uses consistent with this subtitle, during and after the 12-year period described in clause (i), whether or not the eligible entity continues to be supported by Federal funds; and

"(II) that, when the eligible entity no longer needs the funds or assets for purposes and uses described in subclause (I), the eligible entity shall request instructions from the Secretary about the disposition of the funds or assets.

"(iii) ENCUMBERING.—The eligible entity may not encumber the assets without the approval of the Secretary.

"(C) ADMINISTRATIVE REQUIREMENTS.—In a case in which an eligible project under grant made under this section cannot, for good cause, be implemented, the Secretary shall establish a policy to permit the substitution of other eligible projects. Such policy shall require that such project have the same impact area, the same goals, and the same objectives as the original project and outcomes that are substantially the same as the original project.";

(iii) in subparagraph (E) (as so redesignated), by striking "the community" and inserting "the service area"; and

(iv) in subparagraph (G) (as so redesignated), by striking "1 percent" and inserting "2 percent";

(B) in paragraph (3)(B), by striking "community" and inserting "water and waste water"; and

(C) in paragraph (4), by striking "individuals and families" and inserting "individuals and their families"; and

(2) in subsection (c), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions".

SEC. 117. COMMUNITY FOOD AND NUTRITION PROGRAMS.

Section 681 of the Community Services Block Grant Act (42 U.S.C. 9922) is amended—

(1) in subsection (c), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions"; and

(2) in subsection (d), by striking "1999 through 2003" and inserting "2004 through 2009".

SEC. 118. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

Section 682 of the Community Services Block Grant Act (42 U.S.C. 9923) is amended—

(1) in subsection (b)(2), by striking "or treatment"; and

(2) in subsection (g), by striking "$15,000,000 for each of fiscal years 1999 through 2003" and inserting "$18,000,000 for each of fiscal years 2004 through 2009".

TITLE II—LOW-INCOME HOME ENERGY ASSISTANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Low-Income Home Energy Assistance Amendments of 2003".

SEC. 202. REAUTHORIZATION.

(a) IN GENERAL.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended in the first sentence by striking "such sums" and all that follows through the period and inserting "and $3,400,000,000 for each of fiscal years 2004 through 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.".

(b) PROGRAM YEAR.—Section 2602(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(c)) is amended by inserting "authorized" after "programs and activities".

(c) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES.—Section 2602(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(d)) is amended—

(1) in paragraph (1), by striking "1999 through 2004" and inserting "2004 through 2010"; and

(2) in paragraph (2), by striking "1999 through 2004" and inserting "2004 through 2010".

SEC. 203. NATURAL DISASTERS AND OTHER EMERGENCIES.

Section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) is amended by adding at the end the following: "Notwithstanding any other provision of this section, for purposes of making determinations under section 2603(1)(C), if the Secretary determines that there is an increase of at least 20 percent in the cost of home energy over the previous 5-year average for a duration of a month or more in 1 or more States or regions, the Secretary shall declare an energy emergency in the affected area and shall make available funds as provided in this subsection. Notwithstanding any other provision of this section, for purposes of making such determinations, if the Secretary determines that the number of heating degree days or cooling days for a month was more than 100 above the 30-year average in 1 or more States or regions, the Secretary shall declare an energy emergency in the affected area and shall make available funds as provided in this subsection.".

SEC. 204. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION.

(a) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the Residential Energy Assistance Challenge program described in section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

(1) the findings resulting from the evaluation described in subsection (a); and

(2) the State evaluations described in paragraphs (1) and (2) of section 2607B(b) of the

Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b(b)).

SEC. 205. REPORT TO CONGRESS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study on the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.)

(2) REQUIREMENTS.—In conducting the study under subparagraph (A), the Secretary of Health and Human Services shall—

(A) evaluate the performance of the Low-Income Home Energy Assistance Program, including who the program is serving, the benefits of the program to recipients, and the ability of the program to reduce utility arrearage and shutoffs among low-income households;

(B) develop a protocol for States to collect information from energy distribution companies, including electric, natural gas, heating oil, and propane companies, concerning the following residential customer statistics—

(i) the number of accounts certified as eligible for energy assistance;

(ii) the number of accounts certified as eligible for energy assistance and that are past due;

(iii) the total revenue owed on accounts eligible for energy assistance and that are past due;

(iv) the number of disconnection notices issued on accounts eligible for energy assistance;

(v) the number of disconnections for nonpayment;

(vi) the number of reconnections;

(vii) the number of accounts eligible for energy assistance and determined uncollectible; and

(viii) the energy burden of accounts eligible for energy assistance;

(C) analyze the public health and safety threats of hypothermia and hyperthermia due to a lack of home heating or home cooling, including mortality, morbidity, and decrease in caloric intake;

(D) analyze the affect of the standard of housing and housing age on energy costs to low-income households;

(E) evaluate regional difference in cost-of-living and the ability of low-income families to meet home energy requirements; and

(F) determine the programmatic impacts of using 60 percent of State median income to determine low-income households.

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report containing the results of the study conducted under subsection (a).

(c) DEFINITION.—In this section, the term "State" means each of the 50 States and the District of Columbia.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 2004 and 2005.

(e) CONTRACTS.—Using amounts appropriated under subsection (d), the Secretary of Health and Human Services may enter into contracts or jointly financed cooperative agreements or interagency agreements with States and public agencies and private nonprofit organizations to conduct the study under subsection (a).

TITLE III—ASSETS FOR INDEPENDENCE REAUTHORIZATION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "Assets for Independence Reauthorization Act".

SEC. 302. REAUTHORIZATION OF THE ASSETS FOR INDEPENDENCE ACT.

(a) DEFINITION OF QUALIFIED EXPENSES.—Section 404(8) of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting "or to a vendor following approval by a qualified entity upon submission of an approved qualified education purchase plan" before the period; and

(B) by adding at the end the following:

"(iii) QUALIFIED EDUCATION PURCHASE PLAN.—The term 'qualified education purchase plan' means a document that explains the education item to be purchased which—

"(I) is approved by a qualified entity; and

"(II) includes a description of the good to be purchased.";

(2) in subparagraph (D), by striking "eligible"; and

(3) by adding at the end the following:

"(E) SAVING IN IDAS FOR DEPENDENTS.—Amounts paid to an individual development account established for the benefit of a dependent (as such terms is defined for purposes of subparagraph (D)(ii)) of an eligible individual for the purpose of postsecondary education.".

(b) REPEAL OF PROVISION.—Section 405 of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking subsection (g).

(c) RESERVE FUND.—Section 407 of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(ii) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) all grant funds provided to the qualified entity from the Secretary for the purpose of the demonstration project as described under subsection (c)(1);" and

(B) by adding at the end the following:

"(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1)(A) shall be construed to preclude a qualified entity from depositing other demonstration project funds into the Reserve Fund."; and

(2) in subsection (d), by inserting "the date that is 12 months after" after "upon".

(d) USE OF AMOUNTS.—Section 407(c) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by adding at the end the following:

"(4) USE OF NONFEDERAL FUNDS.—

"(A) IN GENERAL.—Notwithstanding paragraph (3), not more than 20 percent of the amount of non-Federal funds committed to a project as matching contributions in accordance with the application submitted by the qualified entity under section 405(c)(4) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).

"(B) PRIORITY.—In awarding grants under section 406(b), the Secretary shall give priority to qualified entities that submit applications that, with respect to the commitment of non-Federal funds under section 405(c)(4), provide assurances that not to exceed 15 percent of such non-Federal funds will be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).".

(e) ELIGIBILITY FOR PARTICIPATION.—Section 408(a)(1) of the Assets for Independence Act (42 U.S.C. 604 note) is amended to read as follows:

"(1) INCOME TEST.—The—

"(A) gross income of the household is equal to or less than—

"(i) 200 percent of the poverty line (as determined by the Secretary of Health and Human Services);

"(ii) the earned income amount described in section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household); or

"(iii) 80 percent of the Area Median Income (as determined by the Department of Housing and Urban Development); or

"(B) the modified adjusted gross income of the household for the previous year does not exceed $18,000 for an individual filer, $30,000 for a head of household, or $38,000 for a joint filer.".

(f) DEPOSITS BY QUALIFIED ENTITIES.—Section 410 of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

(1) in subsection (a), by striking "qualified entity—" and all that follows through the end and inserting the following: "qualified entity, a matching contribution of not less than $0.50 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of Internal Revenue Code of 1986) deposited in the account and interest earned on that account by a project participant during that period. Matching contributions shall be made—

"(1) from the non-Federal funds described in section 405(c)(4); and

"(2) from the grant made under section 406(b), based on a ratio relating to the sources of funds described in paragraph (1) and (2) as determined by the qualified entity, consistent with the requirements of section 407(c).";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(3) by inserting after subsection (a), the following:

"(b) USE OF EXCESS INTEREST ON MATCHING FUNDS EARNED ON THE RESERVE FUND.—Interest that accrues on the matching funds earned and held in the Reserve Fund, over and above the interest required to match an individual's deposits and interest earned in the individual development account, shall be used by the qualified entity to fund existing individual development accounts or additional individual development accounts.".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 416 of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "and 2003," and inserting "and 2003, $25,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008,".

(h) APPLICATION OF AMENDMENTS.—In administering the Assets for Independence Act (42 U.S.C. 604 note), the Secretary of Health and Human Services shall apply—

(1) the amendments made by the Assets for Independence Act Amendments of 2000 to individuals who were individual development account holders, and to entities that received grants, under the Assets for Independence Act either before or after the date of enactment of the Assets for Independence Act Amendments of 2000; and

(2) the amendments made by this section to individuals who were individual development account holders, and to entities that received grants, under the Assets for Independence Act either before or after the date of enactment of this Act.

Mr. FRIST. I ask unanimous consent that the committee amendment be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill was read the third time and passed.

MEASURE READ THE FIRST TIME—S. 2095

Mr. FRIST. I understand that S. 2095, introduced earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant journal clerk read as follows:

A bill (S. 2095) to enhance energy conservation and research and development and to provide for security and diversity in the energy supply for the American people.

Mr. FRIST. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

AUTHORITY TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during this adjournment of the Senate the majority leader or the assistant majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the recess committees be allowed to file reports on Wednesday, February 18, between the hours of 10 a.m. and 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE HOUSE AND SENATE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 361, the adjournment resolution, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 361) was agreed to, as follows:

H. CON. RES. 361

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, February 11, 2004, it stand adjourned until 2 p.m. on Tuesday, February 24, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, February 12, 2004, Friday, February 13, 2004, or Saturday, February 14, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, February 23, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Mr. FRIST. Mr. President, at this juncture, I have several statements and comments I will make. I will be happy to turn to the Democrat leader if he has comments which he wishes to make.

PASSAGE OF S. 1072

Mr. DASCHLE. Mr. President, I commend the majority leader for the efforts we have made in the last 2 weeks to complete our work on the highway bill. This was not an easy task, but I think we can look back with some satisfaction having achieved our goal.

Again, I appreciate the cooperation on both sides in an effort to complete our work. I have no other comments at this point.

CLOSING THE HEALTH CARE GAP OF 2004

Mr. FRIST. Mr. President, I want to spend a few minutes to make some comments on some current issues that occurred over the course of the day and in the news. To begin with, I wish to make a statement on a bill I had the opportunity to introduce earlier today but have not yet taken the opportunity to comment on, a bill entitled Closing the Health Care Gap of 2004.

I was proud to join today with my colleagues, Senator MARY LANDRIEU, Senator THAD COCHRAN, Senator MIKE DEWINE, Senator KIT BOND, Senator JAMES TALENT, Senator JOHN WARNER, and Senator KAY BAILEY HUTCHISON to introduce this bill, Closing the Health Care Gap of 2004. It is a bill that addresses a major problem and a major challenge we have today in health care; that is, health care disparities.

Last year, I outlined the framework for action to combat these health care disparities that plague our Nation's health care system. Since then, we have reached out broadly to a wide range of national leaders and Senate colleagues to gather their input and their ideas. As a result, I believe that legislation embodies an effective strategy to reduce and work toward elimination of these health care disparities.

Over recent years, we have made tremendous advances in our knowledge of and our fight against disease. But we know millions of Americans today still experience disparities in health outcomes as a result of ethnicity, or race, or gender, or limited access to quality health care.

A couple of examples: Disparity populations exhibit poor health outcomes and have higher rates of HIV/AIDS, diabetes, cancer, infant mortality, and heart disease. The list of illnesses goes on and on. African Americans and Native Americans die younger than any other racial or ethnic group. African American and Native American babies die at significantly higher rates than the rest of the population. Native Americans, Hispanic Americans, and African Americans are twice as likely to suffer from diabetes and experience serious complications from their disease. Today these gaps are simply unacceptable. Today we begin a new and aggressive effort to address these inequities.

This bill—Closing the Health Care Gap Act of 2004—addresses the root causes of health care disparities by focusing on five key areas.

First, expanding access to quality health care.

Second, strengthening national leadership efforts and coordination.

Third, helping increase the diversity of health care professionals.

Fourth, promoting more aggressive health professional education intended to reduce barriers to care.

Fifth, enhancing research to identify sources of racial, of ethnic, and geographic disparities and assess promising intervention strategies.

Every American believes that the best quality of health care possible, regardless of race, ethnicity, gender, or where they live, is deserving. The bipartisan "closing the health care gap" would go a long way toward achieving this goal.

I appreciate the support of so many colleagues and prominent outside organizations, including the National Medical Association, the National Hispanic Medical Association, the · Urban League, and the National Conference for Community and Justice. Together, we can make real progress toward eliminating health care disparities, closing the Health Care Gap Act of 2004.

CLONING IN SOUTH KOREA

Mr. FRIST. Mr. President, this morning, many awoke to the news that South Korean scientists have successfully cloned a mature human embryo. This is an alarming development. Decades ago C.S. Lewis saw the dangers facing human dignity. In his essay "The Abolition of Man," he warned in conquering nature, nature is actually conquering mankind. To clone a human being is to move from procreation to the manufacture of human life. And this is dangerous.

My own profession is medicine. A good physician, must, I fundamentally believe, also be a very good scientist. I can tell you from my own experiences as a heart and lung transplant surgeon that without the revolutionary advances in medical science and in technology, my own transplant patients, heart and lung transplant patients of a decade ago, simply would not be alive today.

Indeed, we must reject an irrational fear of technological advance. But the secret of human dignity is living within limits. Those are ethical limits and they are moral limits. They are limits that do not hamper human advances but they preserve them and indeed they promote them.

We strongly support ethical stem cell research but we reject the cloning of human beings. Not only does human cloning experimentation of any kind offend the conscience, it is not medically necessary. As I have said on many occasions, there is no scientific basis to claim that human cloning experimentation is necessary for the long-term success or clinical application of stem cell research. If human beings are special, if human beings are truly sacred, then we must devote ourselves to a better world but we must not do evil to bring about good.

SAME-SEX MARRIAGE

Mr. FRIST. On another issue, and to the best of my knowledge ongoing now, the Massachusetts Legislature is wrestling with how to respond to their supreme court, which has made same-sex marriage the law of that State. Even if the Massachusetts Legislature is successful in passing the constitutional amendment to block same-sex marriage, it will not come before voters for ratification for another 2 years.

Beginning on May 17 of this year, Massachusetts will begin issuing marriage licenses to same-sex couples. Once these same-sex couples sue for recognition in their home States, the wildfire will truly begin. Same-sex marriage is likely to spread to all 50 States in the coming years. So regardless of what Massachusetts does today, it is becoming increasingly clear that Congress must act and must act soon. The Senate will begin working on the issue in the weeks ahead.

This is not a fight we sought, and it is a fight we do not particularly relish, but the courts have brought us to it, and the people of this country will respond. We will not let activist judges redefine marriage for our entire society.

We reject intolerance. We reject hatred. We must treat all our fellow citizens with kindness and with civility. But marriage should remain what it has always been in our Nation, and that is the union of a man and a woman.

It is my hope the Massachusetts legislature will act today.

MEDICARE

Mr. FRIST. Mr. President, there is one final issue that also is current that I want to take the opportunity to comment on because it is likely to be an issue that will be of interest and debated, and one people will be addressing over the coming days while we are on our recess.

Last year, President Bush and a bipartisan team of Senators and Representatives made good on our promise to strengthen and expand and improve Medicare for America's seniors. The bill, the Medicare Modernization Act of 2003, represents the most significant improvement to Medicare in two generations. And now, because of this historic action, we are starting to see impressive results.

We said reform would strengthen the program and increase choice and flexibility for our seniors. That is exactly what is happening. Medicare now gives more seniors access to more prescription drugs at a lower out-of-pocket cost. It provides seniors relief from the high cost of prescription drugs, especially the 12 million low-income seniors who need the help the most.

The improvements to Medicare provide seniors with choice and control over their own health care plans. The new bill also protects seniors who already have prescription drug coverage they earned in the workplace.

Educating seniors about improvements to the Medicare program and the new Medicare drug benefit is the right thing to do. It is also required by law. The law says seniors have the right to know how the prescription drug benefit is going to work and when they can start taking advantage of the new improvements to the program, such as the drug discount card.

Unfortunately, some of my colleagues are attempting to subvert this legal obligation. They are blocking our legally required educational efforts. Why? Because they are trying to keep seniors from finding out their rights. They fear that the more seniors learn about the new Medicare benefits, the more seniors will like what they see.

Not only are the Medicare opponents trying to keep seniors in the dark about their Medicare rights, these opponents are disparaging the education effort itself. But try as they may, they will not keep the truth under wraps.

This is the ad they do not want you to see.

It reads:

> First senior: So how is Medicare changing?
>
> The announcer: It is the same Medicare you have always counted on, plus more benefits like prescription drug coverage.
>
> Senior No. 2: Can I keep my Medicare just how it is?
>
> The announcer responds: Yes, you can always keep your same Medicare coverage.
>
> Senior No. 3: Will I save on my medicines?
>
> Announcer: You can save with Medicare drug discount cards this June and save more with prescription drug coverage in 2006.
>
> Senior 4: So my Medicare isn't different, it is just more?
>
> Announcer: Right. And you can learn more, call 1-800-MEDICARE.

That is it. That is the Medicare ad opponents are doing everything possible to keep off the air. They don't want seniors to know they are eligible to receive prescription drug coverage under Medicare, nor do they want seniors to know that starting in June, seniors will be able to carry a drug discount card. The opponents don't even want seniors to know the number to call to ask for help. Instead, they are putting politics before people.

They will not succeed. We will not allow election year politics to hurt America's seniors and individuals with disabilities. We will make sure every senior, every individual with a disability gets the information they need to make the very best choices they can for their health and for their life.

ORDERS FOR MONDAY, FEBRUARY 23, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon, Monday, February 23; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and Senator BREAUX then be recognized to deliver George Washington's Farewell Address, as provided under the previous order; provided that upon the conclusion of the address, the Senate then resume debate on the motion to proceed to Calendar No. 429, S. 2061, the medical malpractice bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, on Monday, February 23, following Senator BREAUX's reading of George Washington's Farewell Address, the Senate will resume consideration of the motion to proceed to Calendar No. 429, S. 2061, the medical malpractice bill. There will be no rollcall votes on Monday, but Senators are encouraged to come to the floor to debate this important bill. The next rollcall vote will occur on Tuesday, February 24. That vote will be on the motion to invoke cloture on the motion to proceed to S. 2061, and the vote will occur at 5 p.m. on Tuesday.

I, too, want to take this opportunity to thank Chairman INHOFE and Senator JEFFORDS for their hard work in moving the highway bill to conclusion. I also thank the Democratic leadership, working with our leadership, working with the managers of this bill to move forward. It has been a long 2 weeks. It has been a challenging 2 weeks. I know the managers were able to work with many Members to accommodate a large number of amendments.

I wish everyone a safe President's Day recess.

ELECTIONS IN IRAN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 304, submitted by Senator BROWNBACK today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 304) expressing the sense of the Senate that the United States should not support the February 20, 2004, elections in Iran, and that the United States should advocate a democratic government in Iran that will restore freedom to the Iranian people and will abandon terrorism.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 304) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 304

Whereas there is a long history of mutual affection, appreciation, and respect between the people of the United States and the people of Iran, including the incalculable efforts by the United States in providing humanitarian, financial, and technological assistance to help the people of Iran;

Whereas the people of Iran have shown support for decency and freedom, and solidarity with the United States, including the demonstration of such support through candlelight vigils attended by the youth of Iran in the wake of the September 11, 2001, attacks upon the United States;

Whereas the Council of Guardians is a 12-member unelected body, that has arbitrarily disqualified thousands of candidates, including sitting Members of the Parliament of Iran and members of the reformist movement;

Whereas the elections scheduled to be held on February 20, 2004, in Iran are fatally flawed;

Whereas the brave efforts of the people of Iran to promote greater democracy and respect for human rights are being thwarted by the actions of the Council of Guardians;

Whereas the blatant interference of the Council of Guardians in the electoral process ensures that the elections scheduled for February 20, 2004, will be neither free nor fair; and

Whereas the circumstances in Iran clearly call into serious question whether pro-democratic reform within the regime of Iran is possible: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should not support the elections in Iran scheduled to take place on February 20, 2004, as such elections stifle the growth of the democratic forces in Iran and do not serve the national security interest of the United States;

(2) the support provided by the United States to Iran should be provided to the people of Iran; and

(3) the policy of the United States should be to advocate a democratic government in Iran that will restore freedom to the people of Iran, will abandon terrorism, will protect human rights, and will live in peace and security with the international community.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 23, 2004

Mr. FRIST. Mr. President, that brings this week to a close. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res 361.

There being no objection, the Senate, at 8:49 p.m., adjourned until Monday, February 23, 2004, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate February 12, 2004:

NUCLEAR REGULATORY COMMISSION

GREGORY B. JACZKO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2008, VICE GRETA JOY DICUS, TERM EXPIRED.

DEPARTMENT OF STATE

MILES T. BIVINS, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

MARC MCGOWAN WALL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

RICHARD S. WILLIAMSON, OF ILLINOIS, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

THE JUDICIARY

WILLIAM DUANE BENTON, OF MISSOURI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE THEODORE MCMILLIAN, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. JASON K. KAMIYA, 9579

CONFIRMATION

Executive nomination confirmed by the Senate February 12, 2004:

DEPARTMENT OF THE TREASURY

SAMUEL W. BODMAN, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

THANK YOU TO SOLDIERS OF 2–116TH FIELD ARTILLERY

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to pay tribute to members of the 2–116th Field Artillery. These soldiers, many from my district, were mobilized in late January 2003 and, upon completion of the appropriate training, departed for Southwest Asia in support of Operation Iraqi Freedom. The unit moved into Baghdad and later served in Ar Ramadi, where it provided support to the 1st Battalion. The 2–116th soldiers performed missions including escort, guard duty on the Euphrates River, force protection, fire support, and patrols, all while helping to train members of the Iraqi police force.

These brave Americans have served their country with pride and honor. This country owes its freedom to these soldiers and the ones who came before them. Now, so do the citizens of Iraq. After nearly a year of deployment, the 2–116th has accomplished its mission, and it is my humble honor to welcome them home.

TRIBUTE TO SERGEANT ELIU MIERSANDOVAL

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. CALVERT. Mr. Speaker, I rise to pay tribute to a hero from my congressional district. On January 31, 2004, Sgt. Eliu Miersandoval, born Abi Mier, of San Clemente, California, was killed in action in Kirkuk, Iraq. Today I would ask that the House of Representatives honor and remember this incredible young man who died in service to his country.

Eliu was born on June 26, 1976, in Durango, Mexico, to Pascual and Estella Mier, who currently reside in Pomona, California. Eliu went to high school at San Clemente High, and after graduating he joined the Army in 1996 for great future opportunities and to travel. In 1999, he was sent to Fort Hood, Texas, and was later promoted to Sergeant in the 4th Infantry Division. He was a light-wheeled vehicle mechanic in what is the most technically advanced combat division in the Army. It was the 4th Infantry Division that participated in the capture of Saddam Hussein.

Eliu is remembered as an outstanding athlete and talented musician. More importantly, he was a loving husband to his wife Amanda and a proud father to his son Adrian.

As we look at the incredibly rich military history of our country, we realize that this history is comprised of men and women like Eliu who bravely fought for the ideals of freedom and democracy. Each story is unique and humbling for those of us who, far from the dangers they have faced, live our lives in relative comfort and ease. My thoughts, prayers and deepest gratitude for their sacrifice go out to his wife and family. There are no words that can relieve their pain.

His wife and family have all given a part of themselves in the loss of their loved one. Their loss is part of a larger effort to give the Iraqi people and all people around the world the opportunity to live in freedom and without fear. I hope they know that their son and the sacrifice he made will not be forgotten.

PERSONAL EXPLANATION

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mrs. EMERSON. Mr. Speaker, I was attending to a family emergency and missed the following recorded votes. Had I been present, I would have voted "yes" on Rollcall No. 19; "yes" on Rollcall No. 20; and "yes" on Rollcall No. 21.

THANK YOU TO SOLDIERS OF COMPANY A 2–124TH INFANTRY REGIMENT

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to pay tribute to members of Company A 2–124th Infantry Regiment. These soldiers were mobilized in December 2003 and, upon completion of the appropriate training, deployed in support of Operation Iraqi Freedom. After securing Patriot Batteries in Bahrain and Qatar, Company A advanced into Kuwait and then Iraq in April 2003, where the unit provided force protection and fixed-site security. Later, the soldiers attached to several active duty units, including a military police battalion, the 4th Infantry Division, and a Stryker brigade near Balad.

These brave Americans have served their country with pride and honor. This country owes its freedom to these soldiers and the ones who came before them. Now, so do the citizens of Iraq. After over a year of deployment, Company A 2–124th has accomplished its mission, and it is my humble honor to welcome them home.

HONORING THE ACHIEVEMENTS OF ANNE HART

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize the achievements of one of my constituents who has unselfishly helped and enriched the lives of many of our Nation's veterans, Mrs. Anne Hart.

For the past 10 years, Anne has worked tirelessly and unselfishly as a volunteer within the Office of Veterans' Affairs in Pensacola where she volunteers over 50 hours a week helping veterans file claims. She has been an extremely valuable asset to the VA office and officers with whom she has worked alongside.

Anne's husband was shot down in Vietnam in 1972 and was listed as missing in action until 1978. As a widow with six young children, she confronted the Federal government in 1986 by challenging their identification of her husband from the remains that were found.

At the time, she was unknowingly preparing herself to later help fight for several veterans who have served their country with honor and courage. Anne's struggles have earned her much respect among veterans, who have described her as having a heart of an angel.

Other than helping veterans in need within the Veterans' Affairs office, Anne has come to the aid of many homeless veterans who were persuaded by her influence to abandon the notion of "giving up." She even drove one veteran over 75 miles to his mother's funeral in Alabama.

Anne's job has been to keep veterans' records in order, effectively by making sure all of the facts are quickly verified in order to help facilitate a sometimes difficult claims process. Her faithful service of acting as a sounding board for thousands of veterans has made her a guardian angel to many of the bravest veterans that our country will ever know.

Many veterans, who travel from hundreds of miles to see her, have walked away with the feeling that "someone really cares."

Anne is strongly supportive of her government and feels that her obligation is to make sure that they do things the right way.

On behalf of the United States Congress, I would like to recognize this special lady with a big heart, Anne Hart, for the example she has set for our country and for northwest Florida. I offer my sincere thanks for all that she has done for northwest Florida and the United States of America.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CONGRATULATIONS TO I.J. CAMPBELL

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. LEVIN. Mr. Speaker, I rise today to offer congratulations to I.J. Campbell, who received the Community Luminary Award from DTE Energy Foundation for his exemplary volunteerism.

I.J. Campbell's commitment of service "illuminates" the community and shines as a selfless example for others to follow. A humble yet enthusiastic man, his infectious passion for helping those in need stretches a lifetime of professional and volunteer experience. While working as the chairman of the United Way Community Services' Macomb Advisory Council and administrator for cities Community Development Block Grant Program, he donates his time off to a number of community organizations, including the Hope Network, a housing provider for people with mental disabilities, and the Macomb Homeless Coalition.

I.J.'s sense of obligation to help those in need motivates him to work on programs such as Macomb's Prescription Resource Network, Metro Detroit's Promise, a national movement to provide services to disadvantaged children, and the Macomb County Warming Center. Dedicated to strengthening the fabric of our community, he supports programs that develop the potential of residents, institutions and infrastructures.

In January, 2002, the Archdiocese of Detroit awarded I.J. with the Rev. Dr. Martin Luther King "Keep the Dream Alive" award for his work with organizations such as Interfaith Center for Racial Injustice and the National Conference for Community and Justice Detroit.

Mr. Speaker, I ask my colleagues to join me in applauding I.J. Campbell for his efforts to make this world a better place. It is truly fitting that I.J. received the Community Luminary Award, for he serves as a shining example of what a committed community activist can accomplish and a light of hope to all he comes in contact with.

PERSONAL EXPLANATION

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to clarify the reason for my absence from this Chamber on January 27, January 28, February 3, and February 4, 2004. I was at my home in Florida recovering from elbow surgery and, unfortunately, was unable to place votes on those days.

As such, please let the RECORD show that I would have voted as follows:

H. Res. 507: yes

H. Res. 157: yes

H.R. 2264: yes

H.J. Res. 84: yes

H. Res. 274: yes

H.R. 3724: yes

H.R. 3030, final passage: yes; Scott amendment No. 1: no; Scott amendment No. 2: no; Woolsey amendment: no

H.R. 1385: yes

H.R. 3493: yes

S. 610: yes

S. 1920, final passage: yes; Sensenbrenner amendment: yes; Baldwin substitute: no; motion to recommit: no.

A PROCLAMATION RECOGNIZING CHRISTINE IRENE MIKROPOULOS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. NEY. Mr. Speaker,

Whereas, Christine Irene Mikropoulos has devoted her life to serving others through her membership in the St. John's Episcopal Angels Program and her work with Warren Hospital; and

Whereas, Christine works with elderly patients, bringing her warm and personal touch to these individuals who are spending their time in a hospital setting; and

Whereas, Christine is a committed volunteer with the Guardian Angels program, providing clothing, shoes, books and other essential items to children of military personnel and children whose parents are incarcerated; and

Whereas, Christine has ceaselessly given of herself to others, always placing the interests of those in need ahead of her own;

Therefore, I join with the entire 18th Congressional District in thanking Christine Irene Mikropoulos for her dedication to improving the lives of those around her.

TRIBUTE TO RUSSELL "SOX" WALSETH, JR.

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. UDALL of Colorado. Mr. Speaker, I would like to recognize the legacy after the passing of a good man and fine coach, Russell "Sox" Walseth, Jr. "Sox" was a member of the University of Colorado family as a student, athlete and coach. With the university "Sox" coached both the men's and women's basketball. He holds the distinction of the winningest coach in CU men's basketball history but also holds the highest winning percentage of any coach in the history of the University of Colorado.

His contribution to the University and the community was great and he will clearly be missed by family, friends and fans.

For the information of our colleagues, I am attaching several items from the (Boulder, Colorado) Daily Camera.

[From the Daily Camera, Jan. 29, 2004]

RUSSELL M. "SOX" WALSETH, JR.

Russell M. "Sox" Walseth, Jr. of Boulder died Wednesday, Jan. 28, 2004, of natural causes in Boulder. He was 77.

The son of Russell M. Walseth and Marie J. Gehan Walseth, he was born April 6, 1926, in Aberdeen, S.D. He married Eleanor Hahn on Oct. 9, 1953, in Denver. She died on Oct. 6, 1997. He married Joan Mabee Funk on July 19, 2002 in Boulder.

He graduated from Pierre High School in Pierre, S.D. He earned a bachelor of science degree and a master's degree in education from the University of Colorado.

He was enlisted in the Navy during and after World War II from 1944 to 1946.

Mr. Walseth spent 38 years at CU, starting as an athlete in the 1940s when he lettered a combined six times in both basketball and baseball.

He became head men's basketball coach prior to the 1956–57 season and coached the next 20 Buffalo teams. The winningest coach in CU men's basketball history with a 261–245 record, the Buffs won three Big Eight titles under his direction, in 1961–62, 1962–63 and 1968–69. He was the Big Eight Conference coach of the year on five occasions. All three of his Big Eight champion teams represented the conference in the NCAA regional tournaments. Eventual NCAA champion Cincinnati eliminated the Buffs in the first two appearances, while his third tourney team may have represented his best coaching job in his tenure as he piloted a sophomore-dominated team to the league title and NCAA berth.

He retired from coaching in the spring of 1976 and remained on in an administrative position with the athletic department. But four years later in 1980, and CU hit with budget woes, athletic director Eddie Crowder asked him if he would come out of retirement to help the program to which he had devoted much of his adult life. Sox answered that call and coached the CU women's team between 1980 and 1983, compiling an impressive 77–21 record. That mark included his 43–0 record at home, and earned coach of the year accolades one time.

Mr. Walseth was the first and one of the few men to have coached both the men's and women's programs at the same NCAA school. The basketball floor at Coors Events/Conference Center is named after him. In 1998, he was inducted into the Colorado Sports Hall of Fame, and four years later, he was a member for the fourth class inducted into CU's Athletic Hall of Fame.

He was a member of Sacred Heart of Mary Catholic Church of Boulder. He received five Basketball Hall of Fame Awards, two from Colorado and three from South Dakota. He was also the recipient of the Robert Stearns Award on June 8, 1967.

Survivors include his wife of Boulder; two sons, Joe Walseth of Denver and Nick Walseth of Boulder; one daughter, Cynthia Axley of Arvada; and four grandchildren.

A Mass of Christian Burial will be celebrated at 1:30 p.m. Saturday at Sacred Heart of Jesus Catholic Church, 2312 14th St., Boulder. The Rev. Daniel Flaherty of St. Louis Catholic Church of Louisville and the Rev. William E. Dreslin of Sacred Heart of Jesus will be co-celebrants.

Contributions may be made in his name to the CU Foundation, in care of Russell "Sox" Walseth Scholarship Fund, 369 University Campus Box, Boulder, CO 80309.

M.P. Murphy & Associates Funeral Directors is in charge of arrangements.

CAREER HIGHLIGHTS

Following are highlights of Russell "Sox" Walseth's career:

Played on CU's 1946 NCAA Tournament basketball team.

Coached three Big Eight championship men's teams.

Took three Buff men's teams to the NCAA Tournament.

Named Big Eight coach of the year on five occasions.

Retired after 20 years as the winningest coach in CU men's history, with a record of 261–245.

Named CU's women's coach in 1980, becoming the first to coach men's and women's teams at the same NCAA school.

Took the CU women's team to back-to-back national tournament appearances.

Compiled a 77–21 record as the women's coach, the best winning percentage of any coach in CU history.

Basketball floor at Coors Events Center named in his honor in 1996.

Inducted into the Colorado Sports Hall of Fame in 1998.

Inducted into the University of Colorado Athletic Hall of Fame in 2002.

CREEDON: MEMORIES OF SOX WON'T SOON FADE

I count Sox Walseth among lifelong friends.

From the days a wide-eyed, 7-year-old in northern New Jersey squinted into an old Dumont black-and-white television set in a neighbor's home and instantly adopted a sophomore guard they called Sox as his first University of Colorado sports star.

The Buffaloes were making their annual New York City visit and were paired against New York University in a doubleheader at Madison Square Garden, truly the Mecca of college basketball in those days. CU had a basketball name then. The Buffs had played—and played well—earlier in the 1940s in the National Invitation Tournament, the nation's oldest and then most prestigious postseason event.

Sox scored 20 that night and hooked this future Boulderite on CU hoops.

Later, for 20 years, first as a student and then as CU beat writer and Camera sports editor, I had the enjoyment of following Sox's team and getting to know one of the shrewdest, classiest and humorous coaches.

The tributes gathered Wednesday by CU media relations boss Dave Plati only hours after cancer claimed Sox's life all ring true.

But please don't forget the silver-haired Sox deserves to be remembered as a great coach, too. As the years pass by, we realize just how great.

Sox won three Big Eight championships ('62, '63 and '69). You don't have to be reminded the Buffs haven't won a title since Walseth's last title year. His first two championship teams lost to national champ Cincinnati in the regional finals. CUers don't even speak of winning championships in men's hoops in setting lofty goals for the basketball program these days. Sox was also around, as Bebe Lee's assistant, when the talented was gathered for CU's Big Seven championship teams of '54 and '55.

In other words, Sox didn't miss much of three decades of glory for Buff hoops dating from an NIT appearance in 1938 until the Big Eight title garnered by Cliff Meely, Gordie Tope, Mike Coleman, Dudley Mitchell, Tim Wedgeworth and friends in '69.

Sox didn't win against run-of-the-mill opponents or coaches. He broke in here against Kansas and Wilt Chamberlain and Tex Winter-led Kansas State squads that limited the "Stilt" to just one crown. Later on, he matched wits with the legendary Henry Iba of Oklahoma State and Norm Stewart in his early years at Missouri.

And he challenged top-flight non-league opposition, too.

Superstars weren't Sox's specialty, but there were few players who stayed the course at old Balch Fieldhouse who didn't make eye-catching improvement.

Sox was a low-key recruiter. A big night out on the town for a visiting recruit was dinner at John's Pied Piper, a trolley car-sized diner across the street from the Sink on Pennsylvania.

But Walseth's pitch was good enough to land the likes of Wilky Gilmore and Jim Davis, key hands on the early clubs, from basketball hotbeds of Connecticut and Indiana. And good enough to bring to Boulder one summer Brooklyn's Connie Hawkins, the Dr. J. of his era. Off-the-court problems involving the Hawk's brother precluded his enrollment

The Meely-Tope-Mitchell-Coleman-Wedgeworth group stacked up with any in the nation, and also included 7-3 Ron Smith of Pueblo, who lasted only one varsity semester but contributed to the '69 title. His CU squads understood the team concept and always made the extra pass leading to the best possible shot.

His title teams had plenty of in-state players, debunking the still-held theory you can't win with local talent—All-American Ken Charlton and Eric Lee from Denver South and Milt Mueller from Cheyenne Wells in '62–63, then Mitchell (Thomas Jefferson), Wedgeworth (Manual) and Smith (Pueblo Centennial) in '69. Sox's great coaching job may have come with a non-title team—the aptly named "Deliberate Dwarfs" of 1966–67.

They finished 10–4 in the Big Eight and played Kansas in what amounted to the title game in early March in Lawrence. It was a guard-oriented bunch (in-staters Lynn Baker, Pat Frink, Mike Rebich, Chuck Williams and Karl Tait), with Kermit McMurry (6–8), Steve Rowe (6–6) and Bobby Bauers (6-5) the only inside players. With three starters on the bench with injuries in mid-January, the '66–67 Buffs upset Kansas, 62–59, at Balch in one of the school's biggest upsets.

Sox's teams won many key games on the road, but the then-maniacal crowds at Balch made the home games in the early and mid-1960s as good a show as this state had athletically.

Sox didn't get much use out of his suit jacket on many nights, with his coat often flying into the stands after the first disturbing call.

Around the Big Eight, his self-deprecating humor was a huge hit and an asset in leading opponents to underestimate his teams.

Two years ago at the CU Sports Hall of Fame induction ceremonies, Sox, the last of six inductees on a night which was, let us say, dragging, brought down the house with 20 minutes of one-liners, mostly poking fun at himself. It was worthy of a Las Vegas act. Jay and David would have been jealous at the laughs he drew.

Sox, of course, did more than coach the men's basketball team at CU. As an undergrad, he was an outstanding shortstop for three years, good enough to earn a pro baseball contract.

Four years after leaving the men's team, he returned to coach the Lady Buffs, enjoying a wildly successful four-year run that included 43 straight home wins in one span.

To this day, the players from the Lady Buff days worship Sox in the same way the ex-Buffs do.

This is a difficult day for Lisa, (Van Goor), "Beaner" (Sandy Bean), Bomber (Bauers), "Bake," Chuck and hundreds of others in his extended family.

But the memories of the days under one of the game's great teachers will never fade.

WOELK: CU NOTCHES A VICTORY FOR SOX

No doubt about it, Sox would've liked this one.

A raucous crowd, the Colorado Buffaloes on the run and the Missouri Tigers on the ropes.

Certainly, Wednesday night's 83–70 Buff victory was a fitting tribute to Sox Walseth, who died Wednesday morning after a long battle with cancer.

CU coach Ricardo Patton and Walseth had developed a close relationship over the years. Walseth never pushed himself on the program, but was always there when Patton needed a little advice, or simply a friendly word of support. As Patton's time on the job grew, so did his friendship with Walseth.

So Wednesday night, Patton did what he could to return the favor. As the Buffaloes were celebrating their win, Patton took the public address system microphone, quieted the crowd and the band, and awarded the game ball to Walseth's wife, Joan.

"We lost a great treasure today," Patton told the hushed crowd. "Sox Walseth meant a lot to this team, this program, this university and this state."

Maybe it's just coincidence, but at his post-game press conference, Patton talked about establishing a better relationship with his players—something that was always a strong point of Walseth's.

The issue came to a head following the Buffs' blowout loss at Kansas on Sunday. After the game, they sat at the Kansas City airport for nearly four hours, waiting for weather to clear in Denver so their plane could take off.

The Buffs took the time for a heart-to-heart talk—and Patton listened.

"Those guys helped me become a better coach," Patton said. "I thanked them after the game. "Sometimes you have to listen to the kids. Win, lose or draw, the players have to feel like the coaches are behind you."

The Buffs were certainly a different team on Wednesday.

Instead of the disjointed bunch that fell apart in a matter of minutes at Kansas, they were a cohesive unit that pounded the Tigers into submission.

Not that the Tigers didn't put up a fight for a half. For the first 20 minutes, Mizzou answered every Colorado thrust. A 12–7 CU lead became a 12–12 tie. A 23–14 Buff lead became a 23–23 tie.

At the half, CU was clinging to a four-point lead, and there was certainly no guarantee that Patton's bunch would protect that edge over the last 20 minutes.

But Patton has also taken to heart another page from Walseth's book—protecting the home court. Nobody knew the importance of that more than Walseth. His teams were always tough in Boulder—and at the Events Center, he was a perfect 43–0 as coach of the CU women's team.

It was just over a year ago that Walseth told the Daily Camera, "Everybody's on Ricardo's rear end, but not me. . . . I'd hate to play him in Boulder, I'll tell you that."

You can add Mizzou's Quin Snyder to that group. While Snyder's Tigers struggled in the second half, the Buffs turned it up another notch. Eight minutes in, Colorado had bumped its lead to 13. Four minutes later, the margin was 19. And, although the Tigers attempted to make it semi-interesting down the stretch, the outcome was never in doubt over the last 10 minutes.

"Sox is smiling," said CU senior associate athletic director Jon Burianek, a 37-year veteran of the Buff athletic department. "He always really enjoyed beating Missouri."

Wednesday's game was a crossroads for the Buffs. A loss could have sent them spiraling downward, eliminating any hope of an NCAA Tournament berth.

But today, they're sitting at .500 in the Big 12 with Baylor coming to town on Saturday. There's renewed hope in the Buff locker room, and a new understanding between the coach and players.

Long after the game had ended Wednesday night, Patton fought back tears as he talked about Walseth. The Buffs, he said, won a game and lost a friend.

"I'm gonna miss him," Patton said.

A sentiment echoed by folks all over the Boulder Valley this morning.

But, you can also bet on one thing: Sox would have liked this one.

[From the Daily Camera, Jan. 30, 2004]

R.I.P. SOX

You didn't always have to go begging for a crowd to watch a college basketball game in Boulder, and a lot of people think Russell "Sox" Walseth had something to do with that.

When the University of Colorado Buffaloes men's basketball team played in creaky, sweat-spiced Balch Fieldhouse, raucous silver-and-gold partisans routinely turned out, and longtime coach Walseth's scrappy squads seldom disappointed.

Under Walseth from 1956 to 1976, the CU men's squads captured three conference titles—including their last, in 1969—and three NCAA invitations in an era when they were much harder to come by.

And from 1980-83, he coached the CU women, winning two conference championships and orchestrating an astounding 43-game home-court winning streak.

But what's most impressive was that he did it all with plenty of home-grown talent. Few players under his tutelage failed to improve.

Personally, he was beloved by many who knew him from as far back as his playing days for the Buffs in the 1940s. He was blunt, friendly and colorful, and his friends have literally hundreds of tales to tell about him. Sox Walseth died Wednesday of cancer at home in Boulder. He was 77.

NASA'S MARS ROVER AND SPACE EXPLORATION

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SMITH of Texas. Mr. Speaker, few scientists write as well as Seth Shostak, senior astronomer at the SETI Institute in Mountain View, California. This column he wrote about the Mars rover for the San Jose Mercury News offers compelling arguments for pursuing scientific discoveries and exploring space.

[From the San Jose Mercury News, Jan. 7, 2004]

GEOLOGIST ON WHEELS TAKES HUMAN CURIOSITY TO MARS

OUR DRIVE TO EXPLORE LEADS TO BETTER LIVES

(By Seth Shostak)

One hundred million miles away, the mechanical innards of NASA's Spirit rover have begun to hum in the brittle cold of the Martian air. The rover is a synthetic geologist on wheels, small enough to fit in your kitchen, and the space agency is reveling in the fact that Spirit has managed to elude the silent death that has claimed so many of humankind's envoys to the Red Planet.

The boost to NASA's confidence, badly eroded by the loss of the shuttle Columbia, is surely a good thing. If Spirit and its sister rover, Opportunity, perform well, the Bush administration may support a major new space initiative, perhaps a return to the moon or a human expedition to Mars.

Those would also be good things, but such judgments, coming, from a scientist, may seem obvious and self-serving. American taxpayers will rightfully ask why it's important to shell out $800 million to send a pair of cybernetic skateboards to another world.

MARTIAN CHARISMA

One answer is the interest and value of the science. For two centuries, Mars has beguiled us with its Earth-like appearance. Venus is closer, but Mars is charismatic: it is sufficiently similar to our own planet to warrant the hope that it once spawned life. And the possibility of discovering life beyond Earth is a siren song to anyone with curiosity, even if, as is surely the case for Mars, that life is no more sophisticated than bread yeast.

NASA's approach to learning whether microbes ever populated the Red Planet is to look for signs of ancient lakes, rivers or oceans. Spirit will explore a flat-bottomed crater that may once have held a body of water half the size of Lake Erie. Its mission is to find evidence for this erstwhile lake by examining the rocks littering the crater floor.

SIGNS OF LIFE?

If Spirit discovers that water once ebbed and flowed on Mars, the next questions are: For how long? Long enough to germinate life? NASA will send a string of robot explorers to address this question, and to ultimately seek out microscopic Martians. The carrot that hangs before us is deliciously seductive: If another world—the next world out from the sun—is proved to have supported life, that would imply that the cosmos is drenched with living things. We could concluded that planets with life are as common as phone poles.

That's the science, and it's exciting. But science is no more than curiosity imbued with logic. Surely, in a world awash in political upheaval, epidemics and poverty, curiosity is a dispensable luxury.

It's not. Curiosity is hard-wired into our behavior because it has survival value. For 300 millenniums, it has driven us to exploration and understanding. The former has encouraged the discovery of new resources, and the latter allows us a comfortable life in a pitiless world.

Curiosity is the silent motor of progress, without which we are condemned to a steadily worsening existence as we burn through our resources.

ANSWERING QUESTIONS

Humans display many behaviors that separate us from the beasts. Art, music, poetry . . . the list is easily formulated. Curiosity, neither incidental nor trivial, is on that list. In simpler times, it drove our ancestors to wander across the mountains and, on occasion, to find a valley that was better than where they started. Today, scientific curiosity turns up answers to questions that previous generations could barely ask.

The Spirit rover is a small actor in a long play with a large cast. It is aptly named, for it represents not only the best of our enterprises, but also an essential quality of our being. Spirit is mechanical in construction only. It is quintessentially human.

A PROCLAMATION RECOGNIZING MARGARET AND STAN PLANTON

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. NEY. Mr. Speaker:

Whereas, Margaret and Stan Planton have provided years of dedication to improving their community, including Margaret's service as the Mayor of Chillicothe; and

Whereas, Margaret and Stan Planton, along with members of their community, arranged a letter-writing campaign to help convince United States Enrichment Corporation (USEC) to build its uranium centrifuge plant in Piketon, Ohio; and

Whereas, Stan Planton worked tirelessly to gather information about USEC's plans and convey the information to Members of Congress and other legislators; and

Whereas, on January 12th, 2004, Piketon, Ohio, was selected as the site for USEC's centrifuge plant, bringing an estimated 500 permanent high-paying jobs into the area; and

Whereas, Margaret and Stan Planton were an integral part in Southern Ohio being chosen as the site for USEC's plant;

Therefore, I join with Members of Congress and the entire Eighteenth Congressional District of Ohio in thanking Margaret and Stan Planton for their dedication to this project and their continued efforts to improve their community.

ACKNOWLEDGING THE SERVICE OF SHARON VIGIL

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to acknowledge an important leader in the business community of Colorado. Ms. Sharon Vigil, president and chief operating officer of the Denver Hispanic Chamber of Commerce, will be leaving her post after 14 years of service.

Established in 1978, the Denver Hispanic Chamber of Commerce has proven to be an outstanding member of the Colorado business community. Whether through influencing legislation, providing technical assistance to Hispanic businesses and professional associations, or strengthening the network of Colorado businesses as a whole, the Denver Hispanic Chamber of Commerce has been an exceptionally effective organization.

Sharon Vigil was born in Walsenburg and raised in Pueblo, later attending school in Boulder at the University of Colorado. As an active member of the civil rights movement during the 1970s, she developed an early reputation as a leading voice in support of equal opportunity for minorities and women in business. She has a long history of exceptional and diversified management skills and is well-regarded for her experience in the fields of marketing and public relations. But above all, she is a motivated woman who uses both her mind and heart in working for the Hispanic community.

In the early 1990s Ms. Vigil brought her considerable skills to the Denver Hispanic Chamber of Commerce, becoming President and Chief Operating Officer in 1995. Under her guidance, membership grew to more than 1,300, elevating the Chamber's success and positioning the organization as the largest and most influential minority chamber in the state.

I met Ms. Vigil early in my career as a legislator and was immediately impressed by the enthusiasm she brought to the job of promoting economic opportunities in the Hispanic community. One of my fondest recollections of her is the pride and joy she had in showing me the Hispanic Chamber's facility in Denver. She walked me through several floors of offices and made sure I met and spoke to all the vendors and officers.

As a dedicated leader, Ms. Vigil has diligently worked to assist countless Hispanic business owners throughout Colorado and the Denver Metropolitan area. It is that admirable and distinguished service that motivates me to acknowledge this remarkable community leader.

Mr. Speaker, I ask my colleagues to join me in honoring Ms. Sharon Vigil and in wishing her success in all her future endeavors. It has been a true privilege to work with her.

TRIBUTE TO KENDALL WINGROVE

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. ROGERS of Michigan, Mr. Speaker, I rise to honor the accomplishments of Mr. Kendall Wingrove of East Lansing, MI, who will be honored this month by the National Foundation of Women Legislators when they present him with their 2004 Media Excellence Award at special ceremonies in Washington, DC.

A native of Michigan's St. Clair County, Kendall is the proud descendant of a long line of milkmen, with his father and grandfather alike holding down milk routes in Macomb County. Kendall married Molly Hull in 1992 and they have two children, Ethan, 8, and Catherine, 6. A devoted father and husband, Kendall lavishes much attention on his family.

Kendall's path to Lansing started off at St. Clair Community College, where he worked on the school paper, then later attended Central Michigan University, where he received his B.A., followed by Michigan State University to earn his M.A.

Kendall's master's thesis was on the role of women in journalism on the American frontier during the 19th century.

In 1982, Kendall began work in the Republican Communications Office in the Michigan House of Representatives. During his more than two decades of service, Kendall has turned out scores of award-winning projects that have served the members of the House and the people of Michigan. Kendall has worked as a writer, a media strategist and department director. He has counseled members on media and legislative term issues. In an era of term limits, Kendall's work has helped hundreds of members of the Michigan House navigate the difficult waters of media relations and State politics.

Kendall also has never been too busy to impart a wise word of advice or to patiently explain the workings of the legislature or the potential outcomes of a media event to House staff.

Kendall has always had an interest in government and politics. During the 1968 campaign, he reported to his 5th grade class that he had seen Presidential candidate Richard Nixon say "Sock it to me?" on "Laugh In." While his teachers and fellow students did not believe him, he was correct.

Kendall's knowledge of the history of American politics is extensive and he can speak knowledgeably on a broad variety of topics related to things political, ranging from the Vice Presidency of Garret Hobart to Harry Truman's 1948 Labor Day whistle stop trip through Michigan. Kendall also is an expert on the pets owned by our chief executives and their children.

Outside of his work with the legislature, Kendall has written extensively about the history of Michigan and the men and women who built the State. His historical work has been published in the Detroit News, the Detroit Free Press, Michigan History magazine, and a host of other publications throughout Michigan. Kendall has personally interviewed scores of older Michigan residents as he works to chart the history of Michigan.

Kendall is skilled at his chosen profession, an excellent public servant, a chronicler of history, and a good and loyal friend and family man.

Mr. Speaker, I ask my colleagues to join me in honoring Kendall Wingrove who is well deserving of the special honor he receives from the National Foundation for Women Legislators. He truly merits our respect and admiration.

A PROCLAMATION RECOGNIZING DAVID JONES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. NEY. Mr. Speaker:

Whereas, David Jones has been in the auctioneer business for nearly 40 years and was recently named to the Ohio Auctioneers Association's Auctioneers Hall of Fame; and

Whereas, David has been a long time member of the Ohio Auctioneers Association (OAA) and the National Auctioneers Association (NAA), serving in multiple capacities on the OAA board for over 20 years including President in 1994; and

Whereas, David has conducted more than 1000 auctions throughout Ohio,Iowa, Missouri, Indiana, and West Virginia; and

Whereas, David has used his experience to help benefit auctioneers throughout Ohio, establishing relationships with members of virtually every community, including the Ohio legislature;

Therefore, I join with the entire 18th Congressional District in congratulating David Jones for being named to the Auctioneers Hall of Fame.

TRIBUTE TO THE SUNDANCE INSTITUTE AND SUNDANCE FILM FESTIVAL

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to the Sundance Institute and Sundance Film Festival for the many contributions the Institute and Festival have made to the arts and art education. The Institute and Film Festival are world renowned and have expanded the appreciation of arts while also providing encouragement and new venues for emerging young talent. It is a cherished, exciting and vibrant part of the American arts and humanities landscape, and I hope it will continue to thrive for many years to come.

Founded by actor and director Robert Redford in 1981, the Institute is dedicated to the development of artists of independent vision and the exhibition of their new work. The Institute nurtures emerging screenwriters and directors and provides a supportive environment to explore path-breaking and innovative themes. It is guided by the primary aim of supporting artists whose work reflects an original, compelling vision.

Since its creation, the Sundance Institute has become most known for its annual film festivals in Park City, Utah. Over the years, the Festival has become one of the most prestigious and important of all film festivals. Its selections and award winners have achieved wide acclaim, notoriety and artistic prominence. As a result, the Festival's influence on filmmaking has been extensive.

However, the Sundance Institute has become much more than a catalyst for the Film Festival. It has expanded its scope to include a range of programs all designed to promote innovative filmmaking. It provides workshops for screenwriters and filmmakers so that they can expand their thinking and hone their craft in a creative environment away from the pressures of the marketplace and with the guidance of respected, veteran filmmakers.

It has also established a Native American Program which supports new work by both emerging and established Native writers, directors, and producers. The commitment of the Sundance Institute to supporting Native American cinema is woven throughout its history and resides side-by-side with its contributions to American cinema. Rooted in the recognition of a rich tradition of storytelling and artistic expression by Native Americans, the Institute's Native American Initiative is a means of supporting the development of Native filmmakers and exhibiting their work.

Today, the Native American Initiative maintains its full commitment to Native cinema in a multi-tiered effort that tracks and provides support to two to four projects and four producers each year, as well as programming the Native Forum at the Sundance Film Festival. More recently, the Native American Initiative has broadened its efforts to scout for Native playwrights, music composers, and non-fiction arts writers to participate in the Institute's other developmental programs and to include indigenous artists from all of North America and the South Pacific in its initiative. At its core, the Native American Initiative supports the creative control of indigenous artists in filmmaking and other art forms supported by the Institute programs.

The Institute also holds professional conferences for film producers focusing on the professional and business aspects of independent film production such as marketing, financing, and distribution. It also has a long history of supporting documentary filmmakers through a year-round program which encourages the exploration of innovative nonfiction storytelling, and promotes the exhibition of documentary films to a broader audience. And it supports the growth of a more thoughtful and incisive body of writing about the arts through its screenwriting program. Now in its second year, the Program offers writers of creative nonfiction the opportunity to immerse themselves in Sundance Labs in the U.S. and abroad, and at the Sundance Film Festival, in order to more deeply understand and articulate the nature of the creative process in a range of art forms.

When choosing Fellows for its programs and films for the Festival, the Institute is committed to encouraging the recognition of diverse voices—Native American, African American, Asian, Latino, and women filmmakers, among others. The films and plays developed or premiered by Sundance over the past two decades reflect the diversity of American culture and have been seen by millions of people. In all of its work, Sundance embraces the values of independence and community.

The Sundance Institute is not just about making films—although that is clearly its primary focus. It also is about nourishing the artistic process and defending free artistic expression. There are many talented voices and visionaries in America from all cultures, ethnic backgrounds and walks of life. The Sundance Institute provides a wonderful haven for these talents.

For all of these important contributions, I ask my colleagues to join me in acknowledging the Sundance Institute for keeping filmmaking and the arts exciting and vibrant and for providing an opportunity for Americans from all walks of life to participate in our film heritage.

HONORING DEBRA BRICE

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. CUNNINGHAM. Mr. Speaker, I rise today to honor an outstanding constituent and educator in my 50th Congressional District of California, Debra Brice, for her extraordinary effort to bring real scientific research to the classroom. Debra Brice, a teacher at San Marcos Middle School, was chosen by the National Oceanic and Atmospheric Administration (NOAA) Teacher at Sea Program to participate in a 3-week long research cruise in the Pacific Ocean.

Debra Brice, along with fellow teacher Viviana Zamorano from Arica, Chile, embarked on Scripps Institution of Oceanography (SIO) Research Vessel Roger Revelle from Ecuador on November 10, 2003 and traveled for three weeks to Arica, Chile. The primary purpose of this cruise is to recover and then deploy again a well-instrumented surface mooring from Woods Hole Oceanographic Institute (WHOI) under the stratocumulus clouds found off Chile and Peru in the vicinity of 20S, 85W.

Ms. Brice became an integral part of the research team and ship's crew and established relationships that will give her access to scientific resources for many years to come. While onboard, Ms. Brice also hosted Web broadcasts, maintained daily logs, took photographs, interviewed scientists, and answered her students' e-mail messages.

I am pleased to thank NOAA for its sponsorship of Debra Brice in the NOAA Teacher at Sea Program. With this knowledge and experience, Debra Brice will continue to engage her students and excite their curiosity about science and the sea.

A PROCLAMATION IN MEMORY OF SERGEANT TODD MICHAEL BATES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. NEY. Mr. Speaker, I hereby offer my heartfelt condolences to the family, friends, and community of Sgt. Todd Michael Bates upon the death of this outstanding soldier.

Sgt. Bates was a member of the Ohio National Guard 135th Military Police Company serving his great nation in the country of Iraq. He was a leader in his unit and a loving grandson to his grandmother, Shirley Bates. Sgt. Bates was an active citizen in his community and did his best to make his neighborhood a better place to live.

Sgt. Bates will be remembered for his unsurpassed sacrifice of self while protecting others. His example of strength and fortitude will be remembered by all those who knew him.

While words cannot express our grief during the loss of such a courageous soldier, I offer this token of profound sympathy to the family, friends, and colleagues of Sgt. Todd Michael Bates.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. ORTIZ. Mr. Speaker, due to official business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 12 "yes";
Rollcall No. 13 "yes";
Rollcall No. 14 "yes";
Rollcall No. 15 "yes";
Rollcall No. 16 "yes";
Rollcall No. 17 "yes"; and
Rollcall No. 18 "yes".

HONORING THE LIFE OF MARSHALL W. PILE, JR.

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. GRAVES. Mr. Speaker, I have the honor today to recognize the life of Marshall W. Pile, Jr., who passed away on February 3, 2004. As a husband, father, farmer, and public servant, Mr. Pile will be missed by many.

A long-time resident of Missouri, Marshall Pile was born on June 13, 1928 in Saline County, Missouri. Marshall was a veteran, serving in the Marine Corps during the Korean War. On November 10, 1951 he married Mary Frances and they eventually settled in Gentry County, Missouri. They had five children, Jeff, Jan, Anne, Peggy, and Dana, and six grandchildren. He is proceeded in death by his daughter Dana and his parents.

While Mr. Pile spent much of his time farming, he was also very involved in the local community as well as other organizations. Mr. Pile served the City of Albany as City Alderman and Mayor. He was Presiding Commissioner of Gentry County at the time of his death. Mr. Pile was also active in the Missouri Cattleman's Association, was a past president of the Missouri Association of Counties, and a long-time member of the Albany Rotary Club.

Marshall was a good friend to me and to many in the state of Missouri. He was very knowledgeable on issues pertaining to agriculture and county government. I know I relied on his advice and counsel many times. He always had a common sense approach and stood for what was right.

I offer my condolences to his wife, Mary, children Jeff, Jan, Anne, and Peggy, and their families. In this time of sorrow, may the thoughts and prayers of friends and family comfort them and may his memory bring them peace.

A PROCLAMATION RECOGNIZING WORLD WRESTLING ENTERTAINMENT AND CHAMPIONSHIP WRESTLERS KURT ANGLE AND JOHN BRADSHAW

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. NEY. Mr. Speaker:

Whereas, World Wrestling Entertainment (WWE), Kurt Angle, and John Bradshaw have made significant contributions to youth civic activities through their efforts with WWE's "Smackdown Your Vote!"; and

Whereas, WWE has registered 500,000 new voters between the ages of 18 and 30 over the past two years. Accordingly, under their leadership, WWE intends to register an additional two million new voters for the 2004 campaign; and

Whereas, On January 27, 2004 Kurt Angle and John Bradshaw visited Capitol Hill to meet Members of Congress and staff. During their visit, they helped spread the message about the importance of youth involvement in the political process; and

Whereas, WWE's "Smackdown Your Vote!" program has proven to be a highly effective organization for outreach to younger voters; and

Whereas, we look forward to the active participation of the WWE, Kurt Angle, and John Bradshaw in the American political process in 2004; and

Therefore, I join with Members of Congress in thanking WWE, Kurt Angle, and John Bradshaw for their unwavering commitment to increasing youth civic participation.

CELEBRATING 10TH ANNIVERSARY OF ARRIVAL OF B–2 BOMBER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SKELTON. Mr. Speaker, on December 17 of last year, Whiteman Air Force Base in Missouri celebrated the 10th anniversary of the arrival of the B–2 Bomber. I had the privilege of addressing the luncheon on that day. My speech to those attending is as follows:

There are high moments in one's life. I experienced one such moment 10 years ago when the first B–2, the Spirit of Missouri, arrived here at Whiteman Air Force Base.

Today we commemorate both the 10th anniversary of the B–2 Bomber mission at Whiteman and the 100th anniversary of man's first powered flight by the Wright Brothers. What an amazing parallel that 2 men, Wilbur and Orville Wright, began the saga of flight 100 years ago, and today the most powerful military weapon in the world, the B–2, is manned by only 2 airmen.

It seems like airplanes have always been a great part of my life and make up some of my fondest memories. I imagine there are quite a few people in this room who feel the same way. I will never forget one particular warm, autumn day in my hometown of Lexington. I was 11 years of age, and I was with my buddies on the north side of Franklin Avenue, across from my home, when I heard and saw the Army Air Corps C–47s pulling gliders above us.

I knew then that the Army Air Corps had a base near Sedalia where these planes were located. I later learned that those pilots were training for the June 6, 1944, D-Day invasion of Normandy. In my wildest dreams, I could never have imagined that years after seeing those planes fly over Lexington, I would be a part of making that Sedalia Army Air Field, now known as Whiteman, the most modern bomber base in the world.

My very first job was at the old Lexington Airport, which was located across the Missouri River. My duties included washing the Piper Cubs and Aeroncas and periodically raking the dirt floors of the hangars. I well remember a WAAF, a member of the Women's Auxiliary Air Force, ferrying a Culver Cadet airplane which landed at Lexington Airport to refuel. On the right seat of this airplane, which had a 27-foot wingspread, there was a large set of radio equipment. This massive equipment allowed the plane to serve as a drone, pulling targets for the Army Air Corps pilots to practice shooting. Thinking back, I recall that the small airplane was so heavy that the WAAF pilot could not get airborne until her third takeoff attempt on the short grass airfield. Without a doubt, aeronautical technology has come a long way since that time.

This military installation has a rich history in the security of our country. As the Sedalia Army Air Field, it trained the C–47 pilots to fly the gliders for the Normandy invasion. Later, as Whiteman Air Force Base, it was the home of a B–47 wing.

At the height of the Cold War, the base became a Minuteman I and II missile installation. Knowing that the missile mission would be phased out eventually, I urged the Air Force to put a B–1 Bomber Wing at Whiteman in 1982, but a Texas base was chosen to house the B–1 instead. It was later that year when I first received a classified briefing on the bat-winged bomber which was being contemplated by the Air Force. Subsequently, the legislative battle to authorize and build the Stealth Bomber was long and arduous, first authorizing 15 bombers, then another 5, then 1 more. During this time, I quietly urged the Air Force to consider Whiteman Air Force Base as the first base for this new weapons system.

In early December 1986, Secretary of Defense Casper Weinberger invited me to his office and told me that he had decided to place this new airplane at Whiteman Air Force Base. Since I had worked so hard to make this happen, the Secretary asked if I would be interested in making the announcement. At a press conference in Knob Noster on January 5, 1987, I had the honor of announcing that Whiteman Air Force Base would be the home of the newest and most advanced bomber in America's fleet, the Stealth Bomber. Then, Major General, now retired General Jim McCarthy deserves great credit for helping formulate the decision to put the wing here.

Shortly after that announcement, the Air Force officially named the new Stealth Bomber the B–2. And you know the history from that moment on. Then Brigadier General, later Lieutenant General Ron Marcotte oversaw the formulation of the B–2 Wing here at Whiteman.

Since the B–2 has been here for ten years, and people are fairly accustomed to seeing the aircraft, there might be a temptation to start considering it as old hat. But let me take this opportunity to remind you how exceptional this aircraft is, because you are looking at a significant piece of aviation history.

First, there was the airplane.

Then, in the First World War, aerial combat.

Then, in the Second World War, radar to see through clouds and find attackers at great distances.

Then an airplane that disappeared from radar.

The B–2 wasn't the first jet, or the first flying wing, or the first stealthy airplane, or the first capable of spanning the globe. But it was the first stealthy jet airplane able to go anywhere.

The B–2 changed the calculation from the number of planes per target to the number of targets per plane. It fundamentally changed the equation of offense versus defense.

It is, in one respect, the summation of the 20th century's technological advances. It could not stay aloft without computers. It stays invisible because of advanced materials. And the airplane and munitions know their precise location thanks to satellites.

To be sure, the Wright Flyer, wood and canvas, didn't have much of a radar signature. And it was quiet. And a 12-second flight is a lot easier than 24 hours.

24 hours. That's the other way the B–2 is the culmination of its century. The 20th century was, in so many ways, the American century. It's when our country reached its full flower, as a nation, as an economic force, as a political power. There is no more vivid expression of that than this airplane, which can leave here, project American power anywhere on the face of the globe, and return without landing. Winston Churchill called the United States the world's indispensable nation. The B–2's capabilities make the aircraft this indispensable nation's most sovereign instrument.

But before you say, wait a minute, this is an instrument of war—should we really celebrate it? It's a good question. Let me answer it this way. This airplane is a humanitarian advance. Yes, it exists to intimidate, and if necessary to destroy. But if we accept conflict as inevitable, as history suggests it is, I ask you—is it better to flatten a city to hit a single strategic target? That's what we have had to do through most of my lifetime and that of the airplane—rain down as many bombs as possible and hope one hits. Or is it better to save the civilians and just disable the target? If war is necessary, this airplane lets us separate its effects from the civilians with whom we have no quarrel.

During the legislative battle to build the B–2, there were a number of outspoken critics. That criticism continued even after all 21 planes arrived at Whiteman. But since their first combat deployments—first during 1999's NATO-led Operation Allied Force campaign in Yugoslavia, then during Operation Enduring Freedom in Afghanistan, and most recently during Operation Iraqi Freedom—those critics have disappeared. But it is more than the airplane and JDAM bombs. It is the men and women here at Whiteman—the maintenance crews, the bomb handlers, and of course the pilots—who made this chapter in American military history so very extraordinary.

When the first B–2 arrived at Whiteman in December 17, 1993, on the 90th anniversary of man's first powered flight by the Wright Brothers, it was the fulfillment of a dream. There are any number of reasons why Whiteman Air Force Base was the logical choice as the home of the B–2, but I believe the most important reason is the strong support and patriotism shown by the entire community for generations. And the Pentagon knows this. I certainly do.

Through the years, people throughout the area—on the streets, at civic organizations, in the Whiteman Community Council, in schools, and wherever I go—have given me words of encouragement about the progress of the B–2 mission at Whiteman. I doubt if any Member of Congress has ever had such strong support by the people he represents as I have had in this historic challenge.

The people of this area have been strong supporters of each mission assigned here. The Missourians of today are as steadfast in their support as in yesteryear. Since the day of the announcement that the B–2 would be located here, the people of Missouri have taken the B–2, and all those who support its mission, to their hearts.

With the B-2 mission firmly established at Whiteman, this base not only has a bright future ahead, but I believe it is also the premier Air Force Base in the nation. The B-2 mission ensures that Whiteman will continue to be a vital part of our national security establishment for decades to come, even though the installation's previous major mission, the Minuteman Missiles, were removed and silos destroyed following the end of the Cold War.

And now that the B-2s have undertaken their first combat deployments—with pinpoint bombing in Kosovo, Afghanistan, and Iraq—those who fly and maintain this aircraft have more than proven the usefulness of this weapons system and demonstrated the foresight of those who imagined the potential of a long range bomber that could take off from rural Missouri and fly half-way around the world and back.

So today we Americans have cause to celebrate an American invention—the airplane and the technologically complex airplane we call the B-2. As long as there are those skilled aeronautical engineers whose designs keep American air power on the cutting edge, and as long as we have dedicated Air Force men and women who crew and serve these craft, America will continue to be the bastion of freedom and a secure land.

We know how far the first 100 years of aviation has taken us. But what will the next 100 years bring? Let me make a few predictions. In 100 years, planes will fly faster, fly farther, and probably fly on their own. Whiteman Air Force Base, which in 100 years will still be the premier Air Force base in the world, will be home to pilotless, hypersonic, stealthy bombers, able to reach any point on the globe within hours. And in 100 years, the people whose hard work and dedication make these amazing technologies come to life will be as inspiring to their fellow Americans as their predecessors amaze and inspire us today.

I'm sure that over the last 10 years quite a few eleven-year-olds in Lexington, and throughout the state, have looked toward the sky and caught a glimpse of an airplane—not an army transport airplane pulling a glider, but the most modern bomber in the world, the B-2. Like those Army Air Corps planes of an earlier age, its home is located near Sedalia. This plane flies for the same purpose as the planes I saw in 1943—to preserve freedom. The airplanes have changed—but the mission remains the same.

LETTER FROM NON-COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mrs. MUSGRAVE. Mr. Speaker, I respectfully request that the letter from the Non-Commissioned Officers Association of the United States of America be included in the CONGRESSIONAL RECORD.

NCOA,
Alexandria, VA, January 29, 2004.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: The Non Commissioned Officers expresses its grave concern that America's military personnel and veterans are being used as an "emotional" ploy to delay the Department of Labor implementation of the Fair Labor Standards Act relative "white collar" exemptions. Claims that military members involved in the War on Terrorism and this Nation's veterans will have their employment status elevated to "exempt" based on military training and experience and lose opportunity for overtime compensation are patently incorrect. The Association regrets that some would wrongfully use such false allegations concerning impact to America's service members to garner emotional and legislative support to delay the final rules for implementation of FLSA.

It is a blinding glimpse of the obvious that neither the current rules nor the revised proposal will negatively impact those who serve or have served in the Uniformed Services. In fact, this association's direct discussions with DOL leads us to the conclusion that the proposed rule relative the revised ceiling for annual income (increased from $8,060 to $13,000) will greatly expand the eligibility pool for worker overtime compensation.

It is outrageous that unsubstantiated claims are reaching America's Soldiers, Sailors, Marines, and Airmen currently in harm's way that their future return to civilian jobs will result in a reclassification of their employment status. It is clear from our discussions with the Department of Labor that the proposed rule makes no changes from the current regulation and case law regarding military training and eligibility for overtime payments.

NCOA will continue to monitor the rights of all service members and pursue DOL intervention if the intent of any program or interpretation of the published rules would negatively impact those who have served in the Uniformed Service of this Nation. NCOA will remain vigilant to ensure their employment rights.

Sincerely,

GENE OVERSTREET,
President/CEO.

A PROCLAMATION RECOGNIZING RENEE YOUNG

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. NEY. Mr. Speaker:

Whereas, Renee Young has served as a dedicated Field Liaison for the Ohio Emergency Management Association for 27 years; and

Whereas, Renee is always willing and able to address the needs of, and lessen the stress upon, the County Directors and is a source of stability in times of crisis; and

Whereas, Renee has demonstrated her commitment to aiding those during emergencies by working overtime, and from her own home if necessary, to see that the emergency is resolved; and

Whereas, Renee serves as a training instructor for the Ohio EMA and has a reputation for keeping participants engaged through a mixture of humor and information; and

Whereas, directors from counties outside of Renee's district routinely call upon her leadership and experience to assist their counties;

Therefore, I join with Members of Congress and the entire Eighteenth Congressional District of Ohio in thanking Renee Young for her dedication to the Ohio Emergency Management Association and her continued efforts to protect and improve her community.

IN MEMORY OF TUG McGRAW, BASEBALL LEGEND, PATRIOT AND AMBASSADOR OF HUMANITY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. WELDON of Pennsylvania. Mr. Speaker, I want to pay tribute to baseball legend, Tug McGraw. Tug McGraw died on Monday, January 5, at the Nashville area home of his son and daughter-in-law, Tim McGraw and Faith Hill. Tug McGraw's life goes far beyond his on-field extensive achievements. He was also a patriot and an ambassador of humanity.

When Tug McGraw came to the Phillies in 1974, he brought along his experience as part of the New York Mets. With that team, he coined his rallying cry, "You gotta believe." His shining moment as a Phillie came in the 1980 World Series. In the fifth game, Tug struck out the Royals' Amos Otis with the bases loaded in the bottom of the ninth to preserve a 4–3 victory. In the sixth and final game, in Philadelphia, Tug squeezed out of bases-loaded jams in the final two innings and got the save to give the Phillies their first World Championship. It was his third World Series save, lifetime and his five League Championship Series saves is a record. He retired with 180 saves.

Those who follow baseball know of Tug McGraw's amazing saves and victories, but his life goes far beyond his on-field achievements. I know firsthand how he served his community and the Commonwealth of Pennsylvania in a major league way for many years. Tug enjoyed the presence of others, being thoroughly human and generous. He was a leader in so many worthwhile projects across our region, including the Scholar Athlete Program, various mentoring programs for at-risk youth and numerous charitable and civic causes. We will all remember and admire his talent on the mound. But of lasting significance is what he did to motivate people, particularly our youth, not only with his time and talent, but also with his laughter and his ability to bring out the best in others. It is what we teach and what we contribute to enriching the lives of those around us that defines our success in life. This is Tug McGraw's lasting legacy.

Mr. Speaker, our region has lost not only a baseball legend, but a dear friend. I extend my heartfelt condolences to the McGraw family. Tug McGraw was generous with his gifts throughout his life and exemplified the spirit of service that has made this country great. It is proper to remember and honor a man of such worth and character with great respect for what he accomplished and stood for. We are grateful to have known Tug McGraw, and mourn his passing.

RECOGNIZING HELEN RUDEE'S 86TH BIRTHDAY

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to recognize Helen Rudee who, on February 20, 2004, will celebrate her eighty-sixth birthday. For all of her adult life, Ms. Rudee has been an outspoken advocate for women, children, health and environmental issues.

Helen was raised in North Dakota and moved to California to attend San Francisco Junior College and Stanford University Nursing School. After marrying and having four children, her husband died leaving her to care for them. As a mother, Helen's first priority was raising her children. She was very active with their schools and served as a member of the PTA before serving on the Santa Rosa Board of Education for 10 years. In recognition of all her work, she received the Honorary Service and Continuing Service Awards from the California Congress of Parents and Teachers, Inc.

In 1976, Helen was the first woman elected to the Sonoma County Board of Supervisors. As a member of the Board of Supervisors for 12 years, she had a reputation for being accessible and for gathering the opinions of as many of her constituents as possible before making a final decision on matters of importance.

Throughout her career, Ms. Rudee has been dedicated to bringing more women into political offices. Women often go to her for guidance when considering running for office and she is always generous with her time, knowledge and advice. Despite retiring at age 70, she has remained as active in her retirement as when she was on the Board.

Celebrating the 20th Anniversary of Women's History Month, I was proud to honor Helen at the National Women's History Project event, "Honoring 20th Century Women," on March 22, 2000 in Statuary Hall in the Capitol. Throughout my career, Helen has been an inspiration to me and many other women who are in politics and other male-dominated fields.

Mr. Speaker, Helen Rudee has been an active and outspoken community leader for many years. She is a trailblazer who has made it better for all women.

COMMEMORATING FEBRUARY 2004 ALUM OF THE MONTH: MS. OMUGO JULIET WASSWA-MUGAMBWA

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. OBERSTAR. Mr. Speaker, I rise today to congratulate Ms. Omugo Juliet Wasswa-Mugambwa, recipient of the College of St. Scholastica's Alum of the Month for February 2004.

St. Scholastica is a private undergraduate college founded in 1912 by a group of pioneering Benedictine Sisters who offered college courses, then, to six young women. Today, St. Scholastica educates more than 2,800 men and women annually and has awarded degrees to more than 13,000 alumni. The college offers the city of Duluth a world-class educational facility, while simultaneously enhancing the cultural and intellectual life not only of the city but also all of northwestern Minnesota.

Ms. Wasswa-Mugambwa arrived in Duluth, Minnesota, in the dead of winter in 1990 from her home country of Uganda. Ms. Wasswa-Mugambwa made a remarkable transition between continents, cultures, and degrees Celsius with patience and grace. I was privileged to witness these qualities for myself when Juliet served as an intern in my Washington D.C. office. Her intellectual curiosity and desire to experience the inner-workings of the legislative branch left an indelible memory on my staff and me.

Ms. Wasswa-Mugambwa received the Leadership Award for the class of 1994, one of the highest honors for a student at the College of St. Scholastica. Following her graduation that year, she pursued a post-graduate degree in International Economic Development at the University of Denver, earning a Master's Degree in 1996. Ms. Wasswa-Mugambwa continues to sharpen her focus on the issues of international development as an associate program officer with the United Nations Department of Economic and Social Affairs.

As a UN associate program officer, site prepares substantive reports for the UN Secretary General on development cooperation issues for consideration by the General Assembly and the Economic and Social Council. Her intense focus, nimble intellect, and industrious work ethic are hallmarks of her service at the UN, ensuring that her reports provide the basis for coherent and effective policy guidance to the operation activities of the United Nations family of organizations.

In addition to her professional accomplishments, Ms. Wasswa-Mugambwa is very proud of her family. She met her husband Joel, a member of the Toro Royal family in Uganda, in 1995; the couple have been blessed with two young children: Prince Oyo-Nyabongo and Princess Batebe.

I most heartily commend Juliet on her continued professional and personal success and express my great respect for her as she accepts the award for February Alum of the Month from the College of St. Scholastica.

IN RECOGNITION OF MR. LUCIANO "LOU" MARTINEZ

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SHAW. Mr. Speaker, last December the Palm Beach County Hispanic and Latino community lost one of its most beloved and outstanding leaders. Luciano Martinez, or "Lou" as we knew him, dedicated his life to helping others and founded the Hispanic Human Resources Council, helping thousands of individuals climb the ladder of success over many years in our local area.

Lou had the biggest heart and the most fertile mind finding unique ways to bring much needed services to the fast growing Hispanic and Latino population in Palm Beach County. Without his tireless work, Head Start would not be available to launch children into a better education, mothers would not have quality day care to permit them to work and provide for their children, many low income families would have never experienced the joys of purchasing their first home, and a host of immigrants would be unable to adjust to a new and different lifestyle. Because of Lou all of the above did happen.

Most important to Lou was the desire that while new arrivals adapted to a new culture, traditional Hispanic and Latino values and customs honed over thousands of years remained the centerpiece of family life. This desire to encourage individual identity, instilled pride in their common heritage to form a foundation for future generations to build upon, never forgetting the past.

Mr. Speaker, Lou was born in Havana, Cuba, raised in Florida and arrived in Palm Beach County fresh with a degree from Florida International University. His leadership skills were quickly recognized, and after many years of helping the less fortunate, Lou in 1977 founded the Hispanic Human Resources Council and served as its Executive Director for more than 26 years.

His talent led others to call upon him to serve on a multitude of community leadership positions; Board of Directors of JFK Hospital, the American Red Cross, and The Forum Club. In helping children, he served on the Pre-K Early Intervention Committee, Child Advocacy Board of Palm Beach County, and the Governor's Conference on Children and Youth. The Su Casa Housing Program helping to establish home ownership is a model program that is copied elsewhere.

There was so much more to the life of Luciano Martinez, he touched the lives of so many people, making life a little easier and less stressful. The smiling caring face of Lou was ever present, always ready to go the extra mile on behalf of his neighbors. His legacy is most apparent in the laughing happy children of Palm Beach County who continue to be under the care of the Hispanic Human Resources Council. The classrooms and playrooms in the West Palm Beach centers are filled with the memories of thousands of children who have passed through those doors, the hundreds who are there today, and the many more who will enter in future years. I am confident the spirit of Luciano will always be looking out for them from afar.

Mr. Speaker, Vaya Con Dios Luciano Martinez. Well done, mission accomplished.

RECOGNIZING THE CIVIL RIGHTS ACHIEVEMENT AWARD GIVEN TO STEPHANIE COWART

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise to honor the achievements of Stephanie Cowart who recently receive the "Civil Rights Achievement" award chosen by the National Conference for Community and Justice. The award honors a member of the Niagara Falls community who exemplifies the works, beliefs and dreams that Dr. Martin Luther King, Jr. shared with the world.

Ms. Cowart, who serves as the executive director of the Niagara Falls Housing Authority, is one of the African American Women Community Builders of Western New York. She is indicative of the vibrant and caring Niagara Falls community that I am proud to represent in Congress. As a native of Niagara Falls, her decision to remain in the area not only to complete her education, but also to commit to improving the community through her work and by raising a family is impressive. Ms. Cowart is truly a Niagara Falls jewel.

In addition to her contribution to the community through running the Niagara Falls Housing Authority, she serves the area in her "free time" as an active member of the Mount Zion Missionary Baptist Church, and numerous other organizations. This award is not the first that Ms. Cowart has received. She is the recipient of numerous citations, including the Niagara County Black Achiever's Candle in the Dark Award, the Niagara Improvement Association Civic Award, the Niagara University Fellowship Award, the Niagara Falls Housing Authority Award of Excellence, the Business First's prestigious Forty Under 40 award, the Niagara County's Woman of the Year Award, and the Heroes of Public Housing Award.

Stephanie is truly an example to the entire country, not just my district. I am proud to bring her achievements to the attention of my colleagues.

TRIBUTE TO MR. ROBERT A. PERREAULT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SMITH of New Jersey. Mr. Speaker, I rise to pay tribute to Mr. Robert A. Perreault, who retired o January 2, 2004, after more than 30 years of service in the Department of Veterans Affairs (VA).

A veteran of the United States Navy, Bob Perreault began his VA career as a Medical Administrative Assistant in 1974 at the VA Outpatient Clinic in St. Petersburg, Florida. Bob rapidly progressed in his career, in VA field activities at a managerial and executive level, and in a number of key executive positions in VA Central Office. Among his notable assignments, he served in Washington as Director of the Medical Administration Service; Executive Assistant to VA's Chief Medical Director [now Under Secretary for Health]; and Director of Health Care Reform during the Clinton Administration. Mr. Perreault also served as Chief Executive Officer in Medical Centers in Newington, Connecticut; Philadelphia, Pennsylvania; Atlanta, Georgia and Charleston, South Carolina. While in Atlanta and Charleston, he served in a dual role as VA's service line executive for primary care for a network of VA providers throughout Georgia, Alabama and South Carolina. Throughout his distinguished VA career, Bob Perreault eagerly and enthusiastically assumed challenges and provided leadership to VA programs, with his eye always fixed squarely on the health care needs of veterans.

In May 2002, the Secretary of Veterans Affairs appointed Mr. Perreault Chief Business Officer of the Veterans Health Administration (VHA). He was recruited to this key role because of his wealth of experience in field facilities and Central Office. In this new role, he brought invigorated leadership to VHA business functions to include improved eligibility determinations, significantly higher first- and third-party collections activities and improved patient administration policy. Mr. Perreault coordinated VHA's implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), aided the establishment of the new "VA Advantage" Medicare coordination program, improved management of the fee-basis and contract care programs, and provided more focused direction to VA's CHAMPVA program, among a myriad of activities within his jurisdiction or persuasion.

Mr. Perreault twice was awarded the Presidential Meritorious Rank Award for career senior executives, and received numerous other national recognitions and performance awards during his career. Employing his vast institutional knowledge and business acumen, Robert Perreault has proven time and again he is a true and loyal friend to America's veterans.

On behalf of the Committee on Veterans' Affairs, I want to thank Robert Perreault for his steadfast and intrepid service to the Nation's veterans and the Department of Veterans Affairs.

IN RECOGNITION OF DEERFIELD BEACH FOUNDERS' DAYS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SHAW. Mr. Speaker, I rise today in recognition of the great city of Deerfield Beach, in Florida's 22nd Congressional District. All Floridians can be proud of the rich history and cultural contributions Broward County's northernmost city has made over the past 77 years.

Today, visitors from around the world travel to Deerfield Beach for some of the most pristine beaches in the state of Florida. In fact, the City was awarded the Blue Wave award as a premier tourist destination in the year 2000. When travelers visit our fine city, they will find not only exceptional beaches and natural beauty, they can also enjoy any one of our four sites on the National Register of Historic Places: the 1920 Old School House, the 1923 James D. and Alice Butler House (now the Butler House Museum), the 1926 Deerfield School (now Deerfield Beach Elementary School), and the 1926 Seaboard Coastline Railway Station (now the Tri-Rail Station). Deerfield Beach also has beautiful, well-maintained parks, boat ramps, tennis courts, and playgrounds.

For all of these reasons and more, many people chose to call Deerfield Beach home. The city has grown to almost 65,000 residents who make their living in one of the more than 5,000 businesses ranging from small "mom & pop" retailers, to major nationwide corporations.

The city has indeed seen phenomenal growth and prosperity mark the last few years and as such, I would like to extend my congratulations and support to The Honorable Albert Capellini, Mayor of Deerfield Beach. Mr. Speaker, may everyone who participates in the 57th Annual Founders' Days Festival of Deerfield Beach enjoy all this wonderful city by the sea has to offer.

INTRODUCTION OF THE BADGE AND UNIFORM SECURITY TRUSTWORTHINESS [BUST] ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. SLAUGHTER. Mr. Speaker, six months ago tomorrow, a man with a fake FBI vest and fake badge killed a man and wounded another. Today, I am introducing the Badge and Uniform Security Trustworthiness Act of 2003 in honor of the victims—Raymond L. Batzel and Joseph B. Doud.

On August 12, 2003, a man carrying a sawed-off shotgun, wearing a wig and bulletproof vest with the printed initials "FBI", and carrying what looked like a law enforcement badge walked into the Xerox employee credit union and killed one man and shot another. This man posing as a federal law enforcement officer turned a robbery into a murder. FBI officials believe that the vest and the badge were fakes. Six months later, the killer has still not been caught. Would this have happened if the murder did not have access to a fake badge and bulletproof vest?

Mr. Speaker, this bill will expand the current federal criminal ban on fake police badges to include police uniforms and other insignia. Right now it is legal for people to buy, sell, or own fake FBI insignia or badges used by Customs officials at our borders. As never before, Americans are facing the possibility of terrorism and violence within our borders. We are increasingly relying on our local, state, and federal law officials to keep the public safe. However, we must be able to depend on them without worrying that the "officer" is an impersonator. Law enforcement needs for us to trust them without hesitation, but the trust cannot be complete unless we take steps to stop the flow of fake public safety officer uniforms.

Unfortunately, the threat goes beyond the terrifying reality of this case in which a man in a fake FBI bulletproof vest tried to rob a bank. The threat reaches out to land border crossings, airports, and seaports. Officers with the Bureau of Customs and Border Security and the Bureau of Immigration and Customs Enforcement work to keep terrorists from entering or staying in the country and to prevent the dangerous materials and weapons used by terrorists from entering the country. We cannot afford to have a man with fake credentials standing on the Peace Bridge at the US–Canadian border, allowing terrorists or their weapons to enter the United States. By prohibiting the buying, selling, and use of false safety officer badges and other insignia, we are not only increasing domestic security, but also honoring the lives of Raymond L. Batzel and Joseph B. Doud. We must learn from the terrible events of August 12, 2003, and keep law enforcement insignia out of the hands of other would-be criminals or terrorists. Otherwise we are vulnerable to potential menace from within our borders and outside of our borders.

TRIBUTE TO MR. MICHAEL SLACHTA, JR.

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to pay tribute to Mr. Michael Slachta, Jr., Assistant Inspector General for Auditing, who retired on January 2, 2004, after 36 years of Federal service—32 of which were served at the Department of Veterans Affairs (VA).

Mike's distinguished career began with service in the U.S. Navy from May 1966 to February 1970, including a one-year tour as a corpsman with the Third Marines in the Republic of Vietnam. As a result of his outstanding service, Mike was awarded the Bronze Star with Combat V, Purple Heart, Combat Action Ribbon, Meritorious Unit Citation, and Vietnam Service Medal with Fleet Marine Force Combat Insignia.

Mike attended the University of Pittsburgh on the Vietnam-era GI Bill and graduated with a bachelor's degree in biology. In 1971, he joined VA as an adjudicator at the Regional Office in Detroit, Michigan. In 1974, Mike moved to Washington, DC and joined the Internal Audit Service to work on the development of the Inspector General Act.

In 1978, Mike transferred to Hyattsville, Maryland to serve as Director of the Eastern Field Office of Audit. In 1980, he returned to the District of Columbia to serve as Acting Assistant Inspector General for Auditing. In 1982, he was appointed Deputy Assistant Inspector General for Regional Audits, and in 1983 he was appointed Deputy Assistant Inspector General for Headquarters Audits. In 1991, Mr. Slachta was named Deputy Assistant Inspector General for Auditing.

On March 12, 2000, Mike was appointed Assistant Inspector General for Auditing, the position he held until his retirement. In this capacity, he directed 166 auditors and support staff located at eight Inspector General offices across the country. In the last decade, under Mike's direction, the Office of Audit recommended actions that had potential cost efficiencies of over $7 billion, which greatly improved VA program effectiveness and quality of services to beneficiaries.

A testament to the significant contributions and commitment of Mike Slachta are his many awards and recognitions. In 1991 and 2000, Mike received the Senior Executive Service Presidential Rank Award of Meritorious Executive. In 2001, the Secretary of Veterans Affairs appointed him to the VA Claims Processing Task Force, where he served with distinction.

The President's Council on Integrity and Efficiency presented Mike with the June Gibbs Brown Career Achievement Award in 2003 for his extraordinary leadership and a distinguished career at VA in public service.

Mike and his wife Sharron have two sons, David and Douglas. They both share their father's passion and considerable skills in judo and golf.

With Mike's retirement, VA loses an enthusiastic, innovative leader and an exemplary Federal employee.

HONORING NASHVILLE'S CIVIL RIGHTS LEADERS

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. COOPER. Mr. Speaker, in honor of Black History Month, I am pleased to speak today in recognition of Nashville's distinguished role in the history of the Civil Rights movement.

Forty-four years ago this week, a group of young Nashville college students came together to organize the Nashville sit-ins, a nonviolent campaign to desegregate the city's lunch counters. From that moment in 1960, and from that campaign's extraordinary leaders, emerged a passion for justice and equality that helped to guide the civil rights movement.

Nashville was a principal training ground for some of the nation's most important leaders in the civil rights movement, many of whom were schooled in the techniques of nonviolent protest by the Rev. James Lawson. Rev. Lawson was the second African-American admitted to Vanderbilt University's Divinity School, and his famed workshops on nonviolent resistance later earned him a reputation as "the teacher of the civil rights movement."

Lawson's students came to include such prominent figures as Diane Nash, Dr. James Bevel, Dr. Bernard Lafayette, and Rev. C.T. Vivian, as well as my distinguished colleague, Congressman John Lewis of Georgia. As students and young activists, they formed the organizational core of Nashville's civil rights movement, which Dr. Martin Luther King, Jr. later described as "the best organized and most disciplined in the Southland."

Nashville's lunch-counter protests began on Feb. 13, 1960. Three months later, after a dramatic confrontation with then-Mayor Ben West, the students earned their first major victory when six Nashville lunch counters began serving African-Americans. The Nashville protests came to serve as models for later protests throughout the South, and its leaders, Ms. Nash, Dr. Bevel, Dr. Lafayette, Rev. Vivian and Mr. Lewis, went on to make pivotal contributions to the success of the civil rights movement, including the Freedom Rides of 1961 and the historic protests in Selma, Alabama.

This weekend, a number of the original leaders of Nashville's movement will be reuniting both to commemorate the anniversary of those first organized sit-ins and to honor the opening of the new Civil Rights Room at the Nashville Public Library. This library, located at 615 Church Street in Nashville, now stands in place of several downtown restaurants that refused to serve African Americans before the historic protests.

Dr. King best summed up the legacy of the Nashville movement when he came to visit shortly after the protests succeeded in desegregating Nashville's lunch counters. He said, "I came to Nashville not to bring inspiration, but to gain inspiration from the great movement that has taken place in this community."

It is with great honor and pride that I pay tribute today to the men and women of Nashville whose leadership and courage in the fight for racial justice still serve as inspiration to us today.

TRIBUTE TO KHRISTYN BRIMMEIER

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. LAMPSON. Mr. Speaker, I rise today to wish a fond farewell to a member of my staff, Khristyn Brimmeier, who is leaving Capitol Hill this week. Khristyn is returning to her hometown of Pittsburgh, Pennsylvania to pursue other professional opportunities.

All of us who serve in Congress know how important our staff members are. Khristyn has served as a Congressional Aide for over seven years, including four years with my office. She has served as both my Press Secretary as well as my Communications Director. As a public spokesperson before the media and countless community organizations, I could have had no better assistant to help positively present my agenda on behalf of the constituents of the Ninth Congressional District of Texas.

Khristyn has not only championed the press and communications functions in my office, but has played a vital role as staff director of the Missing and Exploited Children's Caucus. Khristyn's hard work and dedication have helped to push the issue of missing children to the forefront in the conscience of this Congress. Her assistance and her council have been crucial in passing legislation that deals with the exploitation of children. I know that I speak for the dozens of families she has worked with on this issue in thanking her for her service.

I am grateful to have had the opportunity to know and work with Khristyn. I am confident that her abilities, her passion, and her work ethic will serve her well in the years to come. Though she is small in stature, her presence and her contributions have surely been noticed by all who have had the pleasure to work with her.

Khristyn, thank you for your hard work over the last four years. You will truly be missed.

HONORING UNC CHARLOTTE CHANCELLOR EMERITUS DEAN WALLACE COLVARD

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mrs. MYRICK. Mr. Speaker, I would like to honor and recognize UNC Charlotte Chancellor Emeritus Dean Wallace Colvard. On February 24, 2004 he will receive an award that recognizes his lasting impact on our nation. Dr. Colvard, 90, is the 2004 recipient of The Echo Award Against Indifference, given by the Echo Foundation in honor of his lifelong commitment to equity and justice.

Dr. Colvard is best known for his courageous stand against racial discrimination in 1963 as president of Mississippi State University, when he challenged an unwritten state policy and allowed the basketball team to travel to Loyola of Chicago to compete in the NCAA tournament against African-American players. Although his team lost, 61–51, Colvard and Mississippi State won national respect for their quest to end segregation—and opened doors of opportunity for future generations.

Forty years later, in 2003, Mississippi State made national news for earning its second trip to the NCAA, and Colvard's actions were chronicled in a Sports Illustrated story looking back on the historic event. To this day, Colvard downplays the significance of his decision, saying he only did what was right.

Dr. Colvard was born in the Appalachian Mountains in Grassy Creek, N.C. in 1913—in a home with no electricity, indoor plumbing or running water. He was the first member of his family to go to college, entering the work-study program at Berea College in Kentucky with $100 in his pocket. Those humble beginnings instilled in him a lifelong commitment to equity and justice.

He went on to earn a Master of Arts degree in animal physiology from the University of Missouri and a doctoral degree in agricultural economics from Purdue University. He has served as superintendent of North Carolina Agricultural Research Stations; professor and head of the animal science department and later, dean of agriculture at North Carolina State College; president of Mississippi State University; and first chancellor of The University of North Carolina at Charlotte. He played an instrumental role in shaping the new university by securing regional and national accreditation for its programs and building a campus to accommodate enrollment that swelled from 1,700 to 8,705 students during his chancellorship.

Dr. Colvard was also instrumental in creating University Research Park and Discovery Place Science Museum in Charlotte, and the North Carolina School for Math and Science in Durham—the nation's first public, residential high school that emphasizes a science and mathematics curriculum. Among Colvard's many honors are the United States Department of the Army Outstanding Civilian Award (1966); the University of North Carolina University Award (1989); the North Carolina Public Service Award, presented by Gov. James Martin (1990); and honorary degrees from Purdue University, Belmont Abbey College, UNC Charlotte and Berea College.

HONORING LOUISIANA STATE UNIVERSITY AT EUNICE

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. JOHN. Mr. Speaker, I would like to take a moment and recognize some of the great things that are happening right now at Louisiana State University at Eunice. This two-year college located in Acadia Parish, a part of my district, provides students with the educational tools they need to either enter the workforce or continue their studies at a four-year university.

With 94 professors on hand, and nearly all of them full-time staff, LSUE has registered more than 3,000 students for the 2004 Spring semester. This number marks an all-time high for the school.

LSU at Eunice is excelling outside the classroom as well. The school has recently initiated a wellness program entitled "Bonne Sante!" Students and staff will benefit from this exciting program which will promote healthy living through a variety of sources including a monthly magazine, a free web service, a fitness/health film series and a community of fitness activity groups. "Bonne Sante!" promises to make LSUE a healthier and happier campus.

Staff at LSUE has also garnered some impressive accolades. The college's Chancellor, Dr. William J. Nunez, III, was recently selected to serve as chairman of the Eunice Community Medical Center Board of Directors for the current calendar year. In addition, Ms. Theresa Darbonne, a member of the SIFE@LSUE National Team recently returned from Honduras where she visited the medical clinic that SIFE@LSUE helped establish three years ago. SIFE is a global, not-for-profit organization that works to improve living standards throughout the world by teaching the values of market economics.

Exciting things are happening at LSUE. Its students and faculty should be proud to know that their school is making unprecedented strides and continues to provide an excellent education in Southwest Louisiana.

A BIRTHDAY SALUTE TC THE TOWN OF LINCOLNVILLE, SOUTH CAROLINA

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. BROWN of South Carolina. Mr. Speaker, it is with great pleasure that I rise today in recognition of a very special Town in my district called Lincolnville, South Carolina. In 1867 seven black men led by Bishop Richard Harvey Cain were dissatisfied with the way they were being treated in Charles Town, which is now Charleston, South Carolina. They set out to locate land for sale by the South Carolina Railroad Company. They found a location called "Pump Pond" where the local train stopped to get water and wood and later water and coal. They purchased 620 acres from the South Carolina Railroad Company and established the town on February 14, 1889. They were granted a state charter on December 14, 1889. The people of this great town named it Lincolnville in honor of Republican President Abraham Lincoln who freed the slaves.

On February 14, 2004, the Town of Lincolnville will be 115 years old. Since the town was founded during Black History Month, on February 28, 2004, there will be a great Jubilee Celebration with visual arts, arts and crafts, music, dance, theatrical presentations and great food. This wonderful celebration will be in remembrance of Lincolnville's founding fathers while displaying the spirit of its diversity throughout the community.

Happy Birthday to the people of the great Town of Lincolville, South Carolina.

HEART DISEASE AWARENESS

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. ROTHMAN. Mr. Speaker, heart disease is the leading cause of death for all Americans. According to the American Heart Association, nearly 500,000 women die of cardiovascular disease each year. For women, heart disease is responsible for more deaths than the next seven causes of death combined, including all forms of cancer. And shockingly, only 8 percent of women think that heart disease is a major personal concern.

These statistics are a sign that the message is not getting out. I rise today, in the middle of American Heart Month, to call attention to heart health and to encourage women to learn about the signs and causes of cardiovascular disease.

This past Friday, February 6, 2004, the American Heart Association sponsored "Go Red for Women" day. This initiative, encouraging individuals to wear red to increase awareness of heart disease, is an important step in making sure women take back control of their personal health. Both men and women must educate themselves on the warning signs of heart attack, stroke, and cardiac arrest. Women in particular must know the risk factors that they can control, including diabetes, high blood pressure, tobacco use, cholesterol, physical inactivity, and obesity because one in ten American women aged 45 to 64 and one in four American women aged 64 or older has some form of heart disease.

Not only can well informed women and mothers improve their own health, but as the family gatekeeper, mothers can also help put children on the path to a lifetime of good heart health. We know childhood obesity and diabetes are pandemic in our society, but there are things we can do to stop the growing trend of children exhibiting heart disease risk-factors at such an early age. We all must work to ensure that our families are eating healthy, well-balanced meals and we must make sure that our families are getting enough physical activity. These simple but important efforts will mean a great deal to the future health of our family members and our Nation.

Mr. Speaker, I know you will join me in encouraging all Americans to contact the American Heart Association either through their Website or over the phone to find out the information that can save their lives. I hope my colleagues in the House will join me in this fight against heart disease, our Nation's leading killer.

TRIBUTE TO MAJOR GENERAL AMATO MATTY SEMENZA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SERRANO. Mr. Speaker, it is with sadness that I rise today to pay tribute to Major General Amato Matty Semenza, a dedicated and determined community leader who passed away suddenly on Sunday, February 1, 2004 at his home. Friends, family and community members will gather on Friday, February 13 at 11 a.m. at St. Edward's the Confessor Church in Clifton Park to honor his memory.

General Semenza was appointed commanding general of the New York State Guard by Governor Nelson A. Rockefeller on July 20, 1973, after serving as deputy commanding general. He served as commander until 1987. The General served the United States with distinction during his military career.

The numerous decorations, citations and commendations bestowed upon him, speak volume about the character of General Semenza. He was awarded the Good Conduct Medal, the Unit Citation, the American Campaign Medal, the European-African-Middle Eastern Campaign, the World War II Victory and Occupation Medals, the New York State Conspicuous Medal, the NYG Commendation Medal, the NYS Long and Faithful Service Decoration for 25 years of military service and the New York Guard Medal. General Semenza also served as the president of the State Defense Force Association of the United States.

General Semenza earned his Bachelor of Science degree and master's degree in education from Fordham University. He began his teaching career in 1946 and 2 years later joined the faculty of Fordham College, where he met his wife, Renata Gouthier.

In 1955, General Semenza began his work with the Roman Catholic Diocese of Albany. He served as diocesan superintendent of schools, director of the Diocesan Development and Stewardship Office and executive director of the National Catholic Stewardship Council Inc. He was appointed to the New York State Council of Catholic School Superintendents, chief administrator of the National Catholic Education Association and the American Association of Supervision and Curriculum Development.

Beyond General Semenza's ceaseless civic work, he managed to be a loving and involved husband, father, and grandfather. To be well-known as not only a giving and determined individual, but also as a devoted family man, is a remarkable honor. I am sure that his family is very proud of the wonderful life he led. General Semenza was a wonderful individual who showed us the beauty and power of dedication, leadership, and wisdom. He was truly an inspiration to all who knew him.

Mr. Speaker, I ask my colleagues to join me in commemorating the life of Major General Amato Matty Semenza.

FEDERAL WAR ON DRUGS THREATENS THE EFFECTIVE TREATMENT OF CHRONIC PAIN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. PAUL. Mr. Speaker, the publicity surrounding popular radio talk show host Rush Limbaugh's legal troubles relating to his use of the pain killer OxyContin will hopefully focus public attention on how the federal War on Drugs threatens the effective treatment of chronic pain. Prosecutors have seized Mr. Limbaugh's medical records in connection with an investigation into charges that Mr. Limbaugh violated federal drug laws. The fact that Mr. Limbaugh is a high profile, and often controversial, conservative media personality has given rise to speculation that the prosecution is politically motivated. Adding to this suspicion is the fact that individual pain patients are rarely prosecuted in this type of case.

In cases where patients are not high profile celebrities like Mr. Limbaugh, it is a pain management physician who bears the brunt of overzealous prosecutors. Faced with the failure of the War on Drugs to eliminate drug cartels and kingpins, prosecutors and police have turned their attention to pain management doctors, using federal statutes designed for the prosecution of drug kingpins to prosecute physicians for prescribing pain medicine.

Many of the cases brought against physicians are rooted in the federal Drug Enforcement Administration (DEA)'s failure to consider current medical standards regarding the use of opioids, including OxyContin, in formulating policy. Opioids are the pharmaceuticals considered most effective in relieving chronic pain. Federal law classifies most opioids as Schedule II drugs, the same classification given to cocaine and heroin, despite a growing body of opinion among the medical community that opioids should not be classified with these substances.

Furthering the problem is that patients often must consume very large amounts of opioids to obtain long-term relief. Some prescriptions may be for hundreds of pills and last only a month. A prescription this large may appear suspicious. But, according to many pain management specialists, it is medically necessary, in many cases, to prescribe such a large number of pills to effectively treat chronic pain. However, zealous prosecutors show no interest in learning the basic facts of pain management.

This harassment by law enforcement has forced some doctors to close their practices, while others have stopped prescribing opioids—even though opioids are the only way some of their patients can obtain pain relief. The current attitude toward pain physicians is exemplified by Assistant U.S. Attorney Gene Rossi's statement that "our office will try our best to root out [certain doctors] like the Taliban."

Prosecutors show no concern for how their actions will affect patients who need large amounts of opioids to control their chronic pain. For example, the prosecutor in the case of Dr. Cecil Knox of Roanoke, Virginia told all of Dr. Knox's patients to seek help in federal clinics even though none of the federal clinics would prescribe effective pain medicine.

Doctors are even being punished for the misdeeds of their patients. For example, Dr. James Graves was sentenced to more than 60 years for manslaughter because several of his patients overdosed on various combinations of pain medications and other drugs, including illegal street drugs. As a physician with over thirty years experience in private practice, I find it outrageous that a physician would be held criminally liable for a patient's misuse of medicine.

The American Association of Physicians and Surgeons (AAPS), one of the nation's leading defenders of private medical practice and medical liberty, has recently advised doctors to avoid prescribing opioids because, according to AAPS, "drug agents set medical standards." I would hope that my colleagues would agree that doctors, not federal agents, should determine medical standards.

By waging this war on pain physicians, the government is condemning patients to either live with excruciating chronic pain or seek opioids from other, less reliable, sources—such as street drug dealers. Of course, opioids bought on the street will likely pose a greater risk of damaging a patient's health than will opioids obtained from a physician.

Finally, as the Limbaugh case reveals, the prosecution of pain management physicians destroys the medical privacy of all chronic pain patients. Under the guise of prosecuting the drug war, law enforcement officials can rummage through patients' personal medical records and, as may be the case with Mr. Limbaugh, use information uncovered to settle personal or political scores. I am pleased that AAPS, along with the American Civil Liberties Union (ACLU), has joined the effort to protect Mr. Limbaugh's medical records.

Mr. Speaker, Congress should take action to rein in overzealous prosecutors and law enforcement officials and stop the harassment of legitimate pain management physicians, who are acting in good faith in prescribing opioids for relief from chronic pain. Doctors should not be prosecuted for doing what, in their best medical judgment, is in their patients' best interest. Doctors should also not be prosecuted for the misdeeds of their patients.

Finally, I wish to express my hope that Mr. Limbaugh's case will encourage his many fans and supporters to consider how their support for the federal War on Drugs is inconsistent with their support of individual liberty and Constitutional government.

RECOGNIZING LUPUS INTERNATIONAL

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. ISSA. Mr. Speaker, I rise today to recognize Lupus International for their dedication and commitment to improving the quality of life for individuals living with lupus.

Lupus is a chronic autoimmune disease that afflicts 2.8 million people in the United States. The disease affects more people than AIDS, cerebral palsy, multiple sclerosis, sickle cell anemia, and cystic fibrosis combined, yet many people have never heard of the disease. There is no known cure for lupus and there are few treatments specific to the disease.

Founded in 1983, Lupus International is a non-profit organization dedicated to raising public awareness, patient education, and supporting lupus research. For over 20 years, Lupus International has played a vital role in the battle against this destructive disease. I commend Lupus International for their service to millions of Americans suffering from lupus.

Mr. Speaker, by supporting such private efforts as Lupus International, we pay tribute to the victims suffering from this disease. We also honor those whose efforts will one day eradicate lupus as a life-threatening disease.

CONGRATULATING THE CARNEGIE SCIENCE CENTER

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. HART. Mr Speaker, I would like to take this opportunity to congratulate The Carnegie Science Center, one of four Carnegie Museums in Pittsburgh, for being named one of the three recipients of the 2003 National Awards for Museum Service, the country's highest honor for extraordinary community service provided by a museum. The Carnegie Museums empowers the residents of Western Pennsylvania with knowledge in the fields of science and technology.

The team at The Carnegie Science Center is truly committed to their surrounding communities. On January 22, 2004 it was honored in The East Room of The White House by First Lady Laura Bush for their dedication. Those present at the ceremony to receive the award were: Mareena Woodbury-Moore, a ninth grade student at Scheneley High School in Pittsburgh and also a standout participant in Mission Discovery—Carnegie Science Center's outreach program. Mareena was joined by Joanna E. Haas, director of The Carnegie Science Center, and Howard J. Bruschi, Chairman of the Carnegie Science Center board of directors.

Since 1994, The Carnegie Science Center has run neighborhood programs that educate local residents, of all ages, about the advantages of technology. Their hard work and dedication has made the city of Pittsburgh a better place.

I ask my colleagues in the House of Representatives to join me in commemorating the efforts of The Carnegie Science Center to improve the quality of life in the City of Pittsburgh. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to recognize the leadership of The Carnegie Science Center.

RECOGNIZING LEON G. KERRY, CENTRAL INTERCOLLEGIATE ATHLETIC ASSOCIATION COMMISSIONER, ON HIS OUTSTANDING LEADERSHIP IN THE PROMOTION OF COLLEGIATE ATHLETICS

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. FORBES. Mr. Speaker, I rise today in recognition of Mr. Leon G. Kerry, Commissioner of the Central Intercollegiate Athletic Association (CIAA), on his tremendous leadership as head of the nation's oldest African-American college athletic conference.

Mr. Kerry, a resident of Chesapeake, Virginia, is now in his fourteenth year as Commissioner of the CIAA. In that time he has brought the conference from a largely regional entity to a hugely popular and highly respected athletic organization with national appeal.

After graduating from Norfolk State University with a degree in Business Administration, Mr. Kerry served proudly in the United States Army and Army Reserve, rising to the rank of Captain.

Upon completion of his military service, Mr. Kerry rose through the ranks of corporate banking serving as vice president of Sovran Bank.

Mr. Kerry implemented his extensive banking experience as a part-time volunteer with the CIAA, where he restructured the conference's financial organization. Within six months Kerry had left banking behind and became the CIAA business manager.

With a penchant for numbers and a natural business sense, Mr. Kerry became an obvious choice for the position of interim commissioner of the CIAA, a position he took in May of 1989. He later became full-time commissioner in February 1990.

Under Kerry's guidance the CIAA has blossomed and become a leader in athletic competition. Through unwavering support of the conference and its athletes, Mr. Kerry has led unprecedented fundraising efforts to develop the CIAA and increase its accessibility for both student athletes and sport enthusiasts alike.

Quickly becoming one of the nation's premier collegiate competitions, the CIAA basketball tournament is among the region's most highly anticipated annual sporting events. As Commissioner, Mr. Kerry has overseen the growth of the tournament rise from a spectator base of about 10,000 to its current attendance of over 80,000. The tournament now enjoys nationwide television coverage and vast corporate sponsorship.

Because of Mr. Kerry's resounding success, he is now the longest-tenured commissioner of a historically black college or university athletic conference. Mr. Kerry continues to advocate education as well as athletics and the students of the CIAA have benefited immensely from his leadership.

Mr. Speaker, please join me in honoring Commissioner Leon Kerry for his leadership in collegiate athletics, his commitment to student athletes and the many contributions he has made to his community.

PERSONAL EXPLANATION

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. DUNN. Mr. Speaker, I missed rollcall vote No. 20 because I was unavoidably detained. Had I been here, I would have voted "aye."

SECURE EXISTING AVIATION LOOPHOLES (SEAL) ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. MARKEY. Mr. Speaker, more than two and one-half years after the terrorist attacks on September 11, 2001, dangerous gaps still persist in the Nation's aviation security system. Today, I am introducing the Secure Existing Aviation Loopholes (SEAL) Act to address the pressing security problems that continue to threaten the safety of airline passengers and crew members.

INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT

Twenty-two percent of all the cargo that is shipped by air in the United States is transported aboard passenger aircraft, amounting to about 2.8 million tons of cargo loaded aboard passenger airplanes each year. The Department of Homeland Security does not routinely inspect cargo transported on passenger planes. Instead, the Department relies on paperwork checks of manifests as part of the Department's flawed Known Shipper Program and random physical inspections that are randomly verified by the Department. This cargo loophole in aviation security has been repeatedly exploited. For example, in September 2003, a shipping clerk packed himself inside a wooden crate and shipped himself undetected from New York to Texas aboard a cargo plane, and Pan Am Flight 103 was brought down in 1988 over Lockerbie, Scotland by a bomb contained in unscreened baggage.

The SEAL Act requires 100 percent physical inspection of cargo that is transported on passenger planes. The costs of physical screening, estimated to be comparable to the $1.8 billion funding level for screening checked baggage, would be offset by a cargo security fee, similar to the fee that passenger pay for security measures when they purchase airline tickets.

FEDERAL AIR MARSHALS

Ten transatlantic flights were canceled over the weekend of January 31–February 1, 2004 due to heightened fears of a possible Al Qaeda attack, and 16 international flights were canceled or delayed over the Christmas and New Year's holidays as a result of specific intelligence that the flights might be terrorist targets. The cancellations resulted when some European carriers such as Air France and British Airways refused to place armed marshals onboard and instead opted to cancel the flights. There are no international standards to define what constitutes proper training for air marshals. Consequently, air marshals on flights that originate overseas and are bound for the U.S. may have different training that could be inconsistent with best practices.

The SEAL Act prohibits foreign air carriers from taking off or landing in the United States unless a Federal air marshal or an equivalent officer of the government of the foreign country is onboard, in cases when the Secretary of Homeland Security requests that an air marshal or officer of a foreign country travel on the flight.

Given intelligence indicating that terrorist may try to commandeer all-cargo planes and crash them into nuclear power plants and other critical infrastructure in the U.S., the SEAL Act provides authority for Federal Air Marshals to travel aboard cargo aircraft, as needed. The Federal Air Marshal Service does not currently have this authority.

IMPROVED AVIATION SECURITY

Flight Attendants

Flight attendants do not have a discreet, secure and wireless method of communicating with pilots in the cockpit, with air marshals who may be onboard the aircraft or with authorities on the ground. Flight attendants must rely on telephones affixed to the interior of the passenger cabin if they need to communicate with pilots via phone or with authorities on the ground. These phones can be easily disabled. Flight attendants do not have a method of communicating via phone with air marshals onboard. On American Airlines Flight 11, which was crashed into the Pentagon on September 11th, flight attendants were unable to communicate by phone with the cockpit. The Homeland Security Act of 2002 included the directive that carriers' provide flight attendants with a secure, wireless method of communicating with pilots, but this provision was inserted in a voluntary section of the Aviation Transportation Security Act.

The SEAL Act makes mandatory the provision of wireless communication systems for flight crew and air marshals.

Crew Training

Prior to the September 11th terrorist attacks, air carrier responsibilities for security and antihijacking training for flight crews were set forth in the Air Carrier Standard Security Program, also known as the Common Strategy. The Common Strategy was originally developed in the 1980s, and it emphasized accommodation of hijackers' demands, delaying tactics, and safely landing the airplane. It advised air crews to refrain from trying to overpower or negotiate with the hijackers. On September 11th, the Common Strategy offered no defense against the tactics employed by the hijackers of Flights 11, 77, 93, and 175.

Enacted on December 12, 2003, Vision 100—Century of Aviation Reauthorization Act (PL 108–176) made voluntary many of the important elements of self-defense training for crew members that had been mandatory in Section 1403 of the Homeland Security Act of 2002 (PL 107–296). Training in the following tactics is voluntary under Section 603 of the 2003 aviation reauthorization, but had been mandatory in Section 1403 of the Homeland Security Act:

The SEAL Act will reinstate the requirement established in the Homeland Security Act to make counter-terror training for aircraft crew mandatory.

International Cooperation on Aviation Security

The cancellation of more than two dozen international flights since December 2003 suggests significant disagreement between the U.S. and some foreign nations over the best way to respond to terrorist threats to aviation security. In January 2003, Asa Hutchinson, Undersecretary of Border and Transportation Security in the Department of Homeland Security, met with European officials to discuss aviation security measures, including the use of air marshals on international flights to the U.S. No agreement was reached with European governments on the placement of air marshals on U.S.-bound flights in cases when intelligence about terrorist threats against flights is received.

The SEAL Act directs the Secretary of the Department of Homeland Security to develop a well-constructed plan to improve coordination between the Department and its foreign counterparts in the area of aviation security. This plan includes development of air marshal programs for foreign governments and the provision of technical assistance in the formulation of strategies to tighten security measures at foreign airports.

Comprehensive Pre-Flight Screening

Pre-flight security inspections of the passenger cabins and lavatories of commercial aircraft often are performed by low-wage, poorly trained contract employees. In September 2003, a college student named Nathaniel Heatwole placed box cutters, matches, bleach and simulated explosives on Southwest Airlines flights. These items were not discovered by airline officials until approximately one month later. Heatwole also placed dangerous items on two other Southwest flights in February 2003, and they remained undetected until April 2003. In October 2003, potentially dangerous items were also found on US Airways flights.

The Transportation Security Administration has issued a requirement effective in January 2004 for detailed documentation of security inspections performed by air carriers prior to each aircraft's first departure of the day. The directive affects the documentation of the inspections, but does not change the manner in which the security inspections are performed by the airline's contract cleaning crew or the level of verification that TSA provides to ensure the inspections are thoroughly conducted.

The SEAL Act sets a firm deadline for the improvement of pre-flight security inspections of the interior of passenger planes to increase the likelihood that any dangerous items hidden in the plane will be promptly discovered. The SEAL Act also includes new requirements that subject individuals who are performing the pre-flight inspections to additional security checks, including passage through a checkpoint to detect any metallic objects prior to accessing the plane; screening of any items to be carried aboard the plane to detect hazardous substances such as chemical, biological, radiological or nuclear materials; a criminal history background check, social security check and check against all terrorist watch lists maintained by the government.

CONTROL OVER ACCESS TO SECURED AREAS OF AIRPORTS

Airport workers with access to sensitive areas of airports, including the airplanes, are not required to pass through metal detectors or have their personal items x-rayed before reporting to work at each of the nation's commercial airports. Airport workers have taken advantage of lax security controls to commit crimes. For example, in November 2003, a massive narcotics smuggling operation that exploited airport security weaknesses was broken up at John F. Kennedy Airport in New York.

While criminal background checks are required under current law for employees with unescorted access to an airport's sensitive identification display area (SIDA), there are no uniform requirements applicable to all airport workers that mandate checks of Social Security numbers and checks against terrorist watch lists maintained by the government.

The SEAL Act directs the Department of Homeland Security to issue regulations within 180 days after the bill's enactment that improve control over access to secure areas in airports nationwide. The SEAL Act requires all airport workers with access to secure areas of airports, including aircraft, to pass through devices to detect for metallic objects and have any personal items screened to detect any hazardous chemical, biological, radiological or nuclear materials before entering these areas. In addition to criminal background checks, the SEAL Act requires that airport employees are checked against terrorist watch lists, that workers' Social Security numbers are checked against government databases to ensure the documents' legitimacy and verify that the Social Security number is assigned to the individual presenting it.

AIRCRAFT MANEUVERS

In December 2003, a C–17 U.S. transport plane was hit by a missile shortly after take off from Baghdad. An engine exploded, but the plane returned safely with only one of its 16 people aboard slightly injured. In November 2003, an Airbus A300 cargo plane operated by the courier company DHL departing from Baghdad to Bahrain was struck by a SAM–7 ground-to-air missile. The plane's engine caught fire, and it was forced to make an emergency landing at Baghdad International Airport. None of the plane's crew was injured in the incident.

Pilots currently receive training on how to fly the aircraft and land it safely if engines fail. Pilots are required to receive training on how to maneuver and land a two-engine plane with only one functioning engine; a three engine plane with only two engines functioning; and a four engine plane with only two engines functioning. However, pilots do not receive recurrent training in how to maneuver and safely land the aircraft in the event of a complete failure of the hydraulic system in which normal flight controls are not available. If an aircraft is struck by a surface-to-air missile, it may experience such failures, as was the case when the DHL cargo plane was hit by a SAM–7 missile in Iraq last year.

The SEAL Act requires air carriers to provide pilots with training in flight deck procedures, aircraft maneuvers and best practices that enable pilots to respond if the aircraft is struck by a surface-to-air missile. The training is designed to increase the likelihood that pilots will be capable of safely landing the aircraft and will include components that simulate the complete failure of the aircraft's hydraulic system and loss of normal flight controls.

AGGRESSIVE FLYING MANEUVERS

According to the FAA, aggressive flying techniques were not part of training provided pilots prior to passage of the 2003 FAA reauthorization. As of February 2004, a TSA working group is finalizing its training recommendations on fleck deck procedures or aircraft maneuvers to defend the aircraft. TSA does not expect to recommend any maneuvers that could be considered "aggressive."

The SEAL Act recognizes the need to balance the security benefits of maneuvers and procedures with the potential risks, in terms of passenger safety and the structural limitations of the aircraft. The SEAL Act requires the Secretary to issue regulations that require the carriers to provide, in conjunction with appropriate law enforcement authorities, crew members with training in procedures for communicating and coordinating effectively with Federal Air Marshals and law enforcement officers during unauthorized attempts to disrupt the normal operation of the aircraft.

SECURING COCKPIT DOORS

According to the Coalition of Airline Pilots, approximately 60 percent of cargo planes are not equipped with cockpit doors that separate the flight deck from the aircraft's cargo bay. In September 2003, a shipping clerk packed himself inside a wooden crate and shipped himself undetected from New York to Texas aboard a cargo plane. Fortunately, he was an industrious tourist, rather than an industrious terrorist.

Some cargo carriers have installed cockpit doors, but the majority of cargo planes still lack any door between cockpit and cargo bay.

The SEAL Act requires all cargo planes to have reinforced cockpit doors, including sturdy partitions surrounding the doors. Within 180 days after enactment of the legislation, the Secretary is directed to issue an order that all cargo aircraft must have, no later than 1 year from the date of issuance of the order, a reinforced, lockable door, including the surrounding partition, between the pilot and cargo compartments.

SECURITY REQUIREMENTS FOR GENERAL AVIATION

According to a November 5, 2003 GAO report, Aviation Security: Efforts to Measure Effectiveness and Address Challenges (GAO–04–232T), "Since September 2001, TSA has taken limited action to improve general aviation, leaving general aviation far more open and potentially vulnerable than commercial aviation. General aviation is vulnerable because general aviation pilots and passengers are not screened before takeoff and the contents of general aviation planes are not screened at any point." There are more than 200,000 general aviation aircraft, which are located in every state at more than 19,000 airports. According to TSA's working group on general aviation, general aviation aircraft are responsible for 77 percent of all air traffic in the U.S.

TSA is taking some steps, such as developing a risk-based self-assessment tool for general aviation airports to use to identify security concerns, but these steps fall short of what is required.

The SEAL Act directs the Secretary to establish a no-fly zone around the following facilities whenever the threat level reaches Orange or at any other level the Secretary deems appropriate: sensitive nuclear facilities such as nuclear power plants and nuclear weapons materials production facilities, and chemical facilities identified by the Environmental Protection Agency at which a release of the facility's hazardous materials could threaten the health of over 1 million people, and any other facilities the Secretary shall so designate.

The SEAL Act requires the operators of general aviation airports and landing facilities to complete vulnerability assessments developed by TSA, which evaluate the facilities' physical security, procedures, infrastructure and resources. The SEAL Act also requires TSA to develop a plan for addressing vulnerabilities identified by these assessments no later than 1 year from the date of enactment.

Mr. Speaker, we can do better, and we must do more to improve our aviation security. I urge my colleagues to support the SEAL Act, which will close dangerous loopholes in our airline security system.

IN HONOR OF HOWARD JONAS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. ENGEL. Mr. Speaker, today I want to praise Howard Jonas, a man who donates enough to charity to be called a philanthropist, who works to better his community, and who is being honored for his work in the United States on behalf of Israel.

Howard was born in the Bronx, attended one of New York City's premier schools, Bronx High School of Science, and then went to Harvard University, graduating with a B.A. in Economics.

He has been manifestly successful in his businesses, starting at the age of 14 with a hot dog stand near a local hospital. Since then he has gone on to travel brochure distribution, business-to-business directories, mail-order bonsai Christmas trees, and to run one of the country's largest direct mail businesses out of his dorm room at Harvard. When one of his employees moved overseas he got into the international telephone callback business.

From there he went on to found IDT in August of 1990, a model of upstart entrepreneurship, serving as Chairman of the Board since its inception.

He has been generous in his giving and serves as a trustee on many university, religious, and social service organization Boards. He also serves as a National Board member of AIPAC where he fosters close relations with some of our nation's most prominent leaders on behalf of a strong United States-Israeli relationship.

Finally I speak of him as a close friend, a man from the old neighborhood who never forgot where he came from. He is a caring and generous man and I am proud that he is my friend.

RECOGNIZING MATTHEW J. BURNS

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. GERLACH. Mr. Speaker, I rise today to recognize Matthew J. Burns, the "2004 Delaware Valley Engineer of the Year," and commend him on his tremendous achievements in the field of engineering.

Matthew Burns is the President of Burns Engineering Inc. and a resident of Exton, Pennsylvania. He is a registered Professional Engineer in the Commonwealth and has over 20 years of professional experience in the Philadelphia area.

Matt oversees the activities at Burns Engineering, a Philadelphia-based engineering design and construction management firm which was founded by his father, Robert C. Burns. Under Matt's guidance, the company has expanded to five offices in the mid-Atlantic region. Burns Engineering was recognized as the "Service Company of the Year" by the Greater Philadelphia Chamber of Commerce in 2002. In addition, the company has been named as one of Philadelphia's "100 Fastest Growing Companies" for the past three years.

Matt's service to his profession and community is extensive. His professional service includes the following leadership roles: President of the American Council of Engineering Companies of Pennsylvania (ACEC/PA), President of the Pennsylvania Society of Professional Engineers (PSPE) and Delaware Valley Engineers Week Council (DVEWC), and Chairman of the Engineering Achievement Awards. He is also an active member in several other technical and professional societies. In his community, he is involved in the Saint Phillip and James Church, serves as a volunteer leader with the Boy Scouts, and is a chief for the YMCA's Indian Guides/Princess program.

Mr. Speaker, I ask my colleagues to join me today in recognizing Matthew J. Burns for all the work he has done in the field of engineering and as an active member and leader in our community.

IN HONOR OF THE 100TH ANNIVERSARY OF THE UNITED IRISH COUNTIES ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. ENGEL. Mr. Speaker, today we celebrate the 100th anniversary of the United Irish

Counties Association. The UICA represents people from all the counties of Ireland who came to the United States, helping those who were new to the country and encouraging fellowship among all, no matter where they came from in Ireland.

Until the founding of UICA, most Irish people joined organizations representing their individual counties. What UICA did was give the whole immigrant community, and its children, a unified voice in Irish affairs and a broader ability to help newcomers.

With the assimilation of the Irish into the mainstream of America, it meant that the Irish population was not only rising economically but spreading geographically. With the breakup of the old Irish neighborhoods, the UICA came into its own as a representative of Irish affairs.

The growth and rise of the Irish immigrant community is a story of the success of America. The United States filled its broad spaces with the best from Europe then and the rest of the world now.

Starting in the 1840s, and propelled by the terrible experience of the Great Famine, the Irish came to America, made it their own, and made it better. They overcame prejudice and poverty and within five generations elected one of their own as president. In many ways the Irish were the template of the immigrant waves which followed; arriving individually, coming together to help one another, and then taking advantage of the opportunities that this country offered.

The United Irish Counties Association deserves much of the credit for this success, and for the continuing success of the Irish immigrants who still come to America, many to Woodlawn and Yonkers in my Congressional District. If America is ever to expand geographically again, I suspect that Ireland could be the 51st state.

I congratulate the United Irish Counties Association for a century of growing by helping.

CONGRATULATING FREDERICK WILLIAMS FOR BEING NAMED BROWARD COUNTY PUBLIC SCHOOL TEACHER OF THE YEAR

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to congratulate Mr. Frederick Williams of McFatter Technical High School in Davie, Florida for being selected as the Broward County Public Schools Teacher of the Year.

Mr. Williams has been an educator for the past 22 years, the last 17 years of which have been spent in Broward County. He studied at Florida State University where he earned his Bachelor's and two Master's degrees in music education and arts administration. Since 2001, Mr. Williams has been a teacher of technology for 11th and 12th grade students at McFatter Technical High School.

Among Mr. Williams' many achievements as an educator, is a program he developed for teaching computer technology. His students are educated to such a level that upon completion, they are able to visit other schools and assist as computer technicians. Additionally, Mr. Williams supports his students as a Big Brother and mentor. He has been involved as a New Educator Support System (NESS) Coach for teachers at Plantation High and is currently a NESS Coach for the Computer Programming Instructor at his school.

Mr. Speaker, underscoring Mr. Williams' success is his learned philosophy on teaching. He believes in many underlying principles: learning to use one's mind; a student as worker and teacher as coach philosophy; tone of decency and trust; and demonstration of mastery. He accurately describes the teaching profession as "one of the most important in our country," and understands that the education of our children "is one of the greatest and most important investments of time and money for creating a brighter future."

Mr. Williams embodies what Americans desire from their educators. He is passionate about his profession and takes a keen interest in the academic and personal development of his students. In his acceptance speech, Mr. Williams acknowledged that he teaches not for prestige or job benefits, but for knowing that he has touched a student's life. He is a role model for educators in our country.

Mr. Speaker, I would like to congratulate Mr. Williams on being named the Broward County Public Schools Teacher of the Year, and I thank him for his invaluable contribution to the future of his students and to the Broward County Community.

TRIBUTE TO JOHN TILLEMA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to a remarkable man from my district. John Tillema of Pueblo, Colorado, has devoted his life to instructing both the young and old to ski the slopes of his beloved state. I would like to take this opportunity to recognize John's tremendous enthusiasm and contributions to the sport of skiing before my colleagues here today.

John learned to ski while serving with the Army Air Corps during World War II. After the war, he returned to Colorado where he graduated from the University of Colorado and went on to a career in the insurance business. John's true passion, however, was on the ski slopes. As an instructor, he has spent over thirty years teaching his craft. John's commitment to the sport has earned him several prestigious awards, such as the USA Ski Instructor of the Year and the Ski Country USA Lifetime Achievement Award.

Mr. Speaker, it is my honor to rise and pay tribute to John Tillema and his zest for life and the sport of skiing; a passion that I am sure resonates throughout his many students over the years. I would like to thank him for his contributions before this body of Congress and nation today, and wish him all the best in his future endeavors. Thanks John for your service.

RECOGNIZING THE CAREER AND RETIREMENT OF DAVID HAYES—SECRETARY/TREASURER OF BLUFF CITY LODGE 660. INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the career and retirement of David W. Hayes, the Financial Secretary-Treasurer of the Bluff City Lodge 660, International Association of Machinists and Aerospace Workers in East Alton, Illinois.

David Hayes has honorably served the area and the union in a number of capacities for nearly 45 years—27 of those as an officer of the union. The local that Dave represents has over 4400 retirees and workers at 14 area businesses—Olin Corporation, Beall Manufacturing, Conoco Phillips, Lenhardt Tool and Die, Owens-Illinois, Rotary Ram, Dugan Tool and Die, Dooling Machine Products, ASF Keystone, Gebco Machine, M&W Machine and Gear Shop, Cooper B-Line and the Warren G Murray Development Center.

Dave started his career at Olin in 1959 and held in-plant positions with the union that included Steward, Committeeman, Lodge Trustee, Recording Secretary and Chairman of the Mechanical Groups. He was elected as the full-time Financial Secretary-Treasurer of Bluff City Lodge 660 in 1989 and has been re-elected four times since. He has served as the First Vice President of the Greater Madison County Federation of Labor for the past 15 years and has represented the Federation on the Board of Directors of the Greater Alton/Twin Rivers Growth Association. He has been the Labor Representative on the United Way Partnership for many years, serving on both their Executive Board and Personnel Committee. As part of the Federation of Labor, Dave served on their Political Committee for many years and has served on both the 12th and the 19th Congressional District COPE Committees.

Each year, Dave is also responsible for organizing the Alton, Illinois Labor Day parade. During the two-month Olin strike, Dave was responsible for the payments of over 2.1 million dollars in strike benefits to the 2,538 Machinists on strike at Olin. Dave has been the recipient of the 2001 Labor Leader of the Year Award presented by the Federation of Labor.

Mr. Speaker, I ask my colleagues to join me in recognizing the contributions of David Hayes and wish him and his family the very best in the future.

IN HONOR OF BLACK HISTORY MONTH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. ENGEL. Mr. Speaker, the month of February is dedicated to recognizing and celebrating the often overlooked achievements and contributions of African-Americans throughout our country's history.

Although African-Americans settled the American frontier alongside British colonists, it was not until the establishment of "Black History Month" in 1926, that they were afforded the respect and dignity they are rightfully due. If not for the efforts of Dr. Carter G. Woodson, who first noticed a glaring disparity in historical texts and established the "Association for the Study of Afro-American Life and History," the stories of prominent and influential African American men and women would still be hidden in the shadows today.

The choice of February as the month of celebration honors the birthday of two important figures in the history of African-Americans. The first is Frederick Douglass, a leader of the abolitionist movement during the Civil War, as well as a prolific author, newspaper editor, and dedicated civil servant. The second is none other than our sixteenth president of the United States, the author of the Emancipation Proclamation, Abraham Lincoln. The month of February also marks the anniversary of important events such as the birth of civil rights leader W.E.B. Dubois, the ratification of the Fifteenth Amendment granting black suffrage, the first black senator and the establishment of the NAACP.

I proudly represent the 17th district of New York, which is rich in African-American history. From early politicians to entertainers, African-Americans in the Bronx, Westchester, and Rockland counties have contributed to our nation. This month I would like to recognize Denzel Washington's contribution to our culture through his talented work in film. A native of Mount Vernon, this actor, producer and director is one of only two African-Americans to have received an academy award in the best actor category. While living in Mount Vernon, Denzel Washington was an active community member taking advantage of the Boys' Club of America. Today he continues his work as a leading spokesman for the organization, as well as a being an outstanding supporter of the Nelson Mandela Children's Fund and an AIDS-hospice called The Gathering Place. Through his talent and dedication, Denzel Washington has left his mark as a positive leader in our community and important contributor to our culture.

I am always inspired by the community spirit and leadership I witness from African-Americans in New York and around the country. It is my hope that as we commemorate Black History Month in the future, we will continue to celebrate the many achievements and rich culture of African-Americans.

TRIBUTE TO ROBERT GREENE BAKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to a man from my district. Robert Greene Baker, of Grand Junction, Colorado, passed away recently at the age of eighty-eight. Robert will be remembered as a patriot and devoted community member, and it is my honor to recognize his life and accomplishments before this body of Congress here today.

After serving his country as a Marine in World War II, Robert returned to Colorado. He later married his best friend Mary, a loving marriage that lasted sixty-three years. Together, they raised three wonderful children. Robert spent almost four decades with the Public Service Company of Colorado, earning the title of supervisor. Upon retiring, Robert was fortunate to enjoy time spent fishing and traveling to a variety of exotic locations with his family. Robert was also passionate about giving back to his community. He could be found volunteering for a variety of civic organizations, such as the Mesa County United Way, Grand Junction Planning Commission and the Grand Junction Chamber of Commerce.

Mr. Speaker, it is an honor to rise before this body of Congress to pay tribute to the life of Robert Greene Baker. Robert served this nation and he leaves behind a legacy of dedication and commitment to his family and community. My heart goes out to his family and friends during this difficult time of bereavement.

FREEDOM FOR ANGEL JUAN MOYA ACOSTA

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Angel Juan Moya Acosta, a prisoner of conscience in totalitarian Cuba.

Mr. Moya is a tireless advocate for the freedom of Cuba. He is the founder and president of the Alternative Action Movement, a member of the Independent National Labor Federation and a signatory of the "All United" manifesto that asked for changes in Cuban society and demanded the release of all political prisoners.

Mr. Moya has dedicated much of his work to the cause of freedom for the Cuban people. However, under Castro's totalitarian regime, Mr. Moya has been constantly harassed and arrested for his pro-democracy activities. In December, 1999, Mr. Moya was detained after participating in a peaceful demonstration to celebrate the 51st anniversary of the Universal Declaration of Human Rights. One year later, in December, 2000, Mr. Moya was sentenced to one year in the Cuban gulag and 10 years confinement to his home province, Matanzas. According to Amnesty International,

> The sentence was reportedly imposed because, in the course of a mass celebrated at his home in November 2000, prayers were said for political prisoners and prisoners of conscience, including calls for them to be amnestied.

Following his release from the totalitarian gulag, Mr. Moya resumed his peaceful quest to guarantee fundamental human rights for every citizen of Cuba. On August 15, 2002, Mr. Moya received the second annual Pedro Luis Boitel Freedom Award for his courage in carrying out nonviolent civic resistance in totalitarian Cuba.

As part of the Cuban tyrant's brutal March, 2003 crackdown against pro-democracy activists, Mr. Moya was once again arrested. In a sham trial, Mr. Moya was sentenced to 20 years in the totalitarian gulag.

Mr. Speaker, Mr. Moya is languishing in the wretched filth of Castro's totalitarian gulag, simply because he is an advocate for freedom. My Colleagues, we must demand the immediate release of Angel Juan Moya Acosta and every prisoner of conscience in totalitarian Cuba.

COMMENDATION OF THE JAVITS-WAGER-O'DAY (JWOD) PROGRAM

HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Ms. MAJETTE. Mr. Speaker, I would like to share with my colleagues a startling statistic—the 50 percent unemployment rate of people with disabilities in America. For those with severe disabilities, the number is even more—it is 70 percent. People with disabilities face many barriers to employment, including everything from transportation to contending with the prevailing attitude surrounding the disabled, but many of them want to work. They want the opportunity.

All too often, people focus on the disability of a person, not the *ability*. But people with disabilities *want* to work, and *can* work. It's up to us to recognize the potential of all Americans and provide the opportunities needed to reverse this statistic and to allow people with disabilities to become self-sufficient, independent, tax-paying citizens.

To that end, I am proud to support employment opportunities for people with disabilities, particularly through the Javits-Wagner-O'Day (JWOD) Program. The JWOD Program uses the purchasing power of the Federal Government to buy products and services from participating, community-based nonprofit agencies dedicated to training and employing individuals with disabilities. The JWOD Program provides people who are blind or who have other severe disabilities the opportunity to acquire job skills and training, receive good wages and benefits and gain greater independence and quality of life. Through the JWOD Program, people with disabilities enjoy full participation in their community and can market their JWOD-learned skills into other public and private sector jobs.

In the United States, the program serves 40,000 people in the disability community and generated approximately $280 million in wages earned and nearly $1.5 billion in products sold. In Georgia alone, some 972 people with disabilities earned nearly $3 million in wages last year as a result of JWOD. 972 lives were changed. For many out of that 972, it was the first time they had a job, drew a paycheck, had the experience of being independent. These are things many of us take for granted, but for some—particularly people with disabilities—it means the world.

It is with great pleasure that I recognize the great contributions of American workers with disabilities and I encourage others to do so on February 26th, which is National Disability Day. More importantly, let us all remember everyday that everyone has an ability—everyone has something to share for the greater good. America truly works best when all Americans work. I commend the JWOD Program, its supporters, and its participants for making a difference where it is needed most.

HONORING JOHN A. CANNING, JR.

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to honor a friend, colleague and leader of Chicago's business community, John A. Canning, Jr.

On February l, 2004, Federal Reserve Chairman Alan Greenspan made an exemplary choice when he appointed John A. Canning, Jr. as a Director of the Federal Reserve Bank of Chicago.

John A. Canning, Jr. is Chairman and Chief Executive Officer of Madison Dearborn Partners. Based in Chicago, Madison Dearborn Partners is one of the largest and most experienced private equity investment firms in the United States.

Prior to co-founding Madison Dearborn Partners, John spent 24 years with First Chicago Corporation, most recently as Executive Vice President of The First National Bank of Chicago and President of First Chicago Venture Capital. Mr. Canning has more than a quarter century of experience in private equity investing.

John's service to Chicago's business community is matched only by his commitment to Chicago's philanthropic community. He currently serves on the Boards of Directors of Jefferson Smurfit Group plc, Norfolk Tides Baseball Club, LaSalle National Bank, Northwestern Memorial Hospital, and Children's Inner City Educational Fund.

In addition, John lends his vast experience to the Boards of Trustees of The Big Shoulders Fund, The Chicago Community Trust, Denison University, Dublin City University Educational Trust, The Field Museum, and Northwestern University. A common thread among John's contributions and the goals of these organizations is their shared dedication to community service.

Mr. Speaker, on the eve of his first board meeting, I want to wish John Canning continued success as he puts his vast knowledge and wide-ranging expertise to work for the American people. The citizens of Chicago and indeed the country are fortunate to have him at the Federal Reserve Bank of Chicago.

TRIBUTE TO CHRIS MESARIC

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the life of a fellow Coloradan. After over a decade of fighting with a rare illness, Chris Mesaric from Montrose, CO, sadly passed away recently at the age of thirty-five. Chris was a loving husband, proud father, and devoted son. He will be missed by many, and I think it appropriate that we remember his life here today.

When Chris was diagnosed with severe aplastic anemia, he was given only days to live, but Chris decided that he would not accept waiting around to die, vowing to fight his ailment to the fullest. Regardless of the amount of pain that Chris may have experienced during treatments, he never let on to his suffering and instead focused on spending time with his family and those he loved. He is survived by his parents Frank and Linda, his wife Robin and two daughters.

Mr. Speaker, it is an honor to rise before this body of Congress to pay tribute to the life of Chris Mesaric. He was a beloved man who overcame obstacles, always lived life to the fullest, and was an inspiration to many. The Montrose community and State of Colorado will truly miss him. My heart goes out to his family during this difficult time of bereavement.

TEXAS TEACHER GPO LOOPHOLE

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in support of equality in Social Security law for all working Americans. Today we're having the final round of debate on a bill that will bring about fairness and equity to a system under scrutiny. While this bill covers many other topics, for Texans, this bill is about closing an unjust loophole.

For 95 percent of America's working husbands and wives, there is a rule that says people may collect only the higher of spousal benefits or retirement benefits, but they cannot collect both. . . . That is—unless you're in the Texas Teacher Retirement System. The Texas Teacher Retirement System is a substitute for Social Security, their version of the dual entitlement rule is called the Government Pension Offset.

The dual entitlement rule applies whether a married couple works in jobs such as a nurse and a small business owner, a Social Security covered teacher and an accountant, or a lawyer and an electrical engineer, they both pay into Social Security and are both subject to this rule. The husband and wife are each able to collect either their retirement benefits earned through their own hard work or they are able to collect spousal benefits—whichever is higher. They cannot collect both.

It is very possible that if one spouse earns significantly less than the other, for example, that nurse and small-business owner, then the nurse is going to have higher spousal benefits than her own retirement benefits. In that case, the nurse will collect the higher spousal benefit, but may end up asking herself why she had to pay Social Security taxes all those years instead of just staying home.

If a retirement benefit is $600 per month for the nurse—but her spousal benefit is $800 . . . she would collect $800—but not $1,400. For Texas teachers making use of their "last day of work" loophole, they collect spousal benefits, just like that nurse—and then they collect their retirement. By working just one last day in a school district and paying as little as $3 into Social Security, a teacher can then qualify to receive full Social Security spousal benefits on top of her retirement benefits.

Many teachers in Texas have questioned the system because they want both Social Security spousal benefits and their Texas teacher retirement. Again, the Texas Teacher Retirement System is a substitute for Social Security; you can do one or the other, but not both. And no one else can do both.

I want teachers to understand that the Government Pension Offset (GPO) only reduces their spousal benefit by two-thirds of their state retirement benefits rather than dollar for dollar as is the case for all other working spouses. That's right! Anyone subject to GPO gets a better deal and more bang for their buck than 95 percent of the American public. They get one-third more of their spousal benefits than any other working Americans.

The "loophole" that is being closed here today is one small part of the government pension offset meant to encourage entire school districts to join the Social Security system. The unique situation for Texas teachers is that only about 50 Texas school districts participate in Social Security and the other 1,000 school districts participate in the Texas Teacher Retirement System, which again, is a substitute for Social Security coverage.

We're closing this loophole in the law to create integrity and maintain fairness in the system and to prevent further erosion of the Social Security trust fund. This new law will also require people to sign a notice acknowledging that employment in a job not covered by Social Security will have an affect upon possible future Social Security benefits.

It's just sad when constituents who are teachers tell me that they had no idea that a teaching job not covered by Social Security would have an effect upon possible Social Security benefits in the future. It's important we correct that.

Finally, one more area that has caused great confusion is regarding the annual benefit statements we all receive from the Social Security Administration telling us about our expected future benefits from Social Security. The IRS and SSA will begin collecting information necessary to more accurately reflect on these statements the offsets from jobs not covered by Social Security.

I am pro-teacher and in Texas they have a great state retirement system. But we cannot give special treatment to this small slice of the American population. It's just not fair—especially when it comes to Social Security and retirement savings. Today we are just making the two systems apply fairly to all Americans. It's the right thing to do.

SENATE—*Monday, February 23, 2004*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of our silent tears, You have made of one blood all the people on earth. As millions this month celebrate the African American contribution to our history, we thank You for using people of diverse racial backgrounds for Your glory. Thank You for heroes and heroines who gave their lives to carve tunnels of opportunity through mountains of bigotry. Thank You also that our founding forbears like George Washington and others knew that certain inalienable rights can only be conferred by You, our Creator, and they wrote socio-political documents that celebrated the dignity and worth of human personality.

Forgive those sad chapters in our history when our deeds fell far short of our creeds. Use our Senators to make laws that will unite rather than divide us. May they strive to provide models of unity that transform dark yesterdays into bright tomorrows. Hasten the day when justice will roll down like waters and righteousness like a mighty stream. We pray this in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

READING OF WASHINGTON'S FAREWELL ADDRESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Louisiana, Mr. BREAUX, will be recognized to deliver George Washington's Farewell Address.

Mr. BREAUX at the rostrum read the Farewell Address, as follows:

To the people of the United States:

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured, that this resolution has not been taken without strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence with which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals, that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently, want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquility at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite movement that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess, are the work of joint councils and joint efforts—of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The *North*, in an unrestrained intercourse with the *South*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The *South*, in the same intercourse, benefiting by the same agency of the *North*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *North*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The *East*, in a like intercourse with the *West*, already finds, and in the progressive improvement of interior communications by land and water will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The *West* derives from the *East* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *West* can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations—*northern* and *southern*—*Atlantic* and *western*; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourself too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen, in the negotiation by the executive—and in the unanimous ratification by the Senate—of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of government, better calculated than your former, for an intimate Union and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government.—But the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power, and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinion; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to withstand the enterprises of fraction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it in the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchial cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance.

may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that the public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others should be excluded and that in place of them just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity, or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity and adopts through passion what reason would reject; at other times, it makes the animosity of the nation's subservient to projects of hostility, instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealously, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld. And it gives to ambitious, corrupted or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity gilding with the appearances of virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealously to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest guided by justice shall counsel.

Why forgo the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements. (I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy)—I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed, in order to give trade a stable course—in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another—that is must pay with a portion of its independence for whatever it may accept under that character—that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfuenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take—a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions and to progress, without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003—MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to the consideration of S. 2061.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, let me welcome everybody back from the Presidents Day recess. I also thank Senator BREAUX and congratulate him on the delivery of George Washington's Farewell Address. He is the 112th Senator to give the address. The first reading of George Washington's address actually occurred on February 22, 1862, during a joint session of Congress and was given by the Secretary of the Senate. Beginning in 1893, the Senate made the reading of the address an annual tradition. And since that time, each year, in an alternating fashion between the parties. George Washington's birthday is observed by the reading of the 7,641-word address. I commend Senator BREAUX for his contribution today.

Today the Senate will begin consideration of the motion to proceed to S. 2061, the OB/GYN medical liability bill. Chairman GREGG is here to manage debate, and I encourage Senators to come to the floor to debate this sorely needed women's health access issue.

Due to objections on the other side of the aisle, it was necessary to file a cloture motion on this pending motion to proceed. That cloture vote on proceeding to the OB/GYN medical malpractice bill is scheduled for tomorrow at 5 p.m. Therefore, there will be additional debate time tomorrow before the vote. However, I know many Members are interested in this bill and hopefully are prepared to speak today. We will have no rollcall votes today. The cloture vote will be the first vote tomorrow.

Over the next few minutes I would like to make a statement on the Healthy Mothers and Healthy Babies Access to Care Act.

Mr. President, our medical litigation system is failing the American public. It is failing our communities, our hospitals, our doctors, and our families. Most importantly, it is failing our patients. Its purpose should be to promote the common good and improve the health care of all Americans through the fair and efficient resolution of meritorious medical negligence claims. But instead of accomplishing this noble goal, our litigation system is out of control. It is broken. It is causing a health care crisis. Due to this broken system of medical justice, medical liability premiums are skyrocketing. The result: The system is in crisis.

The ultimate victims are the patients who see that their access to care being threatened and in some cases their access to care is disappearing altogether. In addition, this ailing system hurts our Nation even more by directly and indirectly costing us billions of dollars. The situation is grave. It is being brought to the Senate floor because it is grave, because the system is broken, and because the crisis is getting worse by the day. Every day that we talk without acting is a day of continued decline.

We have all seen the headlines of the horror stories of hospitals closing obstetric wards; of trauma centers having to shut their doors because of the liability crisis; of expectant mothers unable to find obstetricians, having to switch from obstetrician to obstetrician because their obstetrician is having to leave town or leave their practice; the stories of doctors dropping services of specialized care; the stories of doctors having to move from a State where the liability premiums are so high that they can't afford it to other States where effective liability reform may have already taken place and they have lower premiums. The headlines go on and on and on. Almost daily there are fresh stories and new victims.

The problems are so severe that Time magazine, in its June 9 cover article, devoted the article and the front page to this very problem. The American Medical Association lists 19 States where access to quality care is in serious jeopardy right now. As a physician, as a doctor, this crisis and the worsening of this crisis really strikes home to me personally. When I go back home or travel around the country and talk to my physician colleagues, they tell me of personal stories that are causing changes in the way they practice medicine. Many doctors consider the current medical litigation system as the single greatest threat to providing patients today with affordable, high-quality health care.

At first, the problem of skyrocketing medical liability costs presents doctors with uncomfortable choices. But in the end, it is the patients who are hurt. It is the patients who suffer. Skills of physicians are redirected. They leave their practice. They are no longer available to give care and patients receive less care. No longer is this a problem of an additional expense of doctors or for doctors all across the country; it is now an issue of health care for all.

What makes this situation so tragic is that highly qualified and committed doctors are literally being forced from their fields of medicine, fields they have devoted their lives to, fields they cherish. We are not talking about a few bad doctors who are leaving. Rather, we are talking about the very best men and women in the health care field today who have devoted their entire professional lives to healing others. These good men and women don't want to drop these specialized services such as trauma care, delivering babies, working in emergency rooms. They don't want to move from already underserved areas, either urban or rural. They don't want to stop seeing those expectant mothers. They don't want to be unavailable if somebody comes to a trauma center or to an emergency room.

Tragically, and all too often, the current liability system leaves them with no choice. The current system doesn't single out bad doctors or negligent acts or poor quality of medicine. Our medical litigation system has not made medical care in the United States safer or better. In fact, in many cases it has made care just the opposite—less safe.

How? By discouraging doctors from sharing information that could prevent medical errors and by encouraging doctors to order unnecessary and costly tests that sometimes do more harm than good. The exploding costs hit almost all doctors and hurt patients by driving up unnecessarily the cost of medical care of everyone who is listening to me right now. Your health care costs are higher because of these unnecessary and frivolous lawsuits. You are being affected. Our current medical litigation system is the root cause of this crisis. It is an inefficient system that is full of perverse incentives. The current system hurts everyone seeking access to quality and affordable health care, and it hurts the very negligently injured patients it is supposed to be helping.

The system encourages lawsuit abuse by rewarding trial lawyers who file huge claims in friendly venues in search of the big payout. These lawyers often pocket up to 40 percent of any settlement or any payment the injured patients receive. That is 40 cents on the dollar that the trial lawyer pockets that does not get to that injured patient.

At the same time, many of the negligently injured patients—those who deserve to be compensated—never receive any compensation at all because their legitimate claims are too small for that personal injury lawyer who is out there looking for his or her big payday.

(Mr. ROBERTS assumed the Chair.)

The system compensates a few at the expense of the many. The effects of these massive suits are staggering. Between 1995 and 2002, the average claim payout for medical malpractice jumped 83 percent. Between 1997 and 2002, the percentage of medical malpractice payments of a million dollars or more more than doubled.

The mere threat of huge jury awards forces many doctors and insurance companies to settle cases for large amounts, even if they are not guilty. The current system encourages frivolous lawsuits, unnecessary lawsuits. Most of the cases filed in U.S. courts are without merit, with almost two-thirds being dropped or dismissed; that is, two out of three are being dropped or dismissed. Only 1 out of 20, or 5 percent of cases, actually go on to trial, and a staggering 80 percent of those cases are won by the defendant. These numbers are clear evidence of the rampant abuse of the current system, and the system must be reformed.

It should be no surprise that this excessive litigation is forcing malpractice premiums to rise dramatically. In 2002, physicians in many States saw their premium rates rise by 30 percent or more. In some States, for some specialties, malpractice insurance is rising by as much as 300 percent per year.

We debated this issue last July with a comprehensive bill, S. 11, the Patients First Act. That broad, comprehensive reform measure was designed to put our medical litigation system back to work for all Americans. Bringing the bill forward in July was the first time that the Senate had ever considered comprehensive medical litigation reform as its own freestanding bill. Unfortunately, the measure was never fully debated, as opponents of reform blocked it by filibustering the motion to proceed.

Since that time, the horror stories have not stopped. In fact, they have increased. Because this issue is so critical to the health of Americans, and because this crisis continues to escalate, we will try once again to address it on the floor of the Senate.

This time, instead of bringing up a broad, comprehensive bill and letting it suffer from the same political attacks as before, we have narrowed our focus on one of the groups most severely hurt by the crisis, obstetricians and gynecologists. More importantly, we want to focus specifically on the health care needs of women and children and babies. The underlying bill, the Healthy Mothers and Healthy Access to Care Act of 2003, is narrowly tailored to focus on obstetricians, gynecologists, and other doctors who perform these services. In the more narrow scope, the reform measures are almost identical to the ones in the more comprehensive bill, S. 11.

OB/GYNs, by the very nature of their work, are a higher risk specialty group, so it is understandable that their liability premiums would be somewhat higher than lower risk doctors. However, the amounts that OB/GYNs are paying throughout the country for liability insurance today are staggering. For example, locally, in Virginia, OB/GYNs are paying up to $84,000 in medical liability premiums per year. At the outset, I will say all OB/GYNs have to have liability insurance. Today, all physicians have to buy medical liability malpractice insurance to practice. Locally, it is $84,000. In New York, they are paying up to $124,000 per year. In Pennsylvania, they are paying up to $153,000 per year. In Florida, OB/GYNs are now paying up to an astonishing $250,000 in premiums each and every year to stay in the practice of delivering babies. That is a quarter of a million dollars every year that obstetricians are paying in Florida.

I wish to stress once again that these are payments the doctors are making merely to purchase the liability insurance. Whether or not they have ever had a case brought against them, whether or not there has ever been a medical error or mistake made at all, this is what many obstetricians are having to pay in these States. There is no added value in that $250,000 to health care. These payments are not helping the patients live better lives or receive higher quality of health care, and these amounts are not being paid just by a few bad doctors. They are being paid by doctors who have never been sued, who are the best in their profession, who have dedicated their lives to helping women and children.

Because of these skyrocketing premiums and the constant threat of litigation, many obstetricians are leaving their practice because they simply cannot afford it. Who can blame them? If an obstetrician delivers 100 babies a year, and let's say just in Florida they are paying $250,000 for that opportunity to deliver babies, that is a tax of over $2,000 each time that obstetrician delivers a baby. If you are a mother listening, or an expectant mother who is getting ready to go in the hospital, I am saying that there is an additional $2,000 tax that the doctor is paying, which may well be passed on to you because somebody has to pay it. That is money that doesn't add to the care of your baby, or to the care of the delivery, or to the safety of the delivery, or to health care itself.

Women living in rural areas have an additional problem. They are finding now that there are too few doctors to deliver the babies in these rural communities. By now, most of my colleagues have heard the horror stories of women having to drive hours just to see an obstetrician, or in the course of a 9-month pregnancy, having two, three, four, or five obstetricians because many doctors are having to leave either a region or the practice altogether. A June 9 Time magazine article tells the tragic story of an expectant mother in rural Arizona having to drive 2 hours on a desolate highway just to see a doctor.

This should not happen in America. We should be encouraging physicians to practice in rural, underserved areas, not chasing them away with the threat of frivolous lawsuits. It should be no surprise that the American College of Obstetricians and Gynecologists is one of the strongest supporters of meaningful medical liability reform. Of course, they support this narrowly tailored bill. Their primary concern is women's access to affordable, quality health care. They are uniquely situated to understand the threat the current system has placed on women's health and babies' health, and they are demanding action by Congress. They will not tolerate filibusters or blocking this issue. I urge my colleagues to listen to their unique concerns.

In a statement to the Senate Judiciary and HELP Committees last year, the American College of Obstetricians and Gynecologists very clearly outlined the problem facing women. They said:

> An ailing civil justice system is severely jeopardizing patient care for women and their newborns. Across the country, liability insurance for obstetricians-gynecologists has become prohibitively expensive. Premiums have tripled and quadrupled practically overnight. In some areas, OB/GYNs can no longer obtain liability insurance at all, as insurance companies fold or abruptly stop insuring doctors.
>
> When OB/GYNs cannot find or afford liability insurance, they are forced to stop delivering babies, curtail surgical services, or close their doors. The shortage of care affects hospitals, public health clinics, and medical facilities in rural areas, inner cities, and communities across the country.

These are the words of the American College of Obstetricians and Gynecologists, the ones on the front line in women's health care today.

The system is broken. The system is hurting women and babies today. This was very clearly spelled to the Senate Judiciary and HELP Committees last year.

I have a series of letters from doctors in Tennessee and, indeed, from around the country. At the appropriate time, I will enter several of these letters into the RECORD rather than take the time now because there are Senators in the Chamber who wish to debate this particular issue. Let me simply say that as a physician, as majority leader, as a representative of the people of the great State of Tennessee, I have letters from Paris, TN, from Athens, TN, Shelbyville, TN, from Memphis, TN, from obstetricians who are basically saying there is a crisis going on and asking that we do something about it.

I do hope the opponents of reform at least acknowledge the severity and gravity of the problem and don't run from it once again. We must acknowledge the symptoms of the crisis before we start to address its cause. Unfortunately, these horror stories are truly just the tip of the iceberg of the problems caused by our broken litigation system. The system costs our country directly and indirectly billions of dollars—wasted dollars, I would argue—each year. These costs are the sort of costs that don't find their way into letters to us as elected officials or into newspaper articles, but they hurt the American people.

The fear of these outrageous lawsuits forces doctors, for example, to practice defensive medicine. Slowly, but surely, people are understanding what defensive medicine is. As a doctor, I know these pressures all too well.

In order to avoid lawsuits—frivolous lawsuits—and to make sure they would be fully protected in the event they were called into question by an unnecessary or frivolous lawsuit, we find extra tests and procedures are ordered. They are unnecessary to the care of that particular patient or that particular patient's problem. It is a waste. Yet the system we have today incentivizes those unnecessary tests.

These extra steps add little, if anything, to the quality of health care, but they add a lot to the bottom line of health care costs because hundreds of thousands of doctors actually order these unnecessary tests. The cost adds up.

We all hear of the $700 CAT scan or MRI scan for a routine headache that an emergency physician orders simply out of practicing defensive medicine. It is no surprise to me that surveys show 75 percent or more of doctors acknowledge practicing defensive medicine.

The exact number is hard to calculate, but reports have put the cost of defensive medicine at tens of billions of dollars per year. When you realize that three out of four doctors frequently order tests or procedures, these total dollar figures, indeed, are realistic. In fact, a recent Government report estimated reasonable liability reform would save the country health care costs of $70 billion to $126 billion per year in defensive medicine expenditures.

In addition to these massive indirect costs, the Federal Government would save over $14 billion directly over 10 years with comprehensive liability reform, according to the Congressional Budget Office. The CBO attributes most of these savings to the Medicare and Medicaid programs which would experience lower health care costs. The Federal Government would also realize savings from lower costs of health care benefits for Federal employees.

The current medical litigation system also impedes our ability to improve patient safety. The threat of excessive litigation by unscrupulous lawyers discourages doctors from openly discussing medical errors in ways that, if that discussion could take place, would dramatically improve health care delivery in this country.

These facts were outlined and well documented in the 1999 Institute of Medicine report "To Err Is Human." That is why in addition to the reforms in this bill which hopefully we will be considering on the floor of the Senate, most of us are strong supporters—or we should be—of S. 720, the Patient Safety and Quality Improvement Act. This is vital legislation that will encourage a culture of safety and quality by providing for voluntary reporting of patient safety data without the fear of being sued.

Some of the opponents of the legislation we are debating today will try to confuse the medical malpractice issue with patient safety. If you listen closely, you will hear them say, in effect, that we need to maintain our broken medical liability system in order to reduce medical mistakes. Do not be misled. This argument amounts to nothing more than defending the status quo. In fact, as the IOM has said, and as we know from adopting voluntary reporting and learning systems in other contexts, such as in general aviation—more lawsuits don't improve quality—they make matters worse.

Our health care system must put a greater emphasis on preventing medical errors, not hiding or surpressing these errors due to fear of lawsuits. To create such a system, we must pass both patient safety legislation and litigation reform. And I am committed to passing patient safety legislation too. It is now being blocked by at least one Senator on the other side of the aisle despite the fact that it has passed the HELP committee unanimously.

Fortunately, we know how to address the cause of the crisis because reform measures have already succeeded at the state level. The Healthy Mothers, Healthy Babies Access to Care Act is based on these reforms. It is a common sense measure that will restore balance to our broken litigation system in the narrow area of OB/GYN services. It will protect the right of the negligently injured patient to sue for just compensation while curtailing lawsuit abuse. Though this bill has a narrow scope, it is comprehensive reform with several critical components. Let me briefly mention just a few key provisions.

The bill ensures that injured patients will receive a larger percentage of their award by limiting attorneys contingency fee to a reasonable sliding scale. For awards over $600,000, lawyers can keep 15 percent of any payment. Currently, lawyers in many states can take up to 40 percent of all awards and settlements, leaving the injured patient grossly undercompensated.

The bill places a statute of limitations of three years on bringing a suit. This ensures that a suit will be brought in a timely manner and evidence preserved.

The bill controls excessive awards for noneconomic damages by placing a $250,000 cap on these types of awards. Noneconomic damages are subjective awards for pain and suffering that cannot be easily quantified. They contribute greatly to the personal injury lawyers' lawsuit abuse. Of note, the caps contained in this bill are "flexible" and do not preempt state law. Thus, if a state has already defined a different cap on noneconomic damages or subsequently passes a different cap—whether higher or lower—that State designated cap prevails.

At the same time, the bill ensures that negligently injured patients will receive full economic damages. Economic damages are the out-of-pocket expenses that a victim might suffer due to a doctor's negligence, such as hospital costs, doctor bills, long-term care, other medical expenses, and lost wages. When a patient is negligently injured, they deserve full economic recovery.

Experience at the State level clearly shows that comprehensive medical liability reform works. The Healthy Mothers, Healthy Babies Access to Care Act is modeled after California's Medical Injury and Compensation Reform Act, or MICRA, which became law in the mid 70's. Thanks to MICRA, California doctors and patients have been spared the medical liability crisis that other states are facing. You simply don't hear the horror stories about OB/GYNs quitting their practice or women unable to find an obstetrician in California. This is true despite the fact that it is a big State with a high cost of living. In fact, since MICRA passed, total insurance premiums paid in California have risen by only 167 percent while total insurance premiums paid for the rest for the country have risen by 505 percent—more than three times as much.

Over the next day or two as we discuss this bill, opponents of reform will likely go to great lengths to blame the current crisis on insurance companies, the stock market, the bond market, doctors, hospitals and on and on. I fear we will hear this crisis blamed on just about everyone and everything except for the true cause—the current litigation system. The system is broken. This broken system is hurting patients and now is the time to fix it.

I urge my colleagues to support the Healthy Babies, Healthy Mothers Access to Care Act. This narrowly tailored, commonsense reform of our broken and inefficient medical litigation system will be a big step in improving our health care system for all Americans. Passage of this measure will help ensure access to quality health care for women and babies, protect negligently injured patients, and save our country billions of dollars in health care costs every year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The highly competent clerk will now report the motion to proceed.

The legislative clerk read as follows:

> Motion to proceed to the consideration of S. 2061, a bill to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

The PRESIDING OFFICER. The distinguished Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. STEVENS are printed in Today's RECORD under "Morning Business.")

Mr. STEVENS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I join with my colleague from Alaska in congratulating Senator John Glenn on the honor he received.

I am rising today, however, to speak about the bill which is hopefully going to come before the Senate and on which the majority leader has been so eloquent, as he often is. Especially when there are issues concerning the care for other people, the majority leader has truly established a record that is unique, certainly in the Senate, with the hands-on experience of physically saving lives as a result of his skills as a surgeon and a doctor. He has decided to bring to the Senate the issue of how we make sure women in this country have adequate access to doctors, especially during that period in their lives when they are delivering children.

I personally cannot think of anything more important to our culture than babies. If we were to pick one event in the life of a citizen of this country—or I suspect anywhere in the world—that really is an event of great wonder and alters a person's view of the world and how they work with the world, it is when one has a child. Certainly they want to make sure their children are delivered in a safe way and with the best medical help that can be obtained.

This is why this bill is so important, because trial lawyers do not deliver babies. Doctors deliver babies. If we do not have enough good doctors dealing with women who are about to deliver or who are becoming pregnant or who believe they wish to have a child, and to deal with them in a manner which allows women to have ready access so that they do not have to drive miles in order to see their doctor or they do not have to wait days in order to see a doctor because there are not any available, if we do not have that structure in our society then we put at risk our ability as a society to have healthy children and to have mothers who are comfortable and feel safe about the experience of childbirth. That is something that is serious.

Regrettably, that is where we have arrived as a society. Whether we like it or not, we have arrived at a time where women in this country are at significant risk of not being able to see a baby doctor because the baby doctors in this country are being driven out of the business by the cost of their errors and omissions insurance. That insurance has skyrocketed dramatically in the last few years as a result of lawsuits, and further in my statement I will get into some specific statistics that will show why these lawsuits are occurring and what their impact has been on the actual ability of doctors to practice, in a statistical term.

All of us who work in this area of trying to address the concerns of getting women decent access to doctors so they can have children safely have heard stories and anecdotes which are so regrettably consistent in the sadness of the tales that there has to be a great deal of truth to them. It is also supported by the numbers and statistics.

Last week I had the chance to meet with four obstetricians in New Hampshire. Two of them had to get out of the business of delivering babies. It was the favorite part of their practice. They were OB/GYNs. The cost of their insurance had increased so dramatically they could no longer afford to go into the operating room and deliver a child. Neither of those two doctors had ever had a claim against them relative to the children they had delivered before they gave up the practice, and they delivered quite a few.

Two of the other doctors were still delivering babies, but they had significantly curtailed their practice or their practice had been dramatically impacted by the cost of their insurance. One doctor told us everything he earned in the first 5 months of his practice every year went to pay his insurance premiums relative to a potential claim against him, and he never had a claim against him personally. There had never been a claim. Yet his premiums had jumped over 100 percent in the last 3 years. He was finding it very difficult to stay in the business of delivering children, but because he was the only doctor in that part of our State who was really doing that, he felt a social obligation to continue delivering babies, as well as the fact that he personally loved the practice of delivering babies. It was getting to a point where he was not sure how much longer he could do this.

Also at this meeting there were two doctors who should have been there but were not because they had left the practice. They were two doctors from northern New Hampshire, which is a rural part of our State. They are no longer practicing and delivering our children. As a result, there is no doctor in northern New Hampshire today who delivers babies. There is no OB/GYN because they have been driven out of the practice of medicine. Those two doctors have left the practice in that area. One moved to another State and the other simply dropped the business of delivering babies.

The stories go on. They are real and they impact real people. In order to see a doctor, a woman in northern New Hampshire today who is pregnant has to now drive from Colebrook, NH, probably down to Hanover, NH, or at least down to Littleton at the closest, which is a long drive. It is a curvy road and in the winter it is a difficult drive. Even though people are comfortable driving in the winter in New England and in New Hampshire, we can get some serious snow and ice and it can be very testy and sometimes one cannot even get through because the snow cannot get removed in time or it is too heavy. So that woman is at risk, and it is not just in New Hampshire.

This is a photograph of a woman from Arizona named Melinda Sallard. She was forced to drive about 45 miles in order to deliver her child. In the first 2 blocks, they drove by the hospital that was next door to their house, but there was no OB/GYN doctor there because they had given up the practice, so she had to drive 45 miles to the hospital. On the way, she had the baby in Arizona. The baby's heartbeat had actually stopped while she delivered it in the car, and while her husband kept driving to the hospital, she was able to start the baby's heartbeat again and the baby survived. Now we see the photograph, but it was risky and it was traumatic. She should have had a doctor in the hospital that was almost next door to her house, but she did not. She did not because the doctors in that hospital had to give up the practice.

We have Dr. Schmitt, one of the best doctors in North Carolina, according to the patients who saw him deliver babies, who loved the practice, but because the cost of his insurance went up so much as a result of the potential of a suit, of which I understand he had never had any, he had to give up the practice. This is a picture of the doctor and I think just about the last child he delivered. The child is not very happy about being the last child he delivered. He does not have a smile on his face. He wanted the doctor to deliver other children. Dr. Schmitt had to give up the practice. He actually moved because he could not maintain the premiums that were driving up costs so extraordinarily.

What is causing this? Essentially, it is being caused by lawsuits, many of them frivolous. In fact, there is a statistic that says only 4 percent of the lawsuits against OB/GYNs have a recovery. The rest are frivolous—not all frivolous, maybe, but the majority are. The rest don't lead to any recovery at all. But as a result of those 4 percent of lawsuits getting astronomical recoveries, the whole pool of coverage costs for all baby doctors has increased so dramatically that they have been driven out of the business or they have been put in a position where they can no longer deliver children in a manner which is either fair or accessible for many women.

We are at serious risk of having this discipline so contracted that we will end up rationing care in this area, which could be very serious and unfortunate for women. It is a function of the fact that our legal system has run amok relative to baby doctors and the women who need to see those baby doctors. I have heard our candidates from the other side of the aisle, both of whom are Members of this body—I have heard Senator KERRY say: I have spent my career fighting against special interests. I think he has said that almost every day, but that is a direct quote from the newspaper where he said it in Boston. "I spent my career fighting against special interests."

Where is he fighting for these women? Where is he when these women want to see a OB/GYN and they can't? I suggest maybe he is fighting for the special interests on the other side of the coin, those who are the trial lawyers. For some reason the trial lawyers appear to have the ear of the majority—not the majority but of enough so we cannot even hear about this bill on the floor much less vote on it. We should at least be able to take up the bill. But, no, no, the trial lawyers aren't going to let us take up this bill. We are not even going to be allowed to debate it on the floor and have votes on amendments.

Maybe some who spent their career fighting special interests could come down to this floor and explain that one to me. Explain to me why Dr. Schmitt isn't practicing medicine anymore. There is somebody who needs someone to fight for him. Explain to me why Mrs. Sallard had to drive 45 miles and have her baby in the car. Explain to me why we don't have a doctor in Colebrook, NH, who will deliver babies or see people when they want to have babies. Explain that to me if you want to talk about fighting special interests or maybe come down and explain to me why trial lawyers are right. Then you say you fight against special interests. There is an irony there.

I have heard Senator EDWARDS say: "I want to make health care a birthright for every single child born in this country." That is Senator EDWARDS in the Des Moines Register—"every single child born in this country." Senator, come down and explain to us how children are going to be born if their mother cannot see a doctor. What type of risk is that child going to be at when they are born if the mother cannot see a doctor in Colebrook?

This bill is being held up because there are interests out there that do not want to bring this issue to the floor of the Senate even for debate. They just want to stiff-arm it on behalf of an interest in this country which believes that it should have the right to bring these suits but has, as I said, 96 percent of them thrown out of court and in the same manner throws out of the delivery room the doctors, throws out the women to be on their own to look for a doctor miles away, at great inconvenience.

This is a battle of special interests. My special interest in this one happens to be babies and mothers. Somebody else's special interest happens to be the trial bar. I am happy to defend this special interest, babies and mothers, on the Senate floor today. I would like to know why the other side is not willing to let us have this bill come forward.

Let's get into some specifics about the size of the problem. The next chart we have shows the cover of Newsweek, which ran a very good piece on "Lawsuit Hell, How Fear of Litigation is Paralyzing Our Professionals." Right in the middle is a doctor. It could be a midwife. Remember, midwives are as much affected by this as doctors. But essentially it is those people you see when you most need them, and especially if you are a woman and you want to have children. That person's career is paralyzed, and as a result of their career being paralyzed, our ability to get adequate health care is paralyzed. It is a good story. I recommend it to everybody.

I want to make the point this is about women and it is about women's right to access decent health care. So speaking on behalf of that special interest—I know Senator KERRY is fighting against special interests, and he is probably fighting against this special interest, but I want to put something on the record. I don't want to put it in the RECORD because we will ruin the RECORD, but I want to mention that we have 85,000 petitions. Eighty-five thousand women have signed petitions asking that we at least consider this bill, where we at least get a vote on whether or not their doctors can have some protection. Eighty-five thousand women want to see a doctor, want to be safe when they get into those childbearing years. They want to have the opportunity to have safe medical care.

So we have brought those petitions here today. I am obviously not going to put them in the RECORD. I don't want the American taxpayer to have the expense of printing this. But I want to make it clear this is about real people, women who need health care, and especially need it when they are about to have children.

The extent of this crisis is significant. It is not limited to New Hampshire, although New Hampshire has a very definite problem. The American Medical Association has developed this chart which basically color-codes States on the effect of the medical liability crisis on the availability of doctors. There are a number of States in this country where it is getting to be critical, where you are in a crisis mode if you want to see a doctor because you may not be able to see one. Those are the States in red.

If you recall, in West Virginia the doctors actually weren't available for some time because of that issue. In Pennsylvania the same problem arose. It arose in State after State, large States with large populations: Florida, Texas, Pennsylvania, Ohio, Missouri, and smaller States, too, such as Wyoming. Every one of those red States is in crisis. That means there is a real problem, that you may not be able to see a doctor when you want to have a child or getting to see that doctor will be difficult.

The yellow States are the ones moving toward crisis. This is not an abating problem; it is a growing problem. Only the white States, and there are very few of them, have been able to get their acts together, and we will find out why in a few minutes when we start talking about what States have passed limitations on liability insurance, and that being the issue.

I want to take a specific look at a specific State which is in crisis: New York. New York State—I just picked New York out arbitrarily—is in crisis. This is for baby doctors. There are seven counties in New York where there are no obstetricians, where, if you are an expectant mother and you want to go see a doctor, you cannot stay in the county you are in. Some of those counties have a fairly high delivery rate: 200 in this county, 289, 215, 322 children. This is on an annual basis.

Then there are a number of other counties which only have one obstetrician, and some of those counties have even larger numbers of delivery rates. So you are dealing with some people who are having to drive a heck of a long way in order to see a doctor. And New York State can get pretty cold and snowy, especially around Buffalo and Syracuse, where, as far as I can tell, it always snows except for in June and July. In any event, it can be hard to drive if you are an expectant mother. You can be under a lot of pressure to get to those doctors.

It is not that they can't practice in those counties; it is that they cannot afford to practice in those counties. Why can't they? This problem is a uniquely rural problem in some ways. In order to pay that insurance premium, which is so high and has gotten so extraordinarily high over the last few years—in order to pay that premium you basically have to deliver a lot of babies.

If a doctor has a practice in a rural area, not generating a huge amount of births, then you cannot work hard enough or deliver enough births to pay your premium. The doctor I mentioned from Laconia, NH—by our standards a fairly populous area of our State; not overly populated but a fairly decent community—has to work 5 months to pay just his insurance premium. If he were working in Colebrook, obviously, he would have had to work all year to pay the insurance premium and then he would not have earned enough to pay the premium. That is why we have no OB/GYN in Colebrook, NH. There are not enough babies being delivered. The premiums have gone up so radically they cannot afford to continue to practice.

I am sure there are a lot of places in the Presiding Officer's State of Kansas which have the exact problem. I know parts of Kansas are reasonably rural. Those folks probably have to drive a long way to see a doctor. Kansas is a big State compared to New Hampshire. It is flat, so it is an easy drive, but still it is a long drive.

Let's talk about some of the statistics so this is not just anecdotal: 72 percent of the OB/GYN doctors in Pennsylvania surveyed have changed their practice to reduce their liability—that means they have stopped delivering babies: 75 percent of the OB/GYN doctors in West Virginia, as well;

71 percent in Kentucky. There are dramatic drops in doctors willing to deliver babies or do any high-risk procedures at all.

OB/GYN doctors in New Hampshire experienced a 100-percent increase in premiums within 3 years. That is a staggering number. As I mentioned earlier, only 4 percent of the lawsuits brought relative to OB/GYN practices actually lead to recovery. That is staggering because it shows there are a lot of frivolous lawsuits.

What is the way to resolve this? There are a lot of moving parts in the health care question. I am not saying the only issue that affects costs that the OB/GYN doctor incurs during their practice is the liability issue, the insurance issue, the issue driven by lawsuits which have no relationship to a doctor's practice because the doctor has never been sued. There are other factors. There is technology, hospital associations, all sorts of factors. Obviously, the insurance industry has gone through some significant adjustments, especially in the rate of return on investments as a result. But we know the single most significant factor by far is the increase in costs of the insurance policy. That is the item that is most affecting the ability of the doctors to continue to practice.

We also know those States which have taken action in this area have actually been able to control the costs so the doctors are no longer feeling pressure at that level. The best example is California. Liability reform occurred in California, with caps, in 1977. As a result, in the California cost increase experience, premiums have gone up 182 percent compared with the rest of the United States, which has gone up 573 percent. The chart shows the difference. It reflects the fact that if you put in a responsible approach to premiums to liability insurance, you can control the rate of growth of the cost and, as a result, you can create more availability of doctors and more affordable health care.

This chart shows that reform works. The bottom line reflects obstetrics. The first two areas, Los Angeles and Denver, have in place laws which limit recovery in the area of pain and suffering. Their basic premium for a policy of $1 million/$3 million is $54,000 and $33,000. The next four jurisdictions do not have those laws: New York, Las Vegas, Chicago, and Miami. Premiums in Miami are almost four times higher than Los Angeles, which would be a comparable city, and about seven times higher than Colorado; Chicago, two times higher; Las Vegas, two times higher; New York, 1½ times higher than Los Angeles; two times higher than Denver. That reflects the fact that if you put in responsible reform in the area of liability insurance you can control those premium costs.

What is responsible reform? It is reform that addresses the primary concerns of a person who is injured but also addresses the fact that we have a large number of frivolous lawsuits being brought and a large number of lawsuits leading to extraordinary recoveries, which costs are being passed on to all the OB/GYN baby doctors in this country. As a result, baby doctors who have absolutely no history of malpractice are forced out of practice and mothers are not able to see their doctors and are being limited in access.

This bill tries to address that. First, it says right off the top that a State has the right to make a decision on what the cap will be. We have essentially addressed this issue of States rights. We put in a cap that if a State wants to go above it they can go above it; if they want to go below it, they can go below. We also say there is no limitation on recovery for medical costs.

There was a recent decision where, unfortunately, there was a severe injury and the child would need medical care for years. The bill came to something like $18 million. That would be an award that could occur if that was the child's medical costs; that could be recovered—whether $18 million, $10 million, $5 million, even more, $20 million. Hopefully, that will not happen too often but if it does the parents have a right to that recovery.

As to lost compensation, if the mother is injured and there is a loss of compensation, if she has a job that she can no longer go back to or is limited in her ability to get a job, there is absolutely no limit as to what the recovery is relative to her compensation. If she is going to have a lifetime expectancy earning of $10 million, discounted to whatever that is, she gets that recovery.

What we do not have in this bill, or what we try to cap because this is where the costs have gone out of control, this is what is driving the premium rates, is a limit on pain and suffering, which is basically the money that is thrown on top. Pain and suffering is what a jury feels when they hear a sad story that they think deserves an extra bonus award. That is limited to $250,000 under this bill. That is a reasonable limit. Most States are at that number that have acted in this area. But if a State wants to go above that area, it can step out of that and pass a higher amount.

The practical effect of this bill, should it pass, is that the 85,000 women who have written to us, the literally hundreds of thousands of women who are worried whether they will have a good doctor to see or even whether they will be able to see a doctor or whether they will have to drive many, many miles to see a doctor, putting themselves at risk, those women's concerns will be addressed to some degree because we will make practicing medicine in the area of delivering babies affordable again. We can get a doctor back in Colebrook. A doctor will not have to work 4 or 5 months of the year just to pay his or her premium. Doctors who love to deliver babies in Dover, NH, will be able to get back into the business of delivering babies because they will be able to afford the premium.

That is what this is all about. It is about giving women the opportunity to have access to good doctors who can deliver babies and have those babies be healthy. Why we are not even going to be allowed to vote on going to this bill is beyond me, but that, I understand, is a position the Democratic leadership has taken. It seems ironic in the face of Senator EDWARDS' statement, which I will read again, as the potential standard bearer of his party: "I want to make health care a birthright for every single child born in the country."

It is going to be hard for children to be born if they cannot see baby doctors. I do not understand why we cannot at least debate this issue on the Senate floor and have a vote on it. Senator KERRY would appear to want to do this because he wants to fight special interests. Well, I want to promote this special interest—which is children, mothers, expectant mothers, and doctors who deliver babies. So if the other side wishes to oppose those three constituencies, that is their choice. But I think they need to explain to us why it is good for a mother, good for a baby, or good for a baby doctor that the practice of medicine is being curtailed in this country in the very critical discipline of obstetrics.

Mr. President, I understand the Senator from Vermont wants the floor so I yield.

The PRESIDING OFFICER. The distinguished Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Kansas, the Presiding Officer. And I thank my friend from New Hampshire for his usual courtesy in allowing me to have the floor. I will talk about the same issue.

I am really disappointed there seems to be politics being played in this medical malpractice insurance debate. I feel a little bit like Claude Rains in "Casablanca." I feel like saying: I am shocked—shocked—in an election year we may find politics being played on what we all acknowledge is a serious matter.

What we have before us is a one-size-fits-all bill. It is a one-size-fits-all bill for a problem that varies greatly from State to State. This bill would actually encroach on the rights of every State—my State of Vermont, the distinguished Presiding Officer's State of Kansas, the State of New Hampshire, all others. It would yank away from our States legal rights and legal responsibilities they now have. And if history is any kind of a predictor, they would take those rights away forever. I think we have to show great care in the Senate when we want to so trample the rights of our individual States.

The American public assumes the 100 Members of the U.S. Senate—if they are going to do something to drastically change the lives of people in all 50 States, if they are going to drastically step in and set aside the legislatures of the 50 States—would do it only after careful consideration. But instead we have short-circuited our own procedure. Usually, when we have a bill, as everybody knows from civics 101, it is introduced, it is sent to the appropriate committees, hearings are held, debate is held in the committees, amendments are voted on, and then it is sent to the floor—but people have had a chance, both for and against the bill, to come in and testify.

Certainly, the Governors of the various States would have a chance to come in and say either we want you to just trample our rights and trample our legislature, trample our own authority or we do not. In this case, that did not happen. In this case, the bill was just written up in a couple lobbying shops down on K Street and brought up here for people willing to introduce it at the request of those lobbyists. And instead of letting States find solutions that are best for their citizens, the Republican majority prefers this attempt to tally points on some election year political scoreboard for what are powerful special interests, but they are going to do it at the public's expense.

Instead of looking at the big picture, the overly broad antitrust immunity that the insurance companies get, or the fact that a lot of insurance companies made a lot of poor calls in the stock market and lost a lot of money and are now saying, well, the doctors can pay higher premiums to pay it back—instead of looking at ways to reduce medical errors so there would be less suits—what they have said is that we have to help these big insurance companies—not help the individual States, not help the people involved. We will help the insurance companies.

No matter they are unwilling to clamp down and ask for higher medical standards, no matter they have lost billions playing the roulette wheels in the stock market, no matter they do not want to debate, it is an election year and their lobbyists came up and said we really want this bill, so here it is.

Here is a bill that would take a chain saw to the legal rights of the American people and to the prerogatives of each of the 50 States that we take an oath to represent in the Senate. It has been tried before. It did not work. This time the bill is limited to obstetrical and gynecological care. Actually, it is not just making sure the insurance companies are helped out. But what the majority says and what the lobbyists say is they want to limit the legal rights of the most vulnerable patients: mothers and infants. It is unfortunate because we do have a health care system that is in crisis. We hear that so often that the force of it tends to diminish, but that truth is one we have to confront. The crisis is one that has to be tackled and solved.

Dramatically rising medical malpractice insurance rates are forcing some doctors to abandon their practices or to cross State lines where it might cost less. So many times, of course, these insurance rates have gone up even though there have been no cases that would indicate why they have.

Patients who need care in high-risk specialties, such as obstetrics, and patients in areas that are already underserved, such as many rural communities in my State and the Presiding Officer's State, are too often left without adequate care.

What I find amazing is that here we are, the richest and most powerful Nation on Earth, and instead of simply being able to do what most Democratic nations do—that we would assure access to quality health care for all our citizens—we are saying: No, we will allow our doctors and our providers to be driven from their calling by the manipulations of some of the insurance companies.

That is why I was hoping we would have a real debate, we would have real hearings, to find out what is happening, that we would find out what happens when you give antitrust immunity to the insurance companies to set rates however they might want.

Different States, though, have different experiences with medical malpractice insurance. Many of these States are not seeing rates skyrocket, but the State's insurance remains largely a State-regulated industry. Are we going to say that even for those States that have much lower insurance rates, we are going to say, tough, no matter what you have been doing, no matter what you did to make things work right, tough, because we are going to throw that all out. We are just going to wipe you off the books. We are going to wipe off your State control because we, the 100 Members of the Senate, understand it so much better than you possibly could. We know so much better than your 50 Governors, your 50 legislatures, and we know it so well we are able to do this without any hearings, without any discussions, without any work from the outside?

We are able to do it because we are U.S. Senators. And we know that what was handed to us by the lobbyists when they drafted this bill must be right because, after all, they come to our fundraisers.

I don't think it should be that way. I don't think that my own State of Vermont should be set aside when our Governor and our legislature are working to try to find the best solution for our small State.

I think of the one time we did have a hearing on this in the Senate Judiciary Committee—not this bill but a predecessor bill—when Linda McDougall came here. It was pretty tragic. She told us that she had had a double mastectomy because they made a mistake. She wasn't supposed to have had any mastectomy, but somebody read the papers wrong and that is what happened.

If the Senate is able to pass this bill and get it signed into law, she would still be allowed to recover, for what was gross negligence, a total of $250,000. That is about what Senators make in around a year and a half. Which do you think she would rather have? Would she rather have her body back intact or the $250,000? Please.

Arbitrarily limiting injured patients' remedies under the law without addressing systemwide medical errors that result in patient harm and death is a recipe for failure. We should be asking what were the things that went wrong; how did these things happen that such a terrible mistake was made?

We are fortunate in this Nation to have many highly qualified medical professionals. I think in my own little State of Vermont how fortunate we are to have extremely good physicians. Unfortunately, sometimes even good doctors make errors. If there is no pressure on the insurance companies, no pressure on the medical societies to keep the standards up, why should they go up? If the Senate, in its infinite wisdom, can take a lobbyist bill and just pass it and stop them from having to worry, why should they worry?

We must do all we can to support the men and women who commit their professional lives to caring for others, but we must also ensure that patients have access to adequate remedies if they receive inadequate care.

Let's understand, notwithstanding what the insurance companies' lobbyists tell us, high malpractice insurance premiums are not the direct result of malpractice lawsuit verdicts. They are the result of investment decisions by the insurance companies and business models geared toward ever increasing profits, as well as the cyclical hardening of the liability insurance market. In cases where insurers made a bad investment and experienced the same disappointment from Wall Street that many other Americans have, it should not be able to recoup its losses from the doctors it ensures. The insurance company should bear the burden of its own business model, just as every other business in this country ought to do.

A nationwide arbitrary capping—with no hearings—of awards available to victims, as the Republican majority has proposed, should not be the first and only solution turned to in a tough medical malpractice insurance market.

I might ask my friends, does anybody think if we pass this bill, if we override the legislatures of Texas or New Hampshire, Ohio, Vermont, or anywhere else, if we override all those legislatures and pass what the lobbyists and the fundraisers have asked us to pass here—this bill, with no hearings, no committee work, just came from the pens of K Street, I suppose—does anybody think if we pass this pig in a poke that these medical malpractice rates are going to come down? Come on. I have a bridge in Brooklyn to sell you if you believe that.

We can pass this. We can help the insurance companies out of their bad investments. We can make sure that people who have been severely injured through medical malpractice are unable to recover for it. We can do all those things. But I guarantee you, the rates will not come down. We have seen enough other times when we passed special interest legislation supposedly to help consumers and it has helped businesses. It has not helped the consumers.

What we ought to be doing is conducting thoughtful and collaborative consideration in committee that might achieve a sensible solution that is fair to patients, that supports our medical professionals and their ability to practice. I suggest one thing we might do is take away the blanket exemption from Federal antitrust laws that the insurance industry has. Insurers have for years had this novel exemption that nobody else has enjoyed. The McCarran-Ferguson Act permits insurance companies to operate without being subject to most of the Federal antitrust laws. Do you think our Nation's physicians, our doctors and their patients, have benefited by allowing the insurance companies to operate without being subject to most of our antitrust laws? Of course, they have not. They have not used this exemption from antitrust laws to benefit the patients. They have not used it to benefit the doctors they insure. They have used it to benefit themselves.

With this antitrust exemption, they can collude to set rates, resulting in higher premiums, certainly higher than real competition would achieve. And because of the exemption, law enforcement officials can't even investigate the collusion.

If we want to do something, let's get rid of the antitrust exemption that let's them set doctors' premiums anywhere they want. Let's get rid of the antitrust exemption that allows them to recoup their losses in the stock market—not losses for malpractice cases—by just charging ever higher premiums.

More than a year ago, I introduced the Medical Malpractice Insurance Antitrust Act, S. 352. Senators REID, KENNEDY, DURBIN, EDWARDS, ROCKEFELLER, FEINGOLD, BOXER, and CORZINE cosponsored the legislation. It would modify McCarran-Ferguson with respect to medical malpractice insurance and then only for the most pernicious antitrust offenses: price fixing, bid rigging, and market allocation. These are the anticompetitive things that affect premiums.

I can't imagine how anybody could object to a prohibition on insurance carriers fixing prices or dividing territories. After all, all the other industries in our Nation have to abide by these laws or they pay the consequences. So we will find out who really carries sway here. Is it the insurance companies and their lobbyists or is there some indication that the American people may still have a voice in the Senate?

Let's find out what happens when we bring up an amendment to remove the antitrust exemption these insurance companies now have. This legislation languished for a long time. We actually had hearings on this. But the one that is written downtown comes straight to the floor.

If we are really serious about controlling rising medical malpractice insurance premiums, we have to limit the broad exemption to Federal antitrust law and promote real competition in the insurance industry, and work at reducing medical errors across the health care system. This partisan bill doesn't do that.

This partisan bill is designed to be a talking point for fundraisers. It is not designed to help doctors in rural, underserved areas to be able to pay their medical malpractice insurance. It doesn't help the women and children in this country who need these medical specialties. It may help insurance companies and fundraisers, but it doesn't help anybody. If we are going to pass something, let's pass something real.

I see my good friend from Texas and my friend from Ohio on the floor. When I started speaking, there was nobody else seeking recognition. My good friend, Senator GREGG, was kind enough to yield when I came here. I will be speaking more on this, but I will yield to whichever Senator wants the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I ask unanimous consent to be added as a cosponsor of the Healthy Mothers and Healthy Babies Access to Care Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I am happy the majority leader has seen fit to bring this important issue to the floor. I will have some specific comments about the bill in just a moment.

I believe our civil justice system is badly broken insofar as it serves the interests of the few at the expense of the many. What I mean by that is our system of resolving civil disputes, whether they be medical malpractice lawsuits, or automobile accident cases, or any other kind of ordinary bread-and-butter lawsuit you see decided in courthouses across this country, in which citizens volunteer to give up a substantial amount of their time, that this process takes too long and it is too expensive to serve the interests of justice. It discourages those who have meritorious claims from even bringing those claims because they don't want to endure the time or expense. It too often benefits the very few at the expense of the rest of the public.

Particularly, the benefit is to a handful of lawyers. I must say, I am proud to be a lawyer. I practiced law a long time before I was a judge presiding over a trial court in San Antonio, TX, for 6 years and serving on the Texas Supreme Court for 7 years. I am proud to be a lawyer.

The problem is we have a handful of lawyers who are literally the tail wagging the dog on this and other reform issues that are so important to restoring public confidence in our civil justice system and making sure that rather than serving the interests of the few, the interests of the general public are served by the way in which we handle disputes like medical liability cases and other tort litigation.

We have in this country what some have called the "sporting theory" of justice. We have an adversary system, where each side retains a champion and we go in and we have a clash between these adversaries in court, and the theory is—and in many respects it works well—the impartial jury decides the facts and the judge applies the law, and then we have a judgment in the dispute. It is a way of resolving our disputes without violence, in a way that seems to satisfy the public generally. But the problem is in modern-day litigation—and nowhere is this more prevalent than in the area of medical liability litigation—the interest of the person who is harmed is not truly paramount in consideration in terms of the way the system works. In fact, many times, it is the patient who may be injured or harmed who receives actually less money than the lawyer who brings the lawsuit.

As you know, many of these lawsuits are handled on a contingency fee basis. In other words, the lawyer who brings the lawsuit will represent a client in court—a patient in this instance—and say, well, if I represent you, then I will take 50 percent of everything you recover. It won't cost you a penny if I don't recover anything, but if I do, I will recover 50 cents off the top of every dollar you recover. Of course, there are other expenses associated with this kind of lawsuit, such as the hiring of expert witnesses, court costs, and the like.

Too often, what happens in these cases is the lawyer ends up the one walking out of the courtroom with the most money, not the injured party, not the person for whose benefit a lawsuit is brought. To me, that simply turns our civil justice system on its ear. It calls into question whether this is a system of resolving disputes in a way that serves the interests of the public; or does it, as it appears too often, serve the interests of a handful of personal injury lawyers who make their living bringing this kind of lawsuit.

There is another aspect of this as well. In our civil justice system, we know almost anybody can file a lawsuit for virtually anything. If you can get a lawyer to file a lawsuit, then you can sue someone for a small fee, whereby the clerk will serve the papers on the defendant, and typically the defendant will have to hire a lawyer to represent them. At this point, there is no determination made that there is any merit to that lawsuit. Well, what happens too often is the very nature of being able to file that lawsuit without any determination if there is any merit at all leads to a form of legalized extortion, because the person who has been sued has no recourse but to hire someone to defend them. Even if they end up winning the lawsuit, even if the lawsuit filed is dismissed ultimately, there is no recourse for that defendant who has been wrongfully sued or sued in a frivolous lawsuit.

This, too, adds to the expense of ordinary litigation and makes very little sense to me or, I think, to a lot of people. I think the more the public understands who it is who benefits from the current state of our civil justice system, our tort system, our medical liability system, the more the people will understand it is not them, not the injured patients, not those whom the system is designed to benefit; it is for those who filed the lawsuits, the lawyers who represent those folks. Unfortunately, because of the costs associated with just the expense of litigation, we know too often those persons who are sued will make what is known in the profession as a nuisance settlement. In other words, they will say, well, it is going to cost me tens of thousands of dollars just to defend myself against a frivolous lawsuit. Rather than defend myself and win the lawsuit, but end up $100,000 out of pocket, or whatever the cost may be, I will pay you $5,000 or $10,000 to simply have it go away.

Unfortunately, you can see why the financial incentives tend to favor nuisance settlements of lawsuits which, unfortunately, have the unintended impact of encouraging further litigation and other lawsuits even when they are frivolous. We need to do something about it. I join the senior Senator from New Hampshire who said we need some meaningful medical liability reform. We need to make sure that it is not the lawyers who bring these lawsuits who benefit but, indeed, the public. Nowhere is this a greater concern than when it comes to access to health care and medical liability lawsuits.

Last fall, I spoke in this Chamber, along with others, in support of broad-based medical liability reform. Today I rise to speak in favor of this narrow, but very important, bill that deals with women's access to physicians who will deliver their babies, access which has been damaged terribly by the current dysfunctional way in which we resolve disputes about medical liability.

The change we argued for last fall and this change as well would drastically reduce the cost of health care by reducing frivolous claims and eliminating the need to pay extraordinary amounts of money for medical liability insurance.

Unfortunately, we failed to pass meaningful reform. We have heard—I heard the Senator from Vermont mention this a moment ago—that the real culprit in all this is the insurance companies; it is not the lawyers who benefit disproportionately from the status quo; we know it is not the patients who do not benefit very often; and we know people who seek access to health care are denied access to that health care because of this dysfunctional system. The Senator said it is the insurance companies.

I take second chair to no one in saying that if, in fact, he can point to abuses perpetrated by insurance companies or anyone else, we certainly ought to take up that issue. But I believe the motivation is really one to create a diversionary tactic, a smokescreen, if you will, to say it is not the lawyers, it is not us. Heaven forbid, it is not the women who want their babies delivered, it is the insurance companies. We have heard this time and time again when, in fact, I believe the empirical evidence that has been produced in my State and other States shows that, in the end, insurance companies, which are typically subject to strict State regulations, are having to play a lottery game, a sort of game of roulette. They don't know what the rules are because they change with every million-dollar, multimillion-dollar, tens-of-million-dollar judgments in lawsuits. So they charge an insurance premium, just like we pay for homeowners insurance or renter's insurance or any other kind of insurance, and ultimately that cost is passed on to the consumer. In this case, the consumer of that insurance, the one who pays that premium, is the physician who wants to practice medicine, who wants to dedicate their life to the interests of people who are sick and who need their help—in this case, mothers who need access to good baby doctors so they know the baby they have carried for all these months will be delivered safely and will be healthy.

The good news I guess, if we can find any good news in this sordid situation in which we find ourselves, where these lawyers who benefit from the status quo are the ones who are calling out the tune and having others dance to the tune they have called out, is that some of the States are stepping up; they are not waiting on a solution from Washington, DC, and that is a good thing.

As someone who believes that local government and State government tends to be more responsive because it is closer to the people they serve, than for the Federal Government, I think it is good that the States are stepping up, but this is not strictly a State problem.

When we consider how much money we appropriate each year—we just passed a $400 billion Medicare bill which is now estimated to cost more than $100 billion more than that over 10 years—when you think about Medicare, when you think about Medicaid, when you think about S-CHIPS, the Federal taxpayer—in other words, everyone who earns a wage in the United States—subsidizes this broken medical liability system because much of the costs associated with health care today are due to either counting in what this rapidly increasing cost is in terms of determining what a fee for a service is or otherwise having to suffer the consequences when doctors simply pull up stakes and move out of their State, leaving mothers, in this case, who want a doctor to deliver their baby in the lurch.

In my own State, out of 254 counties, there are 154 counties in which a pregnant woman cannot find a specialist to deliver her baby. A large part of that cause is because of the cost of medical liability insurance which is simply priced out of the market, and physicians say I am going to retire early rather than subject my family and myself to putting at risk everything I have worked a lifetime to save and achieve or people who just simply have gotten tired of being in the crosshairs their whole life by a system that serves the interests of the few at the expense of the many. I think Senator GREGG had a chart that showed what I mentioned a moment ago behind, that out of the 254 counties in Texas, 154 have no obstetrician/gynecologist, no specialist in delivering babies. The yellow depicts those pregnant woman would have to drive to one of the white counties simply to find someone who will deliver her baby, and sometimes they don't make it. Sometimes the baby is damaged because complications ensue because there is no doctor close by who is qualified to deliver that baby because of this broken medical liability system.

I think it was Senator FRIST or perhaps Senator GREGG had a chart that showed a chart of 19 States where there is a medical liability crisis because of this civil justice system, a system that is supposed to be a just system but is truly an unjust system. It is simply broken.

Each of these red States, including, we can see, the State of Texas, is listed as a State in crisis. Nineteen of them are where patients are losing access to baby doctors due to skyrocketing medical liability insurance premiums and where pregnant women are forced to drive long distances just to find a physician to deliver their baby.

As I mentioned a moment ago, the good news, if there is any good news in all this, is that the States are not necessarily waiting on the Federal Government. In my own State, just this last year, the voters passed a constitutional amendment, proposition 12, which would provide some of the relief that is sought to be delivered to the entire Nation in this particular bill. We have already seen some very beneficial effects of this constitutional amendment and the legislation that implements it because we have seen medical liability insurance companies offer to reduce their premiums by 12 percent or 19 percent in another case.

So we are beginning to see some real impact of the predictability and the commonsense reforms that I believe are designed into this important bill. Because the American taxpayer pays to support the Medicaid system, pays to provide indigent health care, pays to provide other types of medical care, this is truly not just a State problem. This is a national problem, and I know many of my colleagues, myself included, are concerned when we hear those dreaded words from the Federal Government: We are from the Federal Government and we are here to help. Those are some of the most dreaded words in the English language because, indeed, the States and local government, I believe, tend to be much more responsive. This is truly not just a statewide problem in my State or any State. This is a national crisis that calls out for a national solution.

This is not something that affects only obstetricians or baby doctors. Indeed, this affects the ability of hospitals to do business in rural parts of our country, rural parts of my State. Emergency departments lose staff and scale back critical services such as trauma units. From 2002 to 2003, we saw a 56.2 percent average premium increase faced by emergency room physicians and the hospitals in which they practice. One-third of the Nation's hospitals saw 100 percent or more increases in liability insurance premiums in 2002. We may think this does not really concern me, this is the hospital owned by a corporation, or this is a doctor's problem, somebody who drives a big shiny car, who makes a lot of money. But this is not about helping doctors or helping the corporations that own hospitals. Many of them are owned by nonprofit associations and are charitable organizations that keep their doors open because they believe in their mission. This is ultimately about access to health care.

I have heard some of my colleagues on the other side suggest that because of the booming number of uninsured in this country, estimated to be at any snapshot in time as many as 43 million people, we need universal, federally funded health care in this country. We know, because the Joint Economic Committee has told us so, that 3.9 million uninsured Americans would be able to receive health insurance if Congress were to pass commonsense medical liability reforms. Almost 4 million currently uninsured individuals would be able to receive health insurance if Congress were to pass commonsense medical liability reforms.

This is not just an isolated matter. This does not just affect doctors who are fortunate by virtue of their training and that expertise to earn significant incomes. This is not just about big hospitals with shiny buildings owned by corporations. This ultimately comes down to the individual who wants what we all want, and that is access to good quality health care, but who simply cannot find it because they either cannot afford the health insurance or their employer has been priced out of the market because of booming health insurance premiums, in large part caused by this liability crisis or, as we have seen, simply the doctors who, rather than live in the crosshairs of this broken system, decide to retire or to move away to some other location.

I know there are others, such as Senator DEWINE, who want to speak after me, so I will conclude my remarks. But I plead to my colleagues to allow this matter to be debated. That is all we are talking about at this point. All we are looking for is 60 Senators who will have the courage to stand up to the trial bar, the personal injury trial lawyers, who insist that this matter not be debated on the Senate floor. When so many pay the costs of that intransigence, I suggest that is just not fair and it is not just.

I encourage our colleagues to reexamine their conscience and ask whether they are serving the best interests of their constituents, and in this specific instance so many women who need a doctor to deliver their baby. This country's future depends on those healthy babies being delivered and becoming productive citizens, not harmed by an avoidable medical complication because the mother, during her hour of need, and the baby during its hour of need could not get the medical care they so richly deserve and upon which America depends.

We must end the liability lottery where only a few patients and even more trial lawyers receive astronomical awards. Even when there is no award in a frivolous lawsuit the costs simply run up what we all pay for health insurance, those of us who can get it, and render many more even unable to get access to health insurance and thus access to health care at all. We must pass meaningful medical liability reform that includes real and lasting change and brings the lessons of Texas and other States that have been successful in passing statewide reform to the entire Nation because, indeed, this is no longer just a State-by-State crisis, as we have seen with 19 States in an emergency situation. This is a crisis that affects our entire Nation. It affects the quality of life that we enjoy and the promise that I believe we all wish to see delivered to every American, and that is the ability to live out our dreams. Part of that means access to decent, good quality health care, something that is being impaired by our failure to act in this instance.

I yield the floor.

(Mr. COCHRAN assumed the Chair.)

POLITICAL CRISIS IN HAITI

Mr. DEWINE. Mr. President, at this very minute, there is an urgent crisis in America's own backyard, a crisis on the island nation of Haiti. I have come this afternoon to talk about that. I have been on the Senate floor many times in the past to talk about Haiti. I think I have traveled to Haiti 13 times since I have been in the Senate. I have talked before about the AIDS crisis there. I have talked about the horrible dehumanizing poverty. I have talked about the lack of clean water. I have talked about the food shortages. I have talked before about the children who are sick with AIDS and other diseases such as malaria and tuberculosis, children who have been orphaned when their parents die from AIDS, children who have little hope for a better future unless significant reforms are implemented and changes are made.

Today, I come to the Senate floor to talk about what everyone has seen in the news in the last several weeks, and that is something that is now dwarfing the poverty, the AIDS, and all the other problems, and that is the current crisis, the violence that has erupted across this island nation.

The chaotic and dangerous situation in Haiti right now is anything but a surprise. The fact is that a crisis has been looming there since at least before Christmas. In January, in an opinion piece that I wrote for the Miami Herald, I urged Haitian President Aristide to reach an agreement with the legitimate opposition groups, the political groups, to reach wholesale political change and reform. In that opinion piece, I urged him to pull back his own gangs of thugs and to tell them to stop their violence. I suggested then that President Aristide had within his own power the ability to avert further chaos and inevitable disaster at the hands of insurgent groups by ending the political impasse with the opposition and by creating a government that the international community could, in fact, support.

I am pleased that just this weekend President Aristide agreed to the proposal of the U.S. administration, our administration's proposal to end the political stalemate. It is imperative that the legitimate political opposition groups in Haiti now accept the terms of this agreement. As I speak this afternoon, these groups are considering this proposal. But I must say, time is of the essence. I believe our administration's proposal, based on other Caribbean nations' earlier proposal, is a reasonable offer and one that has the greatest chance of bringing about an immediate end to the bloodshed.

Members of the Senate need to understand that, really, there are three forces at play here. There is the Aristide government; there is the legitimate political opposition in the country; and then there are the thugs, and we can use no other term to describe them but the thugs who are trying to overthrow the Government.

Let there be no mistake about it. These are not democrats, with a small "d." They care not for democracy. When we talk about the political opposition we mean just that, the political opposition, the legitimate political opposition in Haiti. It is not associated with these thugs.

So we call upon them today, the political opposition, to agree to the proposal made by the U.S. Government. President Aristide has agreed to this. We ask, and believe it is clearly in the best interests of Haiti, for the political opposition to agree to it as well.

This agreement includes the setting up of a broad-based advisory council to Aristide's government. It also includes the appointment of a new Prime Minister. That is very significant. Further, it includes the disarming of gangs aligned with Aristide's Lavalas Family Party.

I urge the opposition groups to accept this because, quite candidly, this proposal is the best hope for creating a coalition government that can stop the violence and a coalition government that can be accepted by the international community and can be respected on the world stage.

The fact is, unless agreement is reached and unless the violence stops, there will be serious consequences for our hemisphere, for Haiti, and, yes, for the United States. We do not know what is going to happen in Haiti, but as we think about what our response might be if in fact settlement cannot be reached or if in fact a settlement is reached and the violence continues, we need to keep in mind a few basic facts.

First, Haiti is in our neighborhood and what happens in our neighborhood affects the United States. Haiti is a nation that lies only about 800 miles from our shores and is, therefore, less than a 1½ hour flight from Miami.

Second, amazingly there are at least 20,000 U.S. citizens living in Haiti today. Let me repeat that. The official estimate is that there are at least 20,000 U.S. citizens living in Haiti today. These are missionaries; these are doctors; these are nurses and other U.S. citizens. No one knows for sure how many U.S. citizens are actually down there. They are, so to speak, embedded all throughout the country.

The reality is that an awful lot of humanitarian workers are simply not going to flee. They are not going to leave this Nation no matter what our advisories say. They are there simply to help the people of Haiti and they are going to stay. They are going to stay to help the children. They are going to stay to help the elderly. They are going to stay to help the sick. They are not going to abandon the people. Therefore, we have an obligation as a country to protect them and we need to be concerned about them.

Furthermore, if the violence does not end, then we in the United States will once again be seeing boats swollen with Haitians, risking their lives for the chance of a better life. Our Coast Guard will be out there having to stop them and we will be seeing them floating toward Miami and the Florida shores.

No one knows what the future will hold. We have watched on the news. We have read in the newspapers as these thugs, these rebels have taken over most of the main cities of Haiti—all of the main cities of Haiti, except Port-au-Prince. No one knows what will happen next. I said the hope is there will be agreement reached between the opposition, legitimate political opposition and the Aristide government. But if we assume the violence will continue, if we assume these thugs, these insurgents do what they say they are going to do and they move toward Port-au-Prince, no one can predict what will happen. But it is certainly not out of the realm of possibility that there will be a bloodbath in Port-au-Prince.

There is no army. President Aristide, tragically—we have seen the police corrupted. There is no real police force of which to speak. So what Aristide has done is he has armed the gangs of Port-au-Prince. So there are arms everywhere in Port-au-Prince. They are the ones who would be there to "defend" Port-au-Prince.

So you would have certainly the potential of the gangs of Port-au-Prince with their guns versus the insurgents coming in, and the people who would be the victims would be the children, the women, and the elderly would be caught in that tragic crossfire. That very well could be the scene that we will see unfold in front of us on CNN, on the network news.

Those are things we need to contemplate in the days ahead as we think about what our reaction might have to be. I believe our administration has taken the right steps. Mr. Roger Noriega, representing the administration, went to Haiti and made this proposal. It was the right thing to do. It was a good proposal.

Haiti is out of time. I, again, urge the opposition leaders, the legitimate political opposition leaders to accept the administration's proposal. It is clearly in Haiti's national interest. If the opposition doesn't accept the proposal without question, the situation will spiral out of control very quickly. It may, in fact, spiral out of control anyway, but clearly it will spiral out of control if it is not accepted. If it does spiral out of control, the United States needs to be prepared to act in our own national self-interest.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Wyoming.

Mr. ENZI. Madam President, our Nation's medical litigation system is broken and we need to start working to fix it. I urge my colleagues to vote for cloture on the Gregg-Ensign bill. It is time to stop filibustering and to start working.

I just got back from Wyoming. They are having this same debate there. They don't trust us to finish it here. They are trying to finish it on a local basis. They are having a debate on a constitutional amendment to be able to do medical tort reform.

I tell you, that is a very difficult thing. Litigation reform requires a constitutional amendment in Wyoming. That means there may be a vote of the people, but that can't happen until at least November and we are in a crisis in Wyoming right now. We are not the only State in a crisis.

Last year, we brought a medical litigation reform bill to the Senate. The legislation would have placed reasonable limits on the amount of money attorneys can take from a verdict or a settlement in an injured patient's favor. The bill also would have limited awards for punitive damages and non-economic damages. In other words, the pain and suffering awards.

The bill would not have limited awards to compensate patients for economic losses. This is an important point for everyone to keep in mind. If a judge and jury were to decide a person suffered an injury due to a doctor's mistake or a hospital's negligence, that person would be entitled to receive full compensation for their economic loss, including everything from rehabilitation to lost wages resulting from their injury. I cannot stress this point enough. The bill would not have limited awards for any part of economic losses.

What the bill would have done is place a ceiling on noneconomic damages. The bill would have limited the maximum award for noneconomic damages to $250,000 in States that do not have their own limits on such awards.

In Wyoming, we do not currently have limits on noneconomic damage awards. We do not have limits despite evidence which shows limits on noneconomic damage awards have helped control the cost of medical liability insurance premiums in other States.

As a result, people in Wyoming are losing access to affordable health care in their communities. The rising cost of medical liability insurance in my State of Wyoming is forcing doctors to curtail their practices or close them entirely. We have a shortage of doctors in Wyoming as it is and the cost of medical liability insurance is making a bad problem even worse.

To address this problem, I cosponsored the medical litigation reform bill we offered for debate last year. We needed 60 Members in this body to vote in favor of working on the bill to get past a filibuster, but only 49 voted in favor. So it was back to the drawing board.

Here we are again, 9 months later, with a new bill. It is ironic we are here 9 months later because this bill focuses on mothers and babies.

Medical liability crisis affects many patients and doctors. Those it affects most are the expectant mothers and their obstetricians.

Doctors who deliver babies have a dubious honor when it comes to medical liability insurance. The typical obstetrician pays more in annual premiums for professional liability insurance than almost any other type of doctor. Part of the reason is that in some states the child has the right to sue when they get to adulthood. That is a pretty long tail on the liability. If the parent fails to sue, the child can sue.

Some of my colleagues have pointed out the statistics and numbers on this crisis, so instead I will tell a short story about an obstetrician in Wyoming. I told this story in July so I apologize if you have heard it before, but it is worth retelling.

There was an article in the Washington Post about a year ago about the medical liability crisis. The reporter for the Post had gone to Wyoming to see how the crisis affected a State already struggling to keep enough doctors as it is.

According to the article in the Washington Post, the doctor in Wheatland, WY, went to a high school basketball game between the Wheatland Bulldogs and the nearby Douglas Bearcats.

Here is Wheatland on a map; here is Douglas. Wyoming is a pretty big State. This map shows about a quarter of the State. Each of the counties on this map is bigger than Delaware, and the distance between Wheatland and Cheyenne is pretty close to the length of Delaware. We are talking about a lot of distance, but not many people. One of these counties the size of Delaware has 2,500 people living in it total, so we have a lot of land, few people, and consequently not many doctors. Wheatland and Douglas are 60 miles apart. That qualifies as nearby in my State.

Now the doctor had just announced he would not be delivering any more babies in Wheatland or Douglas because of the cost of liability insurance. The irony is he delivered just about every player on both teams at that basketball game.

I would like to read a section of this story. The name of the doctor is Willard Woods:

> The national malpractice insurance crisis . . . hit home for Wheatland this winter when Woods' insurance company joined a number of national malpractice carriers in declaring bankruptcy.

I emphasize that last part. Malpractice carriers are declaring bankruptcy. Some people say these companies are making out like bandits on medical liability insurance. If they are, they would not be declaring bankruptcy. These insurance companies are in crisis. They are raising their rates to cover the costs from legal cases and settlements.

Back to the quote.

> That left only two firms selling malpractice insurance in Wyoming, and neither one was willing to take on a new obstetrical coverage. Woods did get insurance for his gynecological practice—a branch of medicine that spawns far fewer lawsuits than delivering babies—but the annual premium cost him $116,000, three times what he paid the year before.
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> In this wheat-growing region of eastern Wyoming, where medical services are sparse and scattered, the impact is acute. Platte County, with a population of less than 9,000, has five doctors, equal to the number of veterinarians.
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> Women with normal pregnancies can still have their babies delivered in the hospital; Woods's two partners, both general practitioners, share the delivery duties.
>
> "But if you have any kind of problem like I did," said Wheatland mother Kori Wilhelm, who has a genetic blood mutation that makes pregnancy dangerous, "you have to go to Cheyenne now"—and that's a 140-mile round trip—"to get the specialized treatment we used to get right down the street at Dr. Woods's clinic."

Put yourself in that woman's shoes. Until the cost of medical liability insurance drove Dr. Woods out of obstetrics, a woman experiencing a difficult pregnancy in Wheatland could get specialized care in her own community. Now that woman has to drive 140 miles round trip for proper prenatal care and to have a specialist deliver her baby.

Madam President, 140 miles is a long way for anyone to travel to see a doctor. It is even a longer 140 miles for a pregnant woman. And it is truly a long 140 miles for a pregnant woman in the middle of winter when high winds and blowing snow often force the highway department to close the interstate between Wheatland and Cheyenne.

I wish this were the only story I could tell about the crisis in Wyoming, but it is not.

I could talk about Dr. Jack Richard, an OB/GYN who reluctantly retired last year due to his high cost of medical liability insurance. Dr. Richard served the people of Casper, WY, for more than 30 years, but he was not ready to retire at the age of 61. Dr. Richard had already stopped providing routine obstetrical care in 2000, but even as a part-time physician, his premiums had doubled since then.

I could talk about Lisa Minge, an OB/GYN who left my hometown of Gillette in November and moved her practice to Boise, Idaho. She cited the high cost of liability insurance as one of the factors in her move to Idaho, which has a $250,000 limit on noneconomic damage awards.

I could talk about Dr. Bert Wagner, an OB/GYN in Cheyenne who stopped delivering babies this year to avoid the high cost of insurance for the obstetrical side of his practice.

Or I could talk about a group of family practice doctors in Cheyenne who are trying to decide whether they can keep delivering babies. The four doctors in this group saw their premiums go from $65,000 in 2003 to $110,000 in 2004. This is despite the fact they had already limited the number of babies they would deliver to 30 per doctor per year to avoid having to pay the full obstetrical rate. I don't know what you do if you are the mom who needs the 31st baby delivered.

I have more stories I could tell, but I am not sure what good it would do. I am an optimist by nature, but I am afraid I am pessimistic about the outcome of this vote.

Nevertheless, I commend Senators GREGG and ENSIGN and our majority leader, Dr. FRIST, for trying again. They have developed a bill that is focused on one of the most critical parts of this nationwide crisis—the plight of expectant mothers who depend on obstetricians to provide a safe and healthy delivery for their babies.

What Senators GREGG and ENSIGN have proposed is a modest approach that will provide some measure of relief to doctors who are squeezed by the high cost of medical liability insurance. The bill puts reasonable limits in place on the amount of money attorneys can take from settlements and verdicts awarded to injured mothers and babies.

The bill does not limit the amount of money juries and judges can award to cover lost wages, rehabilitation, special services, and other economic losses an injured mother or child might face. It simply puts a reasonable limit on what judges and juries can award for punitive and noneconomic damages.

which are the types of unpredictable awards that are contributing to this health care access crisis.

I have noticed something interesting during our debates on this issue. While we have been debating the pros and cons of reform, no one is standing up to defend our current system of medical litigation. No one is standing up to defend our current system. We are talking about limits on noneconomic damages, or the role of the insurance industry, and Senators are saying: Yes, there is a problem, but the bill before us doesn't solve it.

One thing I have not heard is a rousing defense of our medical litigation system. Even some of the lawyers in this body have agreed frivolous lawsuits are a problem and our medical litigation system needs reform.

Why aren't we hearing anyone defend the merits of our current medical litigation system? It is because it is indefensible. Our system does not work. It simply does not work for the patients or for the health care providers.

The bill we are debating today is a good bill for mothers and babies and the doctors who serve them. But even the sponsors would probably admit it is a short-term measure that does not address the fundamental problems with our medical litigation system. This is an important bill, but it is just a tourniquet to stop the bleeding. It is not going to heal our broken system.

I would like to share with my colleagues a brief analysis of our medical litigation system. It comes from this book, "Fostering Rapid Advances in Health Care, Learning From System Demonstrations," published by the Institute of Medicine of the National Academy of Sciences.

Let me quote a section of this book:

> There is widespread agreement that the current system of tort liability is a poor way to prevent and redress injury resulting from medical error.
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> Most instances of negligence do not give rise to lawsuits, and most legal claims do not relate to negligent care. Many injured patients do not know they have suffered an injury resulting from error, and those who go through the legal process often do not even recover the cost of their continued health care.
>
> A few plaintiffs and their attorneys, however, win large sums that may be disproportionate to their injuries or unrelated to the defendant's conduct. Prolonged, adversarial haggling over claims by plaintiffs' attorneys and liability insurers alienates both providers and patients, and generates legal fees and administrative expenses that consume more than half the cost of liability insurance premiums.
>
> The apparent randomness and delay associated with this pattern of accountability not only prevent severely injured patients from receiving prompt, fair compensation, but destabilize liability insurance markets and attenuate the signal that liability is supposed to send health care providers regarding the need for quality improvement. Fear and distrust breed inefficient "defensive medicine," and lead to missed opportunities for information exchange and apology that might avoid lawsuits in the first place.
>
> The shortcomings of the current malpractice system therefore come from three directions, all of which have contributed to the present crisis: inefficient and inequitable legal processes for resolving disputes, problematic responses by clinicians to the threat and cost of liability, and volatile markets for liability insurance. Although some states face greater insurance instability than others as the result of different legal standards, public expectations, and professional cultures, no state is immune to the threat of service interruptions affecting physicians, hospitals, and other health care providers.

These are not my words. They are not the words of personal injury lawyers. They are not the words of tort reform advocates either. As I pointed out earlier, these words are from the National Academy of Sciences, specifically the Institute of Medicine. This organization was created by the Federal Government and chartered by Congress to provide unbiased and evidence-based advice on health policy.

This congressionally chartered body issued a report in 2002 that called upon the Federal Government to support demonstration projects in the States to evaluate alternatives to current medical tort litigation. In response, I have introduced a bill in the spirit of this report.

This bill, the Reliable Medical Justice Act, would authorize funding for States to create alternatives to current tort litigation. The funding would cover the costs of planning and initiating proposals based on models outlined in the bill or other innovative ideas.

My bill would require participating States and the Federal Government to work together in evaluating the results of the alternatives as compared to traditional tort litigation. This way, all States and the Federal Government could learn from new approaches.

As I speak, some States are already looking into alternatives to medical litigation as we know it. My home State of Wyoming is one of them. Another is Massachusetts, where Governor Romney is working with Harvard University on an innovative project. Another is Florida, where the Governor's task force recommended the implementation of projects along the lines of those suggested in my bill. We should encourage and support these States and others that are considering similar ideas.

Believe it or not, both Newt Gingrich and the editors of the New York Times have endorsed the idea of creating and evaluating alternatives to medical litigation. If Newt Gingrich and the New York Times are in the same tent on an issue, maybe there is room in that tent for most of my fellow Senators to support it as well.

I support the Gregg-Ensign bill. It provides some short-term relief for mothers and babies and their doctors. A lot of my colleagues will be voting with me, and a lot will probably vote against me. Regardless of how we vote on this legislation before us, we must acknowledge there is a medical liability crisis, and we must work together to find a solution.

Our medical litigation system is failing us. Medical lawsuits are supposed to compensate people fairly and deter future errors. But most patients do not get fair and timely compensation, and there is nothing to show the lawsuits are deterring medical errors or making patients safer.

I hope my colleagues will vote in favor of providing mothers, babies, and their doctors with some immediate relief through the Gregg-Ensign bill. I also hope they will look seriously at my legislation, S. 1518, which would put us on the road to replacing medical lawsuits with better and fairer systems for compensating and protecting patients. We need to pass both of these bills before we can say we have begun to solve this medical liability crisis.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Carolina.

Mrs. DOLE. Mr. President, for years America has enjoyed world class health care. We have led the way in cures and treatments. We have developed the latest and the best technologies, and we have ensured our doctors are trained in groundbreaking procedures. Indeed, our Nation has accomplished much in the area of health care.

But today, the future of our world-renowned health care system is at risk. Some trial lawyers have nearly crippled the system by filing hundreds of frivolous lawsuits each year and defeating efforts to place limits on these lawsuits and the big-money fees lawyers earn off of them.

Nineteen of our States are in a full-blown medical liability crisis, according to the American Medical Association. North Carolina is among the hardest hit, particularly our OB/GYNs, who face constantly rising, astronomical premiums just to stay in business. Many have been forced to move or quit their practices. This problem is particularly evident in our rural areas where some women have had to drive for miles just to find someone to deliver their baby. This is unacceptable.

It is understandable why doctors are leaving their practices, when the State's top five jury awards in 2001 ranged from $4.5 million to $15 million. The annual number of settlements greater than $1 million for medical liability cases has more than tripled between 1993 and 2002.

Meanwhile, women in our States are struggling.

Consider these facts: Obstetricians in western North Carolina are seeing their insurance premiums increase from 50 to 100 percent. Women's Care, P.A., the largest OB/GYN physician group in North Carolina saw its premiums increase 30 percent last year—for 3 times less coverage. One of its obstetricians will soon stop delivering babies. Others may join him.

And there are more stories. Dr. Mary-Emma Beres of Sparta, NC, a small town in the northwestern part of the State with a population just under 2,000, had to stop delivering babies after facing a 300 percent increase in her malpractice premiums. Her departure left only one obstetrician to handle high-risk cases. And it meant some women who needed C-sections had to endure a 40-minute ambulance ride to another hospital to deliver their baby.

Then there is Dr. John Schmitt. He is an OB/GYN who left his practice in Raleigh after seeing his insurance premiums triple from $17,000 to $46,000. He decided instead to join the medical school faculty at the University of Virginia. One of his patients, Laurie Peel, highlighted this dilemma best when she said, "When you are a woman, you try to find a gynecologist who will take you through lots of things in life. You develop a relationship with your doctor. To lose someone like that is very hard."

It is time to stop this deplorable situation that leaves the most vulnerable and sickest among us as the real victims. No one in this country should have to struggle like this for health care. The America I know is better than that.

Doctors who do remain in business are forced to practice defensive medicine and order an excessive amount of tests and procedures to protect themselves from lawsuits. Dr. Steve Turner of Garner estimates that internists like him prescribe close to $5,000 a day in defensive medical practices or $1.2 million a year per doctor.

The legislation before us offers a solution that works. It is modeled after California's law which has been in place since 1975 and has kept premiums down in that State. This legislation does not cap damages. As you know, there are cases where compensation is absolutely justified and deserved. Under S. 2061, victims who suffer from a doctor's malpractice will be able to recover every penny of their actual economic damages. It does limit noneconomic damages, like pain and suffering. Punitive damages would be limited. But the legislation allows patients to collect for medical bills, funeral expenses and other costs. And States would still have the option of setting higher or lower caps than these in the bill.

Each week in North Carolina, nearly 2,200 babies are born and 300 of those babies are born early.

This legislation deals with the immediate crisis facing OB/GYNs, so that at the very least women can have the best health care available to them when they deliver their babies.

Today we have a choice. We can vote with those trial lawyers who file endless lawsuits and watch our health care system spiral into decay. Or we can put an end to this debate, and protect our health care system, by casting a vote for our patients and the medical professionals who so tirelessly care for them. I urge my colleagues to vote in favor of cloture. Let's pass this bill for our patients who need it most.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

Mr. THOMAS. Madam President, I join my partner from Wyoming in supporting what is one of most important bills we will have before us; that is, medical liability, the opportunity for us to do something about the cost of health care.

As I go about town meetings in my State of Wyoming, the topic I hear the most about is the cost of health insurance. Obviously, health insurance costs are driven by the cost of health care; in this case, of course, some directly as a matter of the kinds of payments that have to be made for protection under medical malpractice liability insurance.

I am very pleased to join my colleagues to talk a little about an issue that has had a severe impact on health care. It is not the total answer, but it is a step in the right direction. We are finding ourselves in a situation where we have very good health care, excellent health care, which we all want. We all know it is going to be expensive, but we find ourselves in a position where we are almost cutting off access to health care because of the cost.

We have 43 million people who do not carry insurance because of the cost. Obviously, we help take care of those people when they have something without the ability to pay, and the insurance goes up for those who do pay. The insurance goes up for the hospitals and the doctors who don't get paid for all their patients. So it is a broad problem but one we can handle. And one of the issues that is right before us is the idea of doing something on comprehensive medical liability which, by the way, our friends on the other side of the aisle filibustered last year. I hope they will not do it again this year.

I come from a small State which also has some impact. We have fewer insurance carriers in our State because there isn't the kind of market to bring people in. We have many communities where there are only one or two practitioners and some where there are none. When we lose a practitioner, it makes it very difficult for that community.

Wyoming is one of the 19 crisis States for medical liability designated by the American Medical Association. A recent op-ed by Wendy Curran, executive director of our Wyoming Medical Society, I think described some of the issues regarding the need for liability relief in our State. I think she laid it out quite well:

> Wyoming is losing OB/GYNs, emergency trauma surgeons and general practitioners because of high malpractice insurance premiums.

It is interesting because Cheyenne, WY, is in the corner of our State next to the front range in Colorado and we have physicians living in Cheyenne and practicing in Colorado because they have this kind of protection and this kind of limitation on malpractice suits.

> Wyoming physicians pay higher malpractice premiums than any of the surrounding States, which have all enacted liability reform.

It is kind of interesting that in our small State we are in the process of talking about that now. Whether it will be done in our legislature, which is meeting now, I don't know. The fact is, it is a budget session of 20 days and it takes two-thirds votes to get it in. It is going to be difficult to do.

> Because of the fear of being sued, money is unnecessarily spent on defensive medicine each year, which we all pay for—$70 billion to $126 billion a year.

I had the real opportunity a while back in one of our rural areas to talk to a physician, who I think was pretty much retired but had been in Africa and had written books, and he had an interesting observation. We think about the lawsuits or the settlements that are very costly. He mentioned another aspect of this that is costly. In years past, when you hurt your arm, you could go in to your family practitioner and he or she would look at it, fix it, and send you home or put a cast on if he had to. Now, because of the possibilities of being sued, they have to send you to a specialist first and take a few more tests. So medical care is much more expensive notwithstanding the idea of the suits.

> A recent survey indicates that 71 percent of Wyoming voters support liability reforms.

So I think most people do believe it is not the full answer to the cost of health care, but it is a movement we can make, a step we can take that will indeed make a difference. So I support, as my friend from Wyoming and the Senator from North Carolina do, the approach taken by Senators GREGG and ENSIGN in this bill.

OB/GYNs have probably been affected the most, and it is impacting access to the care for pregnant women. We have had bills before that went clear across the medical spectrum, and I think that is probably the appropriate way. But this singles out those issues that are so prevalent and difficult. Rural areas are disproportionately impacted, as there is often no other provider available, or where an OB/GYN is forced to close up shop. We have had that very thing happen in small towns, where there is only one OB/GYN. On the other hand, in some towns there are none and the general practitioners are concerned about delivering the babies.

We had one physician leave a little town called Wheatland, WY. He delivered babies in three counties. His malpractice premiums rose to over $100,000 a year in a little community, in addition to what he had paid before. Pregnant women in Newcastle and Weston County have to travel 80 miles for babies because high medical malpractice premiums have forced three local physicians to abandon their practices.

Dr. Hugh DePalo, a practicing OB/GYN in Casper, WY, indicates that his premiums have increased by 300 percent in the past year. It is amazing.

According to the Wyoming Health Care Commission, for every dollar malpractice insurance companies make in premiums in Wyoming, they must pay $1.25 on suits and settlements. Also according to the Wyoming Health Care Commission, some of our hospitals are paying medical malpractice premiums of $1,000 to $3,000 per birth, which makes delivering babies very unprofitable. Of course, they still do it, but somebody else has to pick up the tab.

It is interesting that these practitioners in Wyoming pay $20,000 to $30,000 more a year in malpractice insurance than those in Colorado, which has a cap of $250,000.

Since all the States around us have passed liability reforms, we have a tough time recruiting all types of practitioners. We have underserved areas. I am chairman of the caucus here on rural health care, and we have been pleased with some of our accomplishments, but rural health care is different. For a long time, we had different fees paid to rural than to urban hospitals. The fact is, because of low volume, it could well be that the cost per case for rural hospitals is even higher.

One of the big costs of health care, of course, is the new equipment. We all want to have "Cadillac" health service, but when you have small volumes, you cannot do that. In our State, we have to have a system because you are not going to have all practitioners, specialists in every community. Something has to be set up so that it is available. So it is a difficult thing. We make it much more difficult by having these very high premiums. So we need to do something to protect, in this instance, our OB/GYN service for women and their babies and to set a reasonable limit on noneconomic damages. Keep in mind that if somebody has damages that are economic—this is not a limit on that; this is noneconomic damages. We have to provide for a quicker review of liability claims so they don't go on for years. We need to assure that claims are filed within a reasonable time. We need to educate people that frivolous lawsuits only add to the overall costs of health care for everyone.

Sometimes we say there haven't been many lawsuits. The fact is there may not be a lawsuit but there is a settlement, which also, because of the predicted outcome of the lawsuit, is a very high settlement and the costs are still there.

So I think the Senate should act on this important legislation that contains provisions that allow injured patients to recover economic damages—that is fair and legal—such as future medical expenses and loss of future earnings. Punitive damages are reasonably limited to the greater of two times the amount of the economic damages or $250,000. It authorizes periodic payments to injured parties rather than one lump payment. It preempts State law unless such law imposes greater protections for the health care providers and organizations.

So I believe it does allow doctors to practice responsibility without the excessive testing, in reference to specialists, which is part of the growing costs of health care. I think this is a step in the right direction. But we have spent a great deal of time talking about Medicare and Medicaid, and we always talk about VA. We are going to have to look at the broad view of health care now.

Again, we all want great health care. That ought to be what we go for. But it becomes so expensive that it precludes lots of families from participating. That is something we don't want to have happen. I urge my colleagues to vote for cloture on S. 2061. I think it could be one of the most important votes in this legislative year.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLAWED INTELLIGENCE ASSESSMENTS

Mr. LEVIN. Madam President, there is now confirmation from the administration's own leading weapons inspector that the intelligence community produced greatly flawed assessments about Iraq's weapons of mass destruction in the months leading up to the invasion of Iraq. It is my opinion that flawed intelligence and the administration's exaggerations concerning Iraq's weapons of mass destruction resulted from an effort to make the threat appear more imminent and the case for military action against Iraq appear more urgent than they were.

However, regardless of whether one thought the threat was imminent or not to proceed as unilaterally as we did, our intelligence was so far off the mark and the descriptions of that intelligence by the administration were even further off the mark that for the sake of the future security of this Nation, there needs to be an independent assessment not just of the intelligence but also the characterization by the administration of that intelligence.

Today, I want to raise a related issue: how the Director of Central Intelligence, George Tenet, misled the American people before the war about the status of our sharing of U.S. intelligence information with the United Nations inspectors.

Director Tenet, after 12 months of indefensible stonewalling, recently relented and declassified the material that I requested, which makes clear that his public testimony before the Congress on the extent to which the United States shared intelligence with the United Nations on Iraq's weapons of mass destruction programs was false.

Prior to the war, the CIA identified 550 sites in Iraq as possibly having weapons of mass destruction or prohibited WMD materials or equipment. They were called "suspect sites." Madam President, 150 of those sites were so-called "top suspect" sites where the CIA believed it would be more likely to find such items. The 150 top suspect sites were, in turn, divided into three categories: High priority, medium priority, and low priority.

At two public hearings shortly before the war on February 11 and February 12, 2003, I pressed Director Tenet on the issue of how many suspect WMD sites were shared with the United Nations. On February 12, Director Tenet said the following:

> When the inspections began, we drew up a list of suspect sites which we believe may have a continuing association with Iraq's WMD programs. The list is dynamic. It changes according to available intelligence or other information that we receive.
>
> Of this set number of suspect sites, we identified a specific number as being highest interest, highest value, or moderate value because of recent activities suggesting ongoing WMD association or other intelligence information that we received.

And here is his bottom line:

> As I said yesterday, we have briefed all of these high value and moderate value sites to UNMOVIC and the IAEA.

Mr. Tenet did not say "some;" he did not say "most;" he said "all." We have briefed "all" of these high value and moderate value sites to the U.N.

I told Director Tenet at the time in two public hearings that he was wrong and that classified numbers told a different story. On March 6, 2003, Director Tenet again stated in writing that:

> We have now provided detailed information on all of the high value and moderate value sites to UNMOVIC and the IAEA.

National Security Adviser Condoleezza Rice made the same representation in a letter to me on March 6, 2003, in which she said:

> United Nations inspectors have been briefed on every high or medium priority weapons of mass destruction, missile, and UAV-related site the U.S. intelligence community has identified.

On January 20, 2004, the CIA, after a year of resistance, finally declassified the number of "high and medium priority 'top suspect' WMD sites" where the CIA shared information with the U.N. inspectors prior to the war in Iraq.

In doing so, they finally acknowledged that 21 of the 105 high and medium priority top suspect sites on the CIA list were not shared with the United Nations before the war. So the record is now clear that Director Tenet twice gave false information on this matter to the public and to the Congress shortly before the war.

The January 20, 2004, letter from the CIA states their position. The position of the CIA is that it provided the United Nations "with the intelligence that we judged would be fruitful in their search." History will, and a thorough investigation would, determine the accuracy of that statement. But the public can now judge the accuracy of Director Tenet's public statements before the war that all high and medium priority top suspect sites were shared with the United Nations. All such sites were not shared and Mr. Tenet's repeated statements were false.

Last February, Director Tenet could have answered honestly and said: We have not given the U.N. inspectors all the high and medium priority top suspect sites and this is why, Senator.

Instead, he chose a different path, one of misstating the facts. I can only speculate as to Director Tenet's motive. If he had answered honestly and said that there were 21 high and medium priority top suspect sites that we had not yet shared with the United Nations, it would have put an obstacle in the path of the administration's move to end U.N. inspections and proceed to war. It would have been more difficult for the administration to proceed to war without first having shared with the U.N. our intelligence on all high and medium priority top suspect WMD sites and it would have reinforced widely held public and international sentiment that we should allow the U.N. to complete their inspections before going to war.

In other words, honest answers by Director Tenet might have undermined the false sense of urgency for proceeding to war and could have contributed to delay, neither of which fit the administration's policy goals. For the last year, I have attempted to have declassified the number of high and medium priority top suspect sites that the U.S. did not share with the United Nations. The CIA stonewalled doing that for no reason that I can think of except that the facts are embarrassing to them. Surely, that is no reason to withhold information from the American people and to give inaccurate information repeatedly to Congress in public testimony. We rely on our intelligence agencies to give us the facts, not to give us the spin on the facts.

The accuracy and objectivity of intelligence should never be tainted or slanted to support a particular policy. What is badly needed and what is lacking so far is candor about how we were so far off in the assessments of Iraq's possession of WMD. The lack of candor is one of the many reasons an independent commission should be appointed by Congress, not just by the President, to look at not just how the intelligence came to be so flawed but how that flawed intelligence came to be further exaggerated by the administration in order to support its decision to initiate military action.

One small part of this picture is this recent letter from the CIA that finally makes clear the truth. The CIA did not share all of the top suspect WMD sites in Iraq that Director Tenet said twice publicly before the war that it had shared with U.N. inspectors. It is more evidence of the shaping of intelligence to fit the administration's policy objectives.

I ask unanimous consent that the letter from the CIA that I have referred to on this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, January 20, 2004.

Hon. CARL LEVIN,
Committee on Armed Services,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: I am responding to your letters of 23 October 2003 and 8 January 2004 regarding declassification of specific information concerning the Intelligence Community's (IC's) sharing of information on Iraqi suspect weapons of mass destruction (WMD) sites with the United Nations (UN) inspectors.

I want to begin by ensuring that there is a mutual understanding of what has been declassified thus far with respect to Iraqi suspect WMD site numbers and the sharing of this information with the UN inspectors.

In our 23 May 2003 letter, we provided the number of approximate Iraqi suspect WMD sites identified by Central Intelligence Agency, 550; and, the number of suspect sites where inspectors were more likely to find something than at other sites, 150.

In our 11 July 2003 letter, we provided the number of suspect WMD site packages provided to the UN inspectors, 67.

In our 9 and 13 May briefings to the SSCI staff, we explained that this number represented the number of site packages shared with the UN inspectors at the IC initiative. The 67 number does not include site packages provided pursuant to UN inspectors' requests.

Your most recent letters concern three specific requests:

The number of high and medium priority sites on the IC's 150-site top suspect site list. Answer: High: 37; Medium: 68.

The number of high and medium priority sites where the IC shared information with the UN, including briefing packages. Answer: High: 33; Medium: 51.

The number of high and medium priority sites where the IC shared briefing packages with the UN. Answer: High: 21; Medium: 30.

The 21 high and 30 medium site packages provided to the UN inspectors represent site packages provided at the IC's initiative and pursuant to UN inspectors' requests. The number of high and medium site packages provided to the UN inspectors solely at the IC's initiative are 20 and 25, respectively.

These numbers have been declassified. However, in order to ensure that the numbers are accurately characterized, it is important to reiterate what has been previously provided in earlier correspondence to you regarding the suspect WMD site information shared with the UN inspectors. I specifically call your attention to the Director of Central Intelligence's 11 July 2003 letter, signed by the Deputy Director of Central Intelligence, which states:

". . . CIA provided UNMOVIC with the intelligence that we judged would be fruitful in their search for prohibited material and activities in Iraq. We did not have and we never claimed to have, smoking-gun information that would lead the inspectors to a quick find. We selected the best sites we had that we judged would have the best chance of finding something. It is important to remember that we had given the UN a vast amount of data in the 10-plus years we cooperated with them on inspections, including data on many of the sites long suspected of containing illicit activity. Thus, when inspections resumed last year, we wanted to focus our effort on giving the UN new data that we had not told them previously. We started by considering about 150 sites that seemed promising—we further refined that list because many of these sites were already known to the UN inspectors, had been the subject of previous discussions by CIA and those organizations, and on which we had no new information. By the time inspections stopped, we had developed site packages for 67 sites. These included the sites on which we had the best intelligence—on which we had pertinent and possible 'actionable' information. We would not have helped the UN inspectors by giving them large volumes of data they already had. The UN relied on us to prioritize the information rather than simply to give them everything we had on every possible site in Iraq."

We ask that the numbers and text be used in tandem when discussing Iraqi WMD suspect sites and site packages provided to the UN inspectors.

I believe that with this response all your requests for declassification of Iraqi suspect site numbers have been addressed.

Sincerely,

STANLEY M. MOSKOWITZ,
Director of Congressional Affairs.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUNNING. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. Madam President, today I rise to spend a few minutes talking about the need for medical malpractice reform in my State, along with the bill before us, S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act.

First, I commend the Senate leadership for bringing up this bill for consideration this week. It sends a signal to the American people that this is a high health care priority this year and that we have not given up the fight for real reform. As a father of 9 and a grandfather of 35, I believe there are very few things more important than providing mothers with the safest and healthiest environment to deliver their children.

Unfortunately, because of the medical liability crisis in Kentucky, the health and safety of both mothers and their babies are being jeopardized. Personally, I believe the most effective approach to medical liability insurance reform is a comprehensive approach covering all health care providers.

I hear all the time from doctors and hospitals across Kentucky about how they struggle to pay their skyrocketing premiums. Last May, the Joint Economic Committee found that total premiums for medical liability insurance doubled from 1992 to 2001, to reach $21 billion. I know hospitals and doctors are struggling under these increases. Last year, we had an opportunity to pass a comprehensive reform bill. Unfortunately, our opponents did not even give us a chance to fully consider the bill or have an up-or-down vote on it. Today we are attempting to fix the problem for just one of the specialities that has been the most severely affected by the increase in malpractice insurance premiums. Those are the OB/GYN doctors.

Specifically, this bill would improve access to care for pregnant women by placing some reasonable limits on lawsuits against their health care provider. The bill provides unlimited awards for economic damages and places a $250,000 cap on damages for pain and suffering.

The bill also ensures that health care providers will only be liable for their share of any damages in a lawsuit brought against an OB/GYN doctor, along with limited attorney's fees.

All of these are steps in the right direction and the right thing to do. I urge my colleagues to vote for cloture tomorrow. The liability system we have now is badly flawed and broken and must be fixed. It encourages lawsuits and defensive medicine and forces doctors to become more worried about going to court than properly caring for their patients. This, in turn, leads to higher insurance premiums and gaps in care. Under our current liability system everyone loses, doctors and patients—everyone, that is, except the personal injury lawyers.

It is obvious people are beginning to understand the impact that soaring medical malpractice premiums are having on their communities. In fact, a recent poll showed that 68 percent of Kentuckians support putting limits on medical malpractice awards. That is right, 68 percent of Kentuckians. That is an overwhelming number of Kentuckians supporting reform.

I hear all of the time about how premiums rise, squeezing physicians financially, and affecting Kentuckians' access to quality health care. Last year, the American Medical Association added Kentucky to its list of crisis States. This means the current liability system is seriously eroding patient care. In Kentucky, physicians are choosing to close their offices or retire early. Others are packing up and moving to other States with more sensible insurance regulations.

A study conducted by the Kentucky Medical Association shows that over a 3-year period, Kentucky had a net loss of 819 physicians. According to the study, over 1,200 physicians moved out of the State to more friendly communities, and 281 retired. Even worse, we are losing young doctors. In that time, 500 residents packed their bags and left Kentucky. That means 58 percent of the residents who trained in the State moved elsewhere to practice. My State cannot continue to bleed physicians like this. It takes a toll on our communities and our patients.

The American College of Obstetricians and Gynecologists also conducted a survey back in 2002 and found that 71 percent of the Kentucky physicians who responded to their survey have actually changed their practice—changed their practice from what they did because of the medical liability reform crisis that we are having. In my book that is completely unacceptable.

They also estimate that 3,240 pregnant women in Kentucky are without OB/GYN care. If that is not a crisis, I don't know what is.

The medical liability crisis not only affects physicians in private practice, it affects our hospitals as well. Last year, two hospitals in eastern Kentucky—Our Lady of Bellfonte Hospital in Russell and the Knox County Hospital in Barbourville—both completely stopped delivering babies. This puts mothers in rural areas at a much greater risk of complications. No expectant mother should have to drive past the hospital she has trusted for years to find one that will deliver her child. It doesn't make any sense. It just is not common sense.

While the liability crisis clearly must be addressed for the entire country, individual States are trying to pass legislation to help the doctors within their own borders. I commend them for this effort. In Kentucky, the State senate recently passed a bill by a vote of 23 to 14 that would allow Kentuckians to vote whether they want to amend the State constitution to allow for medical malpractice reform. Now it is up to the Kentucky House of Representatives to pass similar legislation. I believe the general assembly should pass a constitutional referendum and let Kentuckians vote on this issue since the crisis is threatening their access to care and ultimately costing them more in health care costs.

I have consistently supported medical malpractice reform since I came to this Congress in 1986, and I will support S. 2061 this week. It is the right thing to do, and it is the right thing to do for my State.

It is important that my colleagues take a stand and decide if they are with the mothers and children or if they are with the personal injury lawyers. Personally, I will be supporting the mothers and children in my State.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

JOBS IN AMERICA

Mr. KENNEDY. Madam President, I would like to take a few moments of the time of the Senate to review one of the compelling issues facing the Nation, all across our country, and that is the state of our economy translated in ways that working families understand it—the state of jobs in America. How are people doing with the jobs they have? Are they working longer? Are they working harder? What has happened to the millions of Americans who are on the unemployment lines? What about the millions of Americans who have lost any hope?

It seems to me, as I have said on many other occasions, that we have an administration that looks at the state of our economy from the position of Wall Street but not Main Street. The reason I say that is because I look at the remarks of the President of the United States that he made today. I will include the relevant parts of the speech. I am now quoting.

> At home, obviously, the economy and jobs are on my mind. I know they're on yours, as well. I am pleased that the economy is growing. . . . My view of Government is to create an environment that is good for the entrepreneur. . . . And that we ought to keep on with the tax cuts.

That is his recommendation in terms of his statement that he made at the National Governors Association.

The rhetoric fails to match the realities of most Americans' lives. I know the President and his economic advisers have been touring the country claiming that the tax cuts for the wealthy have led to an economic recovery. A closer look at the States they have been visiting makes it clear this President and this White House are out of touch with the real needs and everyday concerns of average American families.

The President told small businesses in Tampa, FL, last week that tax relief was a vital part of the economic recovery and failed to mention 52,000 jobs have been lost in Tampa, FL, since he took office and that the jobs being created in the State pay 15 percent less than the jobs that have been lost. He did not mention Tropical Sportswear, an apparel maker in Tampa which shipped more than half of its cutting room jobs overseas.

And in a minute I will talk about the new Time magazine just out on the market and its cover story about too many jobs going abroad. I fail to see much in the President's comments to the Governors and to the American people showing the sensitivity that families are feeling all across this country about outsourcing.

Two weeks ago the President touted his economic policies in Harrisburg, PA, where 14,000 jobs have been lost since January 2001. The jobs being created in Pennsylvania pay 23 percent less than the jobs that were lost. In the same week, the President told businesses in Springfield, MO, the growth is good and jobs are being created. Yet 5,300 jobs have been lost in Springfield, MO, since President Bush took office, and the jobs being created in Missouri pay 25 percent less than the jobs that have been lost.

Every day it is becoming more and more clear the current Bush economic policy is in disarray. Last week, President Bush and his economic team backed away from the promise to create an average of 2.6 million new jobs this year. The President made the promise in his economic report just the week before last and now no one in the White House or the Cabinet will endorse the 2.6 million number. It is just broken promise after broken promise.

President Bush promised his first tax bill would create 800,000 additional jobs by the end of 2002, but we lost 1.9 million jobs instead. His 2002 economic report promised 3 million more jobs in 2003; instead, more than 300,000 were lost. His economic report last year projected 1.7 million new jobs for 2003, and we suffered a loss of 400,000 jobs. He promised the latest round of tax breaks would create 510,000 additional jobs by the end of 2003, but we lost 53,000 jobs last year. President Bush says it is a good idea to send jobs overseas, as if we had not lost enough jobs already.

This chart is a pretty clear indication about what has been happening to the American economy in terms of jobs and the impact the economic policies of this administration are having regarding employment. This shows 5.2 million jobs short of the administration promises for 2002. In 2002, we are 2.5 million jobs short of the promises of 2003. The reality is nearly 2 million jobs have been lost in the first 2 years under President Bush.

The administration talks about how the economy is growing and how well the economy is doing. In his speech to the National Governors Association today, we can see words that are similar to what the President used in the State of the Union Address. In the State of the Union Address the President talks about the pace of economic growth in the third quarter being the fastest in nearly 20 years. Productivity is high and jobs are on the rise. He continued along in that speech, talking about his support for the elimination of overtime in an effort to help small business. That is the regulation the administration referred to as "the needless Federal regulation," a regulation that has been in effect since we adopted the 40-hour week that provides overtime protections for millions of Americans. This administration is committed to overturning that regulation. That would affect 8 million Americans who work more than 40 hours a week.

This is the projection of this administration in terms of the jobs created and the actual record of the administration over recent years. Whether it is a speech to the National Governors Association or the State of the Union, when we hear from the President the state of the economy is getting stronger and stronger, it is important to understand what the facts are.

We can ask ourselves whether this is the responsibility of workers in this country. This chart shows Americans work more hours than workers in other industrialized nations. This chart, from the Organization for Economic Development and Cooperation, shows Americans work 100 hours each year more than any other industrial nation and considerably more than most of the other European nations. A few hundred hours more than France, Italy, and Germany. American workers are working longer. They are working harder just to try to stay in place.

If we look at the job market in terms of women in our society, what is happening to middle-income mothers who work 55 percent more hours today than 20 years ago? In 1979, it was 895 hours annually. Look at this figure: 1,388 hours now, almost double the amount in 2000.

So American workers are working longer and harder than any other industrial society. Not only that, we have also seen that the families are working longer and harder. Both men and women, husbands and wives are working longer and harder than any other country in the world. So families are working almost longer and harder, and the jobs gained do not pay as much as jobs lost.

The administration talks about the creation of new jobs, they talk about the unemployment figures, but it is important to understand what those jobs are and what they are in terms of pay. In 48 of the 50 States, the new jobs are paying less than the old jobs. There are only two States where they pay more. They average 23 percent less. Workers are working longer and harder. The jobs are paying less.

We will look at what is happening to the national average wage. For workers in 2001, the average wage was $44,000. The average wage now is $35,410, a 21-percent reduction in the average wage for workers today.

We read the statement of the President today talking about the state of our economy, that everything is good and getting better, and when we read the State of the Union talking about how positive all the economy is, we ought to be able to look at what is happening out there on Main Street. Workers are working longer and harder. Both men and women are working longer and harder, and their total income is going down. That is what is happening on Main Street across this country.

This chart demonstrates these points. In 48 States the Bush "recovery" has replaced high-paying jobs with low-paying jobs, with the exception of Nebraska and Nevada. That is a national phenomenon in States across this country, and the outsourcing issue is one of the principal contributors. That is why there is national attention given in this magazine today talking about the challenges we are facing with outsourcing.

I will read a couple parts of the article about outsourcing, and I will include the relevant paragraphs so they will be in complete context.

> That's why outsourcing to India has exploded during the recovery.

I will come back to the "recovery" in just a minute.

> That is why outsourcing to India has exploded during the recovery. It jumped 60% in 2003—

That is 60 percent in 2003—

> compared with the year before, according to the research magazine Dataquest, as corporations used some of their profits (not to mention [their] tax breaks)—

Not to mention their tax breaks—do you want to know where a great chunk of those tax breaks are going? It has been used to organize and shift American jobs overseas. This is the conclusion in this magazine today. It goes on:

That translates to 140,000 jobs outsourced to India last year. And what is the human aspect? Here is one of the individuals who has been affected. His name is:

> Vince Kosmac of Orlando, Fla., has lived both sad chapters of outsourcing—the blue-collar and white-collar versions. He was a trucker in the 1970s and '80s, delivering steel to plants in Johnstown, Pa. When steel melted down to lower-cost competitors in Brazil and China, he used the G.I. Bill to get a degree in computer science. "The conventional wisdom was 'Nobody can take your education away from you,'" he said bitterly. "Guess what? They took my education away." For nearly 20 years, he worked as a programmer and saved enough for a comfortable life. But programming jobs went missing two years ago, and he is impatient with anyone who suggests that he "retrain" again.

"Retrain" again—remember that picture with the President out there talking about new training programs that were tied into the community colleges? The principal problem with that is he said he was going to request I guess $250 million, but of course they cut over $600 million in the last 3 years out of the training programs.

But this is what is happening here—the fact that this individual got the training and programming jobs went missing 2 years ago.

> . . . he is impatient with anyone who suggests that he "retrain" again. "Here I am, 47 years old. I've got a house. I've got a child with cerebral palsy. I've got two cars. What do I do—push the pause button on my life? I'm not a statistic."

That is it. These families are not statistics. They are real people who are working hard, working longer, and making less. That is one of the prime concerns many of us have; that is, if we have a problem, the first thing we have to do is understand it. The first thing the President of the United States has to say is: We have a problem. Let's deal with it. If he just keeps on going as he did with the State of the Union and as he has today to the Governors, that everything is hunky-dory, everything is getting better, that there is no problem, then you are failing to understand what is happening on the main streets across this country.

This next item is from the Lou Dobbs show on CNN last Friday night. These are all publications from today, the speech made by the President today, the impact on the wages today. All of this has been in the last few days. We are not going back a year or 2 years ago as to what is happening; we are talking about what is happening across this country today and what the President of the United States said today and how out of touch he is on these issues.

This is from last Friday night. I think these two comments said it all on the Lou Dobbs show last Friday night. This is Glenn of Oxford, MI:

> If General Motors, Ford and DaimlerChrysler can take supplier parts and send them to China to be mass produced at a third of the cost, then why doesn't the cost of the vehicle ever go down? Labor is cheaper, parts are cheaper, but CEO pay increases.

There it is. That is what is happening. That is the real economy. That is what is happening. When you are talking about outsourcing, you are not only talking about families who have worked hard, played by the rules, and are being outsourced; a decision is being made over which they have no control. But you would think at the end of the day, if the parts are cheaper, if everything is cheaper, then at least the vehicle or some other part would be cheaper; but, no, the same cost, but the profits go to the CEOs.

That was Glenn of Oxford, MI, last Friday night on the CNN show.

Here is Walter, of Gary, IL:

> When did the American dream become buying goods and services as cheap as possible?

That is a pretty good question: "When did the American dream become buying goods and services as cheap as possible?"

> It used to be to have a good job, buy an affordable home, raise our children and hope that our children will be able to do the same if not better in the future.

That is the definition of the American dream. That is the dream that is being trampled on every single day, and we need to have national leadership that understands what is happening out across this country.

It is stunning to me—absolutely stunning to me—that we cannot have a recognition about what is happening in terms of the current situation. These are the facts.

In the Bush economy, corporate profits ballooned compared to workers' wages. On this chart is shown the change in the share of corporate-sector income, profits, and workers' wages, which is in the dark tan. And what is shown on the chart is for the early 1990s recovery—the early 1990s recovery—compared to today's recovery that this President is talking about. He talked about it today. He talked about it in the State of the Union. He said everything is hunky-dory. Yet we have spelled out what is happening to real working families. This chart tells the story. And they must have this chart down at the Council of Economic Advisers. They must have this chart down in the White House. Someone ought to put this one on the desk of the President. Here it is.

In the early 1990s, the share of the recovery was 60.29 percent for workers' wages, and for corporate profits it was 39 percent.

What about today? Well, here it is. Eighty-six percent of today's "recovery" goes to corporate profits and 13 percent is going to the wages of workers.

This tells it all as to what is happening in terms of the American economy. The workers are getting short shrift across this country. You can take all of the statistics, and the President can make all the speeches—as he did in the State of the Union and as he did today—but it is not telling the full story. This tells the full story. This tells what is happening to workers in this country. It is told in the lost hopes and dreams of workers who have seen their jobs go overseas, but it is also told in these other facts.

I will just show you this chart about the Bush economy creating low-paying jobs. Let's take the late 1990s—1998 to 2000—the fourth quarter. This is the quarter of the growth period out of the recession. And here are comparable periods of time out of the recession between the 1990s and the year 2000 and the current recovery and what has happened with low-paying wages.

This is what we were talking about before, the loss of income, jobs being lost and the new jobs paying less and less and less, both men and women working harder, working longer, corporate profits booming, workers working harder and making a good deal less, with the average income for those working families going down.

Here is a chart that shows the recovery is the worst for workers since the Great Depression. This is the comparison for the month the recession ended about what happened to workers' salaries. In 1961, when we had a period of economic growth and price stability, the longest period of economic growth and price stability with the exception of President Clinton, until the time of the ballooning of the spending in the Vietnam war. But the wages went up 10.7 percent. In the 1970s, it came in at 12 percent; in 1975, 9 percent; November of 1982, 11 percent; March of 1991, 3.6 percent—not very much. This is the period of time President Clinton turned this country around, creating 21 million jobs. And then the first increase was 3.6 percent. Now it is four-tenths of 1 percent.

How many more indicators do we need?

The fact is, we are facing a serious economic crisis in workplaces across the Nation. This administration appears not to understand it. In a statement of the President to the National Governors Association, he talked again about how well the economy is doing, how pleased he is with the progress we are making.

That is not what is happening on Main Street, USA. All across this Nation, in 48 out of the 50 States, too many jobs are going abroad. We hear about it in our States and all across the Nation. Everyone appears to know about it except the administration. Their only answer to any of our problems is providing additional tax breaks for wealthy individuals.

Mr. REID. Will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. REID. Madam President, is the Senator from Massachusetts aware of what happened last week regarding one of the President's chief economic advisors, N. Gregory Mankiw, Chairman of the President's Council of Economic Advisors? Recognizing that the country has lost 2.8 million manufacturing jobs during the time he has been President, is the Senator aware that this man recommends that in an effort to bolster manufacturing jobs, he wants to have people who work at McDonald's reclassified as manufacturers? Is the Senator aware of that?

I will read exactly what the man said, in case the Senator missed that. The plan is to simply reclassify existing jobs in the fast food industry and declare they are now manufacturing jobs. He said:

> When a fast-food restaurant sells a hamburger, for example, is it providing a "service" or is it combining inputs to "manufacture" a product?

Is the Senator aware of this statement which I would consider ridiculous?

Mr. KENNEDY. I am. We want to reference it because it is so startling. It is in chapter 2, page 73—what is manufacturing. The Senator has read it correctly. It is startling to me. We just read the papers in the last few days, if we look at what the Secretary of Health and Human Services has to do now in terms of correcting a record with regard to the disparities on health care because people over in the Department were cooking the books to give it more favorable statements and comments and facts with regard to the problems we are facing with minorities.

Then, of course, in the last day or so we read the comments of our friend and colleague Senator LEVIN where he said the CIA had not been frank and candid and honest with him in terms of providing information about what sites had actually been given to the inspectors and whether they had been given the most accurate sites in terms of the weapons of mass destruction. There was representation that they had, and we find out in the newspapers that they had not.

Then we are troubled today by the statement of the Secretary of Education—who is my friend, although I differ with him—when he said the NEA organization that represents the teachers is a terrorist organization. I was absolutely baffled by that comment. I will read the AP wire:

> Education Secretary Rod Paige called the nation's largest teachers union a "terrorist organization" during a private White House meeting with governors on Monday. Democratic and Republican governors confirmed the education secretary's remarks about the [NEA]. "Those were the words, 'the NEA is a terrorist organization,'" said Democratic Gov. Jim Doyle of Wisconsin. Several Democratic governors called the remarks inappropriate.

I ask unanimous consent to print the AP wire in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Associated Press]

PAIGE TELLS GOVERNORS EDUCATION UNION IS "TERRORIST ORGANIZATION"

(By Robert Tanner)

WASHINGTON.—Education Secretary Rod Paige called the nation's largest teachers union a "terrorist organization" during a private White House meeting with governors on Monday.

Democratic and Republican governors confirmed the education's secretary's remarks about the National Education Association.

"These were the words, 'The NEA is a terrorist organization,'" said Democratic Gov. Jim Doyle of Wisconsin.

Several Democratic governors called the remarks inappropriate.

"He was making a joke, probably not a very good one," said Gov. Ed Rendell of Pennsylvania. "Of course he immediately divorced the NEA from ordinary teachers, who he said he supports."

"I don't think the NEA is a terrorist organization," said Rendell, who has butted heads with the group as well. "They're not a terrorist organization any more than the National Business Organization is a terrorist organization.

Neither the Education Department nor NEA had an immediate comment on Paige's comments. Both indicated the statements were forthcoming.

Mr. REID. Will the Senator yield for another question?

Mr. KENNEDY. Yes.

Mr. REID. I am stunned by the statement of Secretary Paige. I have the greatest respect for Governor Doyle. I know if he said he said it, he said it. But with regard to the NEA, for example, someone I went to high school with spent much of his adult life working for the NEA, organizing all over the West. That is a terrible thing to say about my friend Rinaldo Martinez, that he is part of a terrorist organization. That is stunning.

Back to the loss of 2.8 million manufacturing jobs.

Mr. KENNEDY. If I may make a quick comment, since we are on that subject, on the statement by the Secretary, whether it was said seriously or in jest, this illustrates in crystal-clear terms the misplaced values of the administration when they roll out the red carpet for the big drug companies, the HMOs, the insurance companies in recent Medicare legislation, and then slap our Nation's teachers in the face with unacceptable language. I say they are wrong. I believe Secretary Paige owes the Nation's teachers and the people an explanation and a full apology.

Mr. REID. The President's people want to reclassify people who work at McDonald's, Burger King, and Wendy's as manufacturing so that the loss of manufacturing jobs appears less. But would the Senator comment on the fact that it seems it may be better for the President's folks to dwell on people who work in those places not having a raise in the minimum wage for as long as they have? People are working two and three jobs to make ends meet just barely. We don't hear a word from the administration, not a single word on increasing the minimum wage for these people who work in these places that they want to reclassify as manufacturing jobs, where they now make $5.15 an hour. And we have been stymied procedurally from raising even an up-or-down vote on the minimum wage that will allow us to do that. Yet they want to reclassify people who work in those places as manufacturers. Is this the height of nonsense?

Mr. KENNEDY. The Senator is absolutely correct. Here we have the administration effectively misleading the country in terms of where we are going in terms of the economy and the numbers of jobs and the types of jobs. But at the same time, as the Senator correctly points out, we have not seen an increase in the minimum wage for 7 years. The purchasing power of the minimum wage now is close to the lowest it has ever been.

We know there is a majority in the Senate that is for an increase in the minimum wage, but we are being blocked in this body and in the House of Representatives by the fact that the President and this administration are opposed to an increase in the minimum wage, as they are opposed to an extension of unemployment compensation so that we have some 90,000 workers a week, men and women who have contributed into the unemployment compensation fund that is in a surplus of $17 billion, and we find that the administration has opposed the request of our friend and colleague from Washington, Senator CANTWELL, who along with others, has a dozen times requested that we take up a temporary extension of the unemployment compensation for workers.

Not only that, as the Senator well knows, we have an administration that is opposed to overtime for 8 million workers in this country, of whom many are policemen, firefighters, and nurses, who are the backbone of our homeland security.

People say, what could you do right away? They ask Senator KERRY, what can you do now? Well, you could do something today if you had different leadership that would make a significant and important impact on the lives of 7 million Americans with regard to the minimum wage, hundreds of thousand of workers regarding unemployment, and 8 million Americans with regard to overtime. That is what you can do today with different leadership, let alone what you could do if you had a President who was prepared to help eliminate the tax loopholes that send our jobs overseas; or they can try to bring in American companies and try to work with them to find ways of stabilizing this whole issue about the export of jobs and find ways of keeping them. There are many ways this can be done, but you will not get it done when you have a President who at noontime today said to the Governors: Everything is fine, the economy is growing, don't worry, we are just doing fine; everything is going along in a very positive way.

I am troubled the message is not getting through.

Mr. REID. We have heard a lot about the loss of manufacturing jobs in our country.

There are traditionally very good jobs, the kind that can really support a family—decent hourly wages, good health care coverage, and paid vacations. They provide an honest day's pay for an honest day's work because these jobs aren't easy.

It takes concentration, skill and stamina to stand on an assembly line making automobiles, or aircraft, or televisions, or dungarees. And most important of all, it requires pride in a job well done.

When I grew up, you saw the "made in the USA label" on almost everything you bought. It was an assurance that a product was of the highest quality because it had been manufactured by American workers.

Today it's hard to find that label on many products because fewer and fewer things are being "made in the USA."

Over the last 42 months, our Nation has lost manufacturing jobs every single month—a total of 2.8 million jobs.

These are the statistics, and behind these statistics are 2.8 million grim stories.

Every time a job is lost, a family's world is torn apart.

A worker loses the self-esteem of supporting a family, and also loses the sense of pride in a job well done. The family will probably lose their health coverage. Maybe they'll have to give up their dream of owning a home, or their children will have to forget about attending college.

This is why the loss of manufacturing jobs is such a crisis in our country.

For months now, we have wondered whether the administration has a plan to revive our manufacturing sector, and help create new manufacturing jobs.

Mr. President, I believe in giving credit where credit is due. It now appears that the administration might in fact have a plan to create manufacturing jobs.

Unfortunately, that plan is simply to reclassify existing jobs in the fast food industry and declare that they are now "manufacturing" jobs!

This idea was suggested in the Economic Report of the President which was sent to Congress last week, and by N. Gregory Mankiw, the chairman of the President's Council of Economic Advisers.

To reiterate, in a speech to economists, Mr. Mankiw said that reclassifying fast food jobs as manufacturing was "an important consideration" in setting economic policy. And the White House drew a box around this part of the Economic Report:

> When a fast-food restaurant sells a hamburger, for example, is it providing a "service" or is it combining inputs to "manufacture" a product?
>
> Sometimes, seemingly subtle differences can determine whether an industry is classified as manufacturing. For example, mixing water and concentrate to produce soft drinks is classified as manufacturing. However, if that activity is performed at a snack bar, it is considered a service.

According to an article in last Friday's New York Times, some economists in the administration want to count flipping hamburgers as manufacturing so they can claim more jobs in that sector of the economy.

Mr. President, if this idea wasn't such a cruel mockery of American workers and their families, it would be funny.

I have nothing against people who work in the food service industry. Here in the Senate I have fought to protect these workers. I have tried to get a vote on increasing the minimum wage. And I have fought to protect overtime pay.

But it is a fact that very few food service jobs can compete with good manufacturing jobs in terms of supporting a family.

I suppose the food service workers could organize themselves into unions, as many factory workers have done. Maybe they could call themselves the Amalgamated Hamburger Assembly Workers or the Brotherhood of French Fry Baggers.

They could call themselves that, but they would still be food service workers, not factory workers. And their jobs would still be service jobs, not manufacturing jobs.

You can change all the terminology you want, but you can't change the fact that our country desperately needs a real plan to boost our manufacturing sector.

We need to look at tax credits for businesses to create manufacturing jobs; we need to cut health care costs; and we need to enforce our trade agreements so they will be fair to American workers.

We need a plan that recognizes what the loss of manufacturing jobs has meant to almost three million American families.

This is a serious problem. But this suggestion by the administration can't be taken seriously.

Mr. KENNEDY. Madam President, this is an insult to Lucille Rocket of Durfee High School in Fall River. She works hard to bring smaller learning communities to school to help kids learn. She mentors teachers. She is an enormously constructive and positive person in the high school system as a member of the NEA in my State.

Cathy Moriarty teaches at-risk second grade children in Springfield's gymnasium because they don't have enough classrooms. She believes the No Child Left Behind Act doesn't fund the needed support for smaller class size and better trained teachers. She is a member of an organization that speaks to that issue. She is proud of it. I am proud of her.

Melinda Pellerin-Duck, who is in Springfield's Commerce High School, brought new curriculum on global issues to school. She cares about the quality of education and she has spoken out about the importance of making sure we are going to get it right with the No Child Left Behind.

Ellen Peterson is a first grade teacher who helped new teachers on her own time. These teachers give of themselves every day. They are devoted to the children and they care deeply about the quality of education, and they are members of an organization that was insulted.

Cindy Douglas teaches kindergarten in Franklin with limited supplies and does an extraordinary job. She believes this administration and this Nation should put funding of education at a higher priority.

Those are real people who are members of this organization. We have not always agreed, the NEA and myself, on education issues. But I admire their work in my own State, and I admire the work they have done historically on education. I have been a member of that committee for 42 years. It is absolutely startling, Madam President. Probably for the time I have been on the committee, for 20 years, we never voted on any issue. Everything was bipartisan—all the education issues. We had it under a Republican, Senator Stafford, who is still alive, a wonderful elderly Senator from Vermont, and Senator Pell, a dear and valued friend of mine and my family, who is from Rhode Island. We never voted on education issues. They were bipartisan for 20-odd years. Most of us—at least I did—thought we had a bipartisan effort with this administration on the No Child Left Behind. We had extraordinary overwhelming support in this body and in the House of Representatives trying to get this job done. We were going to have reform, but with that, we have to have investment. We got the reform, but not the investment. We have left children, I believe, hanging high and dry.

It is not just the Senator from Massachusetts saying it. It is also education leadership in the State of Utah, in Republican States alike that are talking about this. That is why, as we are trying to deal with an issue of such high importance and priority, we should be beyond and far away from the inappropriate use of terms in characterizing an organization that has worked so long and hard to improve the quality of education for the children in this country.

This legislation, S. 2061, is not a serious attempt to address a significant problem being faced by physicians in some States. It is the product of a party caucus rather than the bipartisan deliberations of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation.

This bill contains most of the same arbitrary and unreasonable provisions which were decisively rejected by a bipartisan majority of the Senate last year. The only difference is that last year's bill took basic rights away from all patients, while this bill takes those rights away only from women and newborn babies who are the victims of negligent obstetric and gynecological care. That change does not make the legislation more acceptable. On the contrary, it adds a new element of unfairness.

The proponents argue that they are somehow doing these women and their babies a favor by depriving them of the right to fair compensation when they are seriously injured. It is an Alice in Wonderland argument which they are making. Under their proposal, a woman whose gynecologist negligently failed to diagnose her cervical cancer until it had spread and become incurable would be denied the same legal rights as a man whose doctor negligently failed to diagnose his prostate cancer until it was too late. Is that fair? By what convoluted logic would that woman be better off? Both the woman and the man were condemned to suffer a painful and premature death as a result of their doctors' malpractice, but her compensation would be severely limited while his would not. She would be denied the right to introduce the same evidence of medical negligence which he could. She would be denied the same freedom to select the lawyer of her choice which he had. She would be denied the right to have her case tried under the same judicial rules which he could. That hardly sounds like equal protection of the law to me. Yet, that is what the advocates of this legislation are proposing.

Of course, this bill does not only take rights away from women. It takes them away from newborn babies who sustain devastating prenatal or delivery injuries as well. These children face a lifetime with severe mental and physical impairments all because of an obstetrician's malpractice or a defective drug or medical device. This legislation would limit the compensation they can receive for lost quality of life to $250,000—$250,000 for an entire lifetime! What could be more unjust?

This is not a better bill because it applies only to patients injured by obstetrical and gynecological malpractice. That just makes it even more arbitrary.

We must reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in the Patients' Bill of Rights debate, the Bush administration and Congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme "tort reforms" are not only unfair to the victims of malpractice, they do not result in a reduction of malpractice insurance premiums.

While those across the aisle like to talk about doctors, the real beneficiaries will be insurance companies and large health care corporations. This legislation would enrich them at the expense of the most seriously injured patients; women and children whose entire lives have been devastated by medical neglect and corporate abuse.

This proposal would shield HMOs that refuse to provide needed care, drug companies whose medicine has toxic side effects, and manufacturers of defective medical devices. This legislation is attempting to use the sympathetic family doctor as a Trojan horse concealing an enormous array of special legal privileges for every corporation which makes a health care product, provides a health care service, or insures the payment of a medical bill. Every provision of this bill is carefully designed to take existing rights away from those who have been harmed by medical neglect and corporate greed.

It would drastically limit the financial responsibility of the entire health care industry to compensate injured patients for the harm they have suffered. When will the Republican party start worrying about injured patients and stop trying to shield big business from the consequences of its wrongdoing?

This legislation would deprive seriously injured patients of the right to recover fair compensation for their injuries by placing arbitrary caps on compensation for non-economic loss in all obstetrical and gynecological cases. These caps only serve to hurt those patients who have suffered the most severe, life-altering injuries and who have proven their cases in court.

They are the children who suffered serious brain injuries at birth and will never be able to lead normal lives. They are the women who lost organs, reproductive capacity, and in some cases even years of life. These are life-altering conditions. It would be terribly wrong to take their rights away. The Bush administration talks about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

In addition to imposing caps, this legislation would place other major restrictions on seriously injured patients seeking to recover fair compensation. At every stage of the judicial process, it would change long-established judicial rules to disadvantage patients and shield defendants from the consequences of their actions.

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose, what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less than two-thirds of 1 percent—0.66 percent—of the Nation's health care expenditures each year. Malpractice premiums are not the cause of the high rate of medical inflation.

Over the last 15 years, medical costs increased by 113 percent. The total amount spent on medical malpractice insurance rose just 52 percent over that period, less than half the rate of inflation for health care services.

Data from the National Practitioners Data Bank shows the number of payouts by Ob/Gyns in medical malpractice cases is not increasing. It has been relatively stable over the last twelve years. In fact, there were 13 percent fewer payouts in 2002 than in 1991. Similarly, the total amount paid to settle malpractice claims against Ob Gyns has remained flat over the past twelve years when adjusted for medical inflation. The evidence shows that contrary to the claims of those promoting this legislation, malpractice payouts are not causing the cost of health care to rise.

The White House and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But, there is scant evidence to support their claim. In fact, there is substantial evidence to refute it. In the past few years, there have been dramatic increases in the cost of medical malpractice insurance in States that already have damage caps and other restrictive tort reforms on the statute books, as well as in states that do not.

Caps are not only unfair to patients, they are also an ineffective way to control medical malpractice premiums. Comprehensive national studies show that medical malpractice premiums are not significantly lower on average in States that have enacted damage caps and other restrictions on patient rights than in States without these restrictions. Insurance companies are merely pocketing the dollars which patients no longer receive when "tort reform" is enacted.

If a Federal cap on non-economic compensatory damages were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies, which created the recent market instability, will benefit.

Doctors, especially those in high risk specialties, whose malpractice premiums have increased dramatically over the past few years do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

Doctors and patients are both victims of the insurance industry. Excess profits from the boom years should be used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

Finally, I understand we will be voting on cloture tomorrow. We just had this legislation offered. We are here on a Monday. We are prepared for action and discussion, but we are being required to vote tomorrow. I intend to vote no on the cloture motion. This is an important issue affecting the quality of health and fairness and justice for millions of women and babies. It does not deserve to be rushed through the Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUTSOURCING JOBS

Mr. DORGAN. Madam President, last week the Senate was not in session and most of us in the Senate were in our home States. I spent most of the week in North Dakota visiting with people about the economy, jobs, health care, and a wide range of issues. I had meetings on the issue of No Child Left Behind, on the significant problem in rural States with methamphetamine and the scourge this deadly new drug poses to young people and to law enforcement. A lot of us were doing a lot of activities last week. I wish to talk about a couple of issues that happened since we left town.

Last week, there was a lot of discussion about the Economic Report of the President that was sent to the Congress just prior to our leaving town.

This week's BusinessWeek, March 1, 2004, says:

> Will Outsourcing Hurt America's Supremacy?

That is similar to the front cover of BusinessWeek a year ago:

> Is your job next? A new round of globalization is sending upscale jobs offshore. They include chip design, engineering, basic research—even financial analysis. Can America lose these jobs and still prosper?

So BusinessWeek, in front covers, now and exactly 1 year ago from now, asks the same questions: Will outsourcing hurt America's supremacy?

The issue of outsourcing of jobs has been raised in the President's Economic Report, and there has been a lot of discussion about it. I thought it would be helpful perhaps to read it because it gets back to the question of international trade and its impact on our economy.

On page 25 of the Economic Report of the President, it says: Outsourcing of professional services is a prominent example of the new type of trade. The gains from trade that take place over the Internet or telephone lines are no different than the gains from trade in physical goods transported by ship or by plane. When a good or service is produced at a lower cost in another country, it makes sense to import it rather than to produce it domestically.

Let me read that last sentence again. When a good or service is produced at a lower cost in another country, it makes sense to import it rather than produce it domestically.

So that created a significant debate. This is a booklet, the Economic Report of the President, that is extolling the virtues of outsourcing of American jobs. It is safe to say, perhaps, that no economist who worked on this booklet has ever had their job outsourced. In fact, I know of no American economist who has lost his or her job because of outsourcing. I also know of no politician in this country who has lost his or her job because the job was outsourced to Sri Lanka, Bangladesh, China, or Indonesia.

So it is easy then for politicians and economists to thumb their suspenders, smoke their cigars, ruminate, cogitate about these things, and come up with this goofy idea that somehow when a good or service is produced at a lower cost in another country, it makes sense to import it rather than produce it domestically.

I will take this point just for a moment and see if I can dissect it by talking about bicycles. I know I have spoken about this before, but repetition is the hallmark of good policy, so let me do it again. When it can be produced less expensively overseas, the President's economic advisers and the President's report say do it. Well, Huffy bicycles are a good example. The company that made Huffy bicycles had 20 percent of the domestic market. People can buy these bicycles from Sears, Wal-Mart, and Kmart. Most people know about Huffy bicycles. They used to be made in this country. They were made in Ohio by American workers. Those American workers made $11 an hour making bicycles.

I did not know one of the workers but I am sure they were proud of their jobs and proud of their product. They made Huffy bicycles. In fact, on Huffy bicycles the decal on the front between the front fender and the handlebars was an American flag decal made by American workers. So Huffy bicycles moved to China. Why? Because it costs $11 to hire an American to work to make a Huffy bicycle and a Chinese worker can be hired for 33 cents an hour.

Huffy left Ohio and went to China. The last job that was done by the workers in Ohio was to replace the little flag decal with a decal of the globe. They removed the flag and put a globe on the front of Huffy bicycles.

The last bicycle that was boxed up and left the plant in Celina, OH, was at 10:15 in the morning when a red 20-inch Huffy model was put in a box for shipment, and then Huffy changed its nationality. Huffy bikes are now Chinese.

Now, bicycles do not speak, so there was no visible sign of this change of nationality when the Huffy showed up at Wal-Mart or Kmart or Sears. They are now for sale as a Chinese bicycle rather than an American bicycle.

Question: Does anybody think that when Huffy decided to send its bicycle production to China, those bicycles ended up on the showroom floor of Wal-Mart or Kmart at a much lower price because instead of paying $11 an hour for workers constructing these bicycles, they were now paying 33 cents an hour?

Instead of having safe workplaces, there are none of those OSHA problems in China. Instead of having a manufacturing plant where they cannot put chemicals in the water and put chemicals into the air, there are none of those restrictions in China. Instead of having child labor laws where 12-year-olds cannot be hired to work 14 hours a day, there are none of those restrictions in China.

So is it less expensive to produce Huffy bicycles in China? Darn right it is. Does the consumer benefit from that? Do my colleagues think Huffy bicycles that showed up on the showroom floor of Kmart and Wal-Mart are less expensive bicycles after they cut manufacturing costs of workers from $11 an hour to 33 cents an hour? The answer is no, of course they aren't.

This has nothing to do with advantaging consumers. It has to do with corporate profits. It has to do with laying off Americans and fattening profits.

So going to page 25 of the Economic Report of the President, his economic advisers say: When a good or service is produced at lower cost in another country, it makes sense to import it rather than produce it domestically. The keyword here is cost. They know the cost of everything and the value of nothing, as the old saying goes.

I will tell my colleagues where things can be produced at less cost: Mexico, Indonesia, Bangladesh, China. I can name a dozen countries. But is that the only criterion? Is that the judgment we are going to make in this country: If it costs less somewhere, then there is an advantage to producing it there and shipping it back here and there is some sort of inherent advantage to our consumers? It is simply not true.

I do not understand whether it is being hard headed or soft headed to fail to understand the basic truths about international trade. I am not someone who believes we should build a fence around our country but I do believe there ought to be some fairness with respect to the rules of this globalization.

I will describe for a moment something I did just before the break. I came to the Senate floor and I listed—which, incidentally, is on my Web site as well at http://Dorgan.Senate.gov for those who might be interested—the top 100 companies that basically moved jobs to Mexico after the North American Free Trade Agreement.

Now these 100 companies—this is not conjecture from me—these are companies that certified to the Department of Labor that these jobs were no longer going to exist because of the North American Free Trade Agreement. Why did they certify it? Because they wanted to make eligible the workers who were being laid off for this transitional trade adjustment assistance. What a wonderful, remarkable term: Transitional trade adjustment assistance. That means, for somebody out there who is losing their job, they are going to be transitioned and they are going to get some assistance in the short term. Guess what. One loses their job, they get transitioned, we give them some money, and then go away, please.

So in order to get that transitional assistance, one had to have a certification from their company. So here is a certification. Levi Strauss, 15,676 jobs, mostly moved to Mexico; they certified that. I am not accusing them of it. I am just saying they certified that to the Department of Labor. Levi's, now that is all American; right? Everybody wears Levi's, but Levi's are not American anymore. They are made elsewhere. Fruit of the Loom used to be in Texas. They certified 5,352 jobs gone, T-shirts, shorts, underwear; Fruit of the Loom, not American, gone.

Do my colleagues want to order some Mexican food? Well, they do not have to say: Give me a chalupa, give me an enchilada. What they can say is: Give me some Fig Newtons, because Fig Newtons left America and went to Mexico. They are gone. Do my colleagues think Fig Newtons are made at home? No, they are not. Fig Newtons are on this list, certified as leaving America. Why? Because they can make them less expensively elsewhere.

How many Americans know that Fig Newtons now come from Mexico? So we lose our Fruit of the Loom, we lose our Levi's, we lose our Fig Newtons.

I am mentioning some things that are not high tech. I should mention some high tech—Motorola telephones. Let me give an interesting statistic that most people would not believe.

Do you know that after NAFTA, when we were told that what would be shipped to this country from Mexico would largely be the result of low-skilled, low-wage labor, they said that is what this is going to be. We are accessing the Mexican marketplace for low-skilled, low-wage labor which will ship jobs into this country and it will not displace those in this manufacturing sector who have good jobs, making good money, because they have high-skilled, high-wage jobs. Wrong. The three largest categories of manufactured items coming into the United States from Mexico are automobiles, electronics, and automobile parts.

Did you know in a recent year we imported more automobiles into the United States from the country of Mexico than we exported to all the rest of the world? I am going to say that again. The United States imported more automobiles from Mexico than we exported to all of the rest of the world. That describes to you what happened with NAFTA—a substantial flight of U.S. jobs, good manufacturing jobs, good-paying jobs to Mexico.

It is all about wages. I understand that. So you go to page 25 and the issue here is not about values. It is not about the American economy. It is not about caring whether this world-class economy of ours retains a strong manufacturing base—which I think is essential to be a country with a strong world-class economy. It is not about that. It is about cost.

When a good or service is produced at a lower cost in another country it makes sense to import it.

So you say, "So long to American jobs." There are no tears shed for that with these economists.

Of course they sit there without worrying about their jobs because no economists I know have lost their jobs. No economists lost their jobs to NAFTA. No politician lost his or her job. Despite the fact that everybody was wrong.

This describes what happened. This happens to be the 100 top companies that certify job loss: Only with respect to Mexico; only with respect to NAFTA.

We were told. The best economists said: Pass this North American Free-Trade Agreement because if you do we will produce substantial new jobs. Guess what. We had a small trade surplus with Mexico. We passed NAFTA, the North American Free-Trade Agreement, and that small surplus turned into a giant deficit. Ross Perot called it a giant sucking sound, and those jobs have gone to Mexico wholesale.

We had a modest deficit, a relatively modest deficit with Canada, which is the other country that is the participant in the North American Free-Trade Agreement, and that has become a very large deficit.

In both cases with Mexico and Canada, all the experts were wrong and we have dramatically increased the Federal trade deficit with respect to both countries.

Let me also say in the Economic Report of the President there has been a discussion in recent days about what is manufacturing, because they pose the question on page 73. They ask a question.

The definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service? Or is it combining inputs to manufacture a product?

I don't know exactly which economist might have written page 73, but when a fast food restaurant sells a hamburger, is it providing a service or is it combining inputs to manufacture a product? This rather serious economist poses one of the questions of our era: Should a hamburger be considered part of our manufacturing base? Should the making of a hamburger be considered part of our manufacturing base?

How about the person who hangs out the window and says, Do you want fries with that? Is that a key part of the manufacturing base? Where does this go?

What would your mom, or my late mother, think if you came home and said what you had been doing and you told her you had been manufacturing chocolate pie? I don't think so.

Sometimes in this town language becomes such a barrier to understanding. This is so fundamentally absurd on its face. Is making a hamburger part of America's manufacturing base? The answer is of course not. Of course not.

We have lost a massive number of manufacturing jobs in this country in recent years. I suppose some of the same economists who have sold us on this economic strategy may want to make it appear as if we have lost fewer jobs by counting those who construct a hamburger—two all-beef patties, special sauce, lettuce, whatever it is—as part of our manufacturing sector. But of course on its face that is nuts and this ought not be part of any significant or serious discussion.

There are a lot of questions being raised these days about jobs. Let me say I don't think, with all the discussion we have about social programs in the Congress, there is not a social program in this country that is as important as a good job that pays well. Because that is what helps provide the security for America's families.

We are going through a time when we face the loss of a lot of jobs. We face the restructuring of an economy. We did have a recession, relatively short. We are now a year and a half past that recession and the fact is we are still not producing any significant number of new jobs. So the question for all of us is, Is this economic strategy a strategy that produces new growth without new jobs?

Paul Craig Roberts, who was one of the top economists for the Reagan administration, recently wrote a piece suggesting that perhaps this is an economic recovery without new jobs. If that is the case, we have some serious problems ahead of us. He says maybe this new economy, this new growth, does create jobs but not in the United States; jobs in China, jobs elsewhere, just not jobs here. If that is the case, we face significant challenges.

We are going to have an agenda in this Senate that will move very quickly between now and the first Tuesday of November, which is election day. I understand all that. We are going to be working on a lot of extraneous issues, some because one side or the other wants to have a political wedge issue someplace. We on our side don't schedule this place. The majority schedules it at this point so they will determine what is on the floor of the Senate.

But for me, I believe there is not a more important issue that we need to deal with than the question, are we going to have an economic engine that creates jobs so the American families, as they talk about their lot in life, have a chance to visit about progress? How will American families answer the questions: Do I have a good job? Does it pay well? Do I have job security? Am I going to be outsourced?

And then answering the other questions that come from the ability to have a decent job, Do we send our kids to schools we are proud of? Do Grandpa and Grandma have access to good health care? Do we live in a safe neighborhood? Do we keep this country safe from terrorist attacks?

There are so many issues that confront us, but I think the issue of jobs is critically important and we spend far too little time working on it in the Senate.

I want to say this: Those who think it is a good thing to send America's jobs overseas, those who think this is a new economic approach that is good for America, don't understand. Because they have not been in that place. They have never been a part of a family where they know about secondhand things, second jobs, second shifts, and second mortgages. They have never been a part of that. They think it is just fine to construct some economic theory, some model that says if we can produce Huffy bicycles less expensively in China, good for us, let's do it. Except the consumer doesn't benefit from that, it is just the American workers who lose their jobs.

The questions these economists need to answer—and the politicians, incidentally, who support this, and there are plenty—is: Who will be the purchasers and consumers in an economy in which you diminish and then finally ship good jobs overseas? Who is going to purchase all of these things you are producing overseas?

I have given a number of trade speeches. I come to the floor of the Senate and talk about this repeatedly and nobody seems to care very much. That is lamenting. I should not say it quite that way. It does not result in dramatic change in public policy.

We can talk about the most recent trade agreement with China. We have roughly a $130 billion trade deficit with China right now. It has been growing leaps and bounds. Our negotiators negotiate an agreement with China and say on the bilateral trade with respect to automobiles: We will agree with this, China; you can ship any Chinese automobile you may wish to manufacture to the United States, and we will charge a tariff of only 2½ percent. And we agree any U.S. cars we try to ship to China are charged a tariff 10 times higher of 25 percent.

Stupid? Sure. On its face it is a stupid provision. We say to China, which has a $130 billion trade surplus with us, by the way, we will make a deal. We want to have bilateral automobile trade, and we will let you charge a tariff 10 times higher than we will.

I would love to find the negotiator who did that and see if we could not find a way to prevent them from ever having a public sector job once again. That makes no sense. Yet we see this time after time after time.

As I speak today, every single pound of American beef that is sent to Japan has a 50-percent tariff on it. We have a huge trade deficit with Japan. Every pound of American beef sent to Japan has a 50-percent tariff. That is 15 years after our trade negotiators reached a beef agreement with Japan.

This country needs to get a backbone and stand up for its economic interest. Yes, I am talking about ranchers. I am talking about manufacturers. I am talking about business owners who do business in this country and have to compete. We need a spine, backbone, some willingness to stand up for the economic interests of this country, not being protectionists but just saying there needs to be some basic rules.

If, in fact, we are a global economy—and, indeed, we are—then the rules with respect to that global economy need to keep pace with globalization.

We had people killed in the streets of this country in the last century. They gave their life fighting for some basic rights: The right to organize, basic rights for workers to organize. We had people fight on the issue of child labor to prohibit the sending of 12-year-old children down into the coal mines and into manufacturing plants. We waged fights over the issue of minimum wage and safe workplaces and the environmental laws that prohibit a plant from dumping its chemicals into the air and water.

Now we are told forget all that because if you are a global company, you pole-vault over that and go someplace where you do not have to worry about environmental or labor rules. That is a nuisance. Child labor, minimum wage, the right to organize, that is a nuisance.

This is what we have dealt with for 100 years in order to create a more perfect opportunity for business and labor. There is something fundamentally wrong.

I hope we can have a discussion about jobs in the Senate. I intend to offer a series of amendments at the next opportunity dealing with the issue of jobs and dealing with the issue of trade. The President has just finished a Central American Free-Trade Agreement. I believe we ought to have that debate in the Senate. He has just completed the Australian Free-Trade Agreement. We ought to have that debate in the Senate. I intend to be in the Senate opposing both. I will describe why later. Neither, in my judgment, represents the best interests of this country. I want trade pacts to be mutually beneficial. That means they need to benefit this country, as well.

What prompted me to speak were a couple things: One, this discussion about outsourcing. The economists who wrote this—this is the President's book, actually signed by the President, but the fact is, I understand it is written by the President's economic advisers. He, in some ways, began to do a U-turn and lost the steering wheel and turned back again. My hope is the President certainly does not believe this nonsense. Outsourcing of good jobs in this country, outsourcing of manufacturing jobs, outsourcing of service jobs is not in this country's best interest. They say in the long run it will even out because the other countries will raise themselves up.

John Maynard Keynes said in the long run, we are all dead. I am interested in the next year, the next 5 years, the next 20 years. I am relatively uninterested in the realignment of the economies 100 years from now.

I want very much for this country to succeed. I want this country to remain a world economic power. It will not be a world economic power if it is deep in debt, up to its neck in fiscal policy deficits and up to its neck in trade deficits. We have fiscal policy deficits this year alone of about $660 billion. I know the numbers that are advertised are $530 billion, but that is if you take the Social Security revenue, which is a dishonest thing to do. So $660 billion in Federal budget deficits, and add to that the highest trade deficits in human history, very close to $480 billion, and it is appropriate to look at this country's fiscal policy and trade policy and ask: Where is the leadership? Where does the leadership come from to address these issues?

My hope is that I and others who care a great deal about this can provide some of that leadership. We invite the President and people from both political parties to join us. This President needs to speak forcefully in response to this "Economic Report of the President." He needs to say: This is not what I mean. The economists may have written it, but I don't believe outsourcing strengthens our country. I don't believe moving American jobs overseas strengthens the United States of America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENSIGN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I rise today to speak on the issue of medical liability reform and the bill pending before the Senate. This legislation is a narrowed-down version of what myself and Senator GREGG introduced last year, which in contrast was a broad-based medical liability reform bill. Today we pared it down to limit it just to OB/GYNs, nurse midwives, and any other provider involved in the delivery of babies.

The reason we have done this is fairly typified in my State and in many other States around the country by this picture. It is a real life picture taken only days ago: the building moniker reads "OBGYN," and next to it, a sign now hangs that reads "For Lease." and call a particular number. This sign indicates how OB/GYNs are leaving practice in my State and in other States across the country because they can no longer afford their medical liability premiums.

This is a problem that some describe as not that big a deal. But if you talk to the women who cannot get obstetrical and gynecological services, it is a crisis to them.

Southern Nevada is the fastest growing population center in the country. We have 6,000 new people moving in a month and are we not getting as many new OB/GYNs as we need. We need a lot of new doctors coming to our State. But instead of new doctors arriving to practice in Nevada, we have doctors limiting their practices and stopping either the practice of obstetrics or leaving our State altogether.

The American Medical Association has identified 19 States that are in crisis, and all but 5 States are showing signs the crisis is building in their State.

Some people have said: Well, this is about rich doctors versus rich lawyers. This is not about doctors versus lawyers. This is about access to care. This is about a woman who is thinking: "I want to have the best possible care for my baby," and she cannot find a doctor.

I have a good friend who lives in Las Vegas. He delivers high-risk pregnancies. These are the people you want to have as your best doctors. However, because of the huge increases in rates, his insurance company has limited him on the number of deliveries he can make during the year.

That is not what we want to be doing. We want to have the best people delivering babies, especially for high-risk pregnancies which require the most skill.

It is our legal system that is out of control. Unfortunately, we have trial lawyers out there who are taking advantage of our broken civil justice system. They are even advertising on TV. I am sure many people, when they watch TV, have seen these 1-800 numbers you can call to find somebody to sue. It is basically: Bring your Rolodex and we will figure out who you are going to sue. That goes for almost anything today, but it is especially prevalent in the field of medicine.

Across America the crisis is happening not just with OB/GYNs. As a result, in this bill, we have decided to focus also on nurse-midwives, the overall practice of delivering babies, and providing gynecological care because it is the most acute problem we are seeing across the country.

In my State, we did pass a medical liability reform bill in August of 2002, but the only reason that it was able to pass was because our trauma center closed. It was the only level I trauma center for a region of 10,000 square miles, and it closed because of the medical liability crisis. The only way that trauma center was able to open again was because the State decided to step in and put its liability cap on anybody who provided care through the level I trauma center. People have been arguing that $250,000 is not enough. Well, the State of Nevada's cap on damages is $50,000 for anyone who chooses to sue a healthcare professional that provided care at the trauma center. That alone allowed the level I trauma center to open.

This is the same level I trauma center where Roy Horn, the famous person from the duo of Siegfried and Roy, was treated when he was attacked by a tiger. If it was not for the State of Nevada applying its $50,000 damage cap, that trauma center would not have been available for Roy. He certainly would be in much worse shape today if that had not been the case, and maybe he would not have made it at all if that kind of care was not available. This example indicates the politics of what can happen when a crisis gets so great that the trial lawyers cannot stand up and keep their stranglehold on our legislatures around the country.

Today, we need to have the same thing happen in the Senate where people around the country call their Senators and say the crisis is too severe. We need to have special interests, especially trial lawyers' special interests, put aside, and we need to put the practice of medicine first. We need to put first access to quality care for women and those new babies coming into the world. We need to put their care above all else.

Last year, the University of Nevada School of Medicine had the lowest number of students entering obstetrics and gynecology it has had since 1999. And, equally disturbing, each year since 2000, that number has continued to go down and down and down.

This chart shows the very clear contrast of what has happened in my State and other States versus California. Why do I put California up versus the rest of the States in the country? The reason is because California enacted what is known as MICRA. MICRA is their medical liability reform law which they enacted in 1975. After withstanding eleven years of court challenges, it has now been in effect for about eighteen years and we know it is working.

By the way, the people in lawsuits are getting plenty of compensation in California. But the difference in premium increases—California compared to the rest of the country—is stark. In California, from 1976 to today, there has been a 167-percent increase. For the rest of the country, however, it is over 500 percent. Moreover, these percentages do not reflect the last couple of years. If the last couple years were shown, this red line showing the 500 percent would almost be spiking because it is going up so rapidly.

To put this in real dollar terms, so you can get a comparison between different States, here are some really good examples. This is 2002 premium survey data for selected specialties. We are comparing the cities of Los Angeles—once again, California has the MICRA law it enacted—and Denver, which is in another State that has enacted very similar legislation. The laws in California and Colorado are the ones Senator GREGG and I based our legislation on. These two States have strong medical liability reform in their States. These other States shown on the chart do not. Let's see the difference. Let's go down on the lower portion of the chart because we are talking about OB/GYNs. Let's talk about the difference in the States. For Los Angeles, $54,000 a year—still a lot of money, but $54,000. In Denver, it is around $31,000. In New York, it is $90,000. In Las Vegas, where I live, it was $108,000 in 2002, and you cannot get it for $108,000 anymore. Currently, it is closer to $140,000 or $170,000 in my State, and even higher. In Chicago, it is $102,000. In Miami, it is over $200,000 a year.

Is there any doubt in anybody's mind these laws are working when you look at the comparisons? Like I said, this is data from 2002. If you had 2003 data, the numbers would be even more stark.

Consequently, I think we need to call on our Senate colleagues to at least allow us to debate this bill.

We are going to have what is called a cloture vote on the motion to proceed tomorrow. All that is is a parliamentary term here in the Senate as to whether we can proceed to the bill. The other side of the aisle is blocking us from even proceeding to the bill, blocking us from having a reasonable debate on whether we are going to allow women to have access to their OB/GYNs and to their nurse-midwife practitioners.

I have talked to so many people in my State, including patients, doctors, nurses and other people throughout the healthcare system, healthcare industry, and they know it is a crisis. But I have also visited with people from around the country. My State is not the only one that is in this type of a crisis. We are seeing severe problems from Pennsylvania to Mississippi to West Virginia to Washington State to Oregon, and all across the country. State after State after State has a serious problem today. When debating whether to debate this bill—that is all we are doing today, debating whether to debate this bill—we need people to step up to do the right thing. We have a Presidential election coming up this year. I think the candidates need to explain where they are on this bill. Some of them are going to be out running for office and may not be able to vote on this, but they ought to at least take a position on this bill to let people know where they stand. Do they stand with the trial lawyers? Or do they stand with pregnant mothers and unborn babies who need to come into this world?

I think it is clear where we should stand as a body. This body should, in no uncertain terms, stand with protecting the patients of America, with making sure when a woman needs care, whether it is obstetrics or gynecology, that the healthcare provider will be there. Too many of these providers are leaving practice today because of the high cost of liability premiums.

I want to respond to a couple points the other side always brings up. They say the reason is not because of jury verdicts: rather, the reason for these premium differences is because of investments in the stock market the insurance companies made and then they went bad.

The stock market went crazy last year. It went way back up. So if the insurance companies were investing in the stock market, they would be doing fine, and we would not see these types of increases. The insurance companies in California and Colorado were invested in the stock market, just as the insurance companies in New York and Nevada and Illinois and in Florida. Yet there is this difference.

The only thing you can point to for the difference—and these are cities with similar population bases—is the reform laws that have been passed. They all invested in the same stock market. It was not the stock market that caused the premium increases. It was and is runaway jury awards. Our country, unfortunately, has become too litigious. It is not about personal responsibility anymore. Jury awards are just out of control.

People say: Injured patients deserve their just compensation. Well, they get just compensation in Colorado and California. I don't think one could look at California and ask: Do they discriminate against women? That is one of the arguments you hear: Because women don't make as much money, that they are being discriminated against. Are we saying the whole State of California discriminates against women? It is a ludicrous argument.

We have to have reasonable reform. That is what we have put forward today, reasonable reform, so that access to care is there. If access to care is not there, that is when discrimination against women will happen. The OB/GYNs, which is what this bill addresses, are the part of the medical profession that is in crisis the most. Of all of the various specialties, this is the one that is in the most severe crisis. Obviously, it affects women more than it affects men. So in effect, if we are not allowing women to have access to the OB/GYN care, not passing this bill will discriminate against women. People not voting for this will be discriminating against women. That is why we need to pass this legislation.

If you are opposed to the final version of the bill, at least let us go to the bill, debate it, and amend it. But it seems the other side of the aisle, the Democrats in the Senate, don't want to have any part of this debate. The American people need to stand up to that. They need to stand up and make their voices heard, because this debate is too critical. We are having, and we will continue to have, babies not delivered with the kind of care they need. High-risk pregnancies need the absolute finest modern medicine can bring them. If those people are limiting their practices, and OB/GYNs are having to limit the number of deliveries they make, then those high-risk pregnancies will not have the kind of highly qualified medical care they need and deserve.

I could go into a lot of other statistics. I could talk about various anecdotes of people I have met. I would rather just sum up with this: In a day and age where America has the finest health care system in the world, where we have the finest quality, the best doctors, the best research institutions, the best hospitals, and where people from all over the world who can afford it come to America because of the high quality of care, if we want to keep the highest quality of care, we must enact medical liability reform. This bill that is limited down to just affecting the practice of obstetrics and gynecology, we at least must start here. I want to go much further than this, but let's at least start here so American mothers who are having babies or American women who are seeking gynecological care can have access to that type of care.

One last point has to do with the uninsured. I have heard in the Democratic debates talk about the 43 million uninsured. They want to do something about it. The main thing they could do to make healthcare insurance more affordable would be to enact reasonable medical liability reform. That is what we have before us today. So for those who are trying to make this a political issue, let's make it an issue that we actually do something about instead of just talking about it on the campaign trail.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. DOLE. Mr. President, I ask unanimous that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BLACK HISTORY MONTH

Mrs. DOLE. Mr. President, a short time ago Congress debated legislation to make the birthday of Dr. Martin Luther King, Jr., a national holiday. The floor leader for that legislation was a fellow name Bob Dole. And during the final debate, I had the privilege of sitting in the gallery with Coretta Scott King, as we heard Bob deliver these words:

> A nation defines itself in many ways; in the promises it makes and the programs it enacts, the dreams it enshrines, or the doors it slams shut. Thanks to Dr. King, America wrote new laws to strike down old barriers. She built bridges instead of walls . . . there is nothing partisan about justice. It is conservative as the Constitution, as liberal as Lincoln, as radical as Jefferson's sweeping assertion that all of God's creation is equal in His eyes.

I could not agree more.

I am very proud of the rich and vibrant African American Heritage in my home state of North Carolina. Indeed, Mr. President, our history is full of trailblazers, including, Franklin McCain, Joseph McNeil, Ezell Blair, Jr., and David Richmond, known as the Greensboro Four because of their February 1960 sit-in at a Woolworth Store counter in Greensboro, North Carolina. They, along with others, laid the foundation for the America we strive to be, where all people are given an opportunity regardless of the color of their skin.

We have come a long way since then. Today, African Americans and minorities serve in every aspect of business, politics, and the legal profession. They're represented in judgeships throughout the country. John Wesley Winters, Sr., who died just a few weeks ago at the age of 84, was the first black Raleigh, NC, City Council member and one of the first black state senators of the 20th century. He was known as a bridge-builder between the races. And in 1992, my good friend Eva Clayton became the first African American woman to represent North Carolina in Congress. And just last year, Mr. President, I was privileged to support Allyson Duncan, confirmed as the first African American woman to serve on the 4th Circuit Court.

Higher education is another area where strides have been made. North Carolina is home to 11 historically black colleges and universities, including Shaw University in Raleigh, founded in 1865 and the oldest H.B.C.U. in the South. And I was honored to give the commencement address and receive an honorary degree several years ago from Livingstone College, another outstanding historically black college in my hometown of Salisbury, NC, where Dr. Algeania Freeman currently serves as the first woman president. And I am so very proud that my husband Bob is serving as chairman of a $50 million dollar fundraising campaign at Bennett College in Greensboro, one of only two historically black women's colleges in America. In fact, Bennett's president, Dr. Johnetta Cole, currently serves as national chair of the United Way, and in that capacity has worked with HILLARY CLINTON and me on legislation to create a nationwide 2-1-1 line, a one-stop community service referral system.

This month we honor the steadfast commitment of so many people, many of whom gave their lives so that African Americans could have the same opportunities as any other citizen in our Nation.

Today, as the Nation continues to celebrate Black History Month, I salute this heritage and the fine citizens who have contributed to North Carolina's greatness. May we continue their work on behalf of all Americans.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—MOTION TO PROCEED

Mr. FRIST. Mr. President, there have been a number of conversations regarding the gun manufacturers liability bill. Those discussions were about the likelihood of reaching an agreement to allow the Senate to consider that bill under an orderly time agreement. Now it appears that we will be unable to reach an agreement on the bill and there is an objection to even proceeding to that measure.

With that said, I now ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of Calendar No. 363, S. 1805, the Protection of Lawful Commerce In Arms Act.

The PRESIDING OFFICER. Is there objection?

Mr. REID. On behalf of Senator REED of Rhode Island, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. I now withdraw the pending motion.

The PRESIDING OFFICER. The leader has that right.

CLOTURE MOTION

Mr. FRIST. I now move to proceed to Calendar No. 363, S. 1805, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 363, S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Bill Frist, Orrin Hatch, Mitch McConnell, Larry Craig, Jim Talent, John Ensign, John Cornyn, Conrad Burns, Saxby Chambliss, Craig Thomas, Don Nickles, Rick Santorum, Trent Lott, John E. Sununu, Mike Crapo, Lamar Alexander, Wayne Allard.

Mr. FRIST. I ask unanimous consent that the live quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I now withdraw the motion to proceed to S. 1805.

The PRESIDING OFFICER. The Senator has that right. The motion is withdrawn.

ORDER OF BUSINESS

Mr. FRIST. Mr. President, for the information of my colleagues and those watching, we have a scheduled cloture vote on the motion to proceed to the OB/GYN medical liability bill tomorrow afternoon. As I stated earlier, along with many of my colleagues, I hope that cloture will be invoked and that the Senate will be able to consider this bill. If we are prevented from even debating this legislation, it is our hope to take up the bipartisan gun liability bill. Given the earlier objection, it was necessary to file that cloture motion to proceed tonight. So the vote will occur on the gun liability bill on Wednesday of this week.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR JOHN GLENN

Mr. STEVENS. Mr. President, as the days go by, I think it is more and more important to recognize that Senators have friends on both sides of this aisle. One of my great friends is Senator John Glenn and his wife Annie. They have been very important people in my life. I have great memories of times I spent with John Glenn privately.

For instance, I distinctly remember the time John and Annie asked my wife Catherine, my daughter Lilly, and me to go on their boat. It is called the SENIRAM. Few people, other than the occupant of the Chair, would recognize that name, but if you spell it backwards, you will get the point. We had a wonderful day with them. I have had wonderful times throughout the years we have known each other since John and Annie came to the Senate.

Recently, I had the occasion to attend a dinner in his honor. Our distinguished minority leader TOM DASCHLE was the keynote speaker. I think the remarks Senator DASCHLE made about John Glenn and his career were most appropriate and some of the finest I have heard.

I ask unanimous consent that the remarks of the distinguished Democratic leader at the dinner honoring Senator John Glenn, an American hero, on the 100th anniversary of the Wright brothers' first flight, Friday, December 12, 2003, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATE DEMOCRATIC LEADER TOM DASCHLE HONORING SENATOR JOHN GLENN

From all accounts, Wilbur and Orville Wright were both deeply shy. Once, at a big dinner in their honor, the host gave an effusive introduction and then called on Wilbur to make a speech. Poor Wilbur rose to his feet and after a long stammer said, "There must be a mistake. I think you want my brother"—and quickly sat down. The host then called on Orville, who replied, "Wilbur just made the speech." I know the feeling. What in the world do you say when you open for John Travolta and John Glenn?

This is a thrill and an honor. I want to thank Spencer Dickerson, president of the Aero Club of Washington, for inviting me to be a part of this incredible evening. I also want to thank FAA Administrator Marian Blakey, my partner in this warm-up act and a truly outstanding public servant; Admiral Wesley McDonald, chairman of the National Aeronautic Association, sponsors of the Wright Trophy; and Don Koranda, president of NAA. And to any Ohioans who are here, thank you, too. There is something amazing about a state that gives the world Wilbur and Orville Wright, Neil Armstrong and John Glenn.

We are here tonight to pay tribute to a genuine, old-fashioned American hero—a man with whom I was privileged to serve for 12 years in the U.S. Senate and who I am honored, and still a little amazed, to be able to call my friend.

We are also here to thank Annie Glenn. In his memoir, John tells a great story about how hard Annie worked to overcome her lifelong habit of stuttering. When she succeeded, about 20 years ago, she told him, "John, I've wanted to tell you this for years. Pick up your socks"—which makes Annie Glenn possibly the only person on Earth who is not awed by John Glenn. John may have been the one who strapped himself into those rockets, but it was Annie's love, courage, and unshakable faith in him that made John's space missions and virtually everything else he has done possible. Thank you, Annie Glenn.

A few months ago, Linda and I got a sneak preview of the incredible exhibit on the centennial of flight that's now at the Library of Congress. Of all the treasures in that exhibit, what fascinated us most was a letter that you'll find reprinted in tonight's program. It was written in 1908 by Gutzon Borglum, the visionary sculptor who carved Mount Rushmore out of the Black Hills of South Dakota. Linda and I were surprised to learn that, in 1908, Borglum was also president of the Aero Club of America—the forerunner of NAA.

He wrote this letter late on a September night. He was in Washington—still awestruck by something he had witnessed hours earlier. For the first time in his life, he had seen a man fly an airplane. That man was Orville Wright.

This is a small portion of what Borglum wrote: "My dear Ned, Well, hell's popping, the gasoline motor is in the air, and man with outspread wings is astride of it! Orville Wright has broken all previous records. He flew 67 minutes in a 16-mile wind, handled his pair of planes like a chauffeur, and rode the air as deliberately as if he were passing over a solid . . . road. Nothing I have ever seen is comparable in action to this gliding bird, save the ice-boat." He goes on to say, "This is not an experiment. Man has put, safely and forever, his shod heel into the blue heavens, and glides about as if on ice. "Flight," he predicted, "will rub out the boundaries of the world."

Someone said that, in that first flight at Kitty Hawk, the Wright Brothers "flew through the smokescreen of impossibility." It's fitting that John Glenn receive the Wright Brothers Memorial Trophy. And it is especially fitting that he receive it tonight, just days short of the 100th anniversary of the Wright Brothers' first flight—because isn't that what John Glenn has done all his life—fly through "the smokescreen of impossibility" and show us that we can achieve more than we ever imagined?

We all have John Glenn stories we plan to tell our grandchildren. One of mine is from about eight years ago when Linda and I traveled to China with several other Senators and their spouses, including John and Annie. On our flight home, we persuaded John to tell us about the Friendship 7 flight. He told us about the wonder and majesty of space—about the beauty of the light particles that seemed to hang in space like fireflies frozen in place. He told us about the joy he felt when he flew over Perth, Australia at midnight and saw that the entire city had left its lights on to help guide his voyage. He told us about those moments when the world held its breath—when the skin of the spacecraft caught fire from the friction of re-entry and began to peel off in flaming pieces—and those terrible 2½ minutes when he lost all radio contact with the ground.

We all huddled around him, wide-eyed, on that flight. No one moved. No one said a word.

Another story I will tell my grandchildren took place in September 1998. It was just before John left the Senate to begin his last, grueling month of training at NASA for his return to space. The members of the Senate held a dinner for him at the National Air and Space Museum. Not only were John and Annie there, so was John's entire Discovery crew.

Before dinner, John and Annie graciously agreed to pose for pictures with Senators—right next to the Friendship 7 capsule! Now, you may not know this, but U.S. Senators are not exactly famous for their willingness to wait in lines. But that night, we all stood in line and waited—happily—to have our pictures taken with our hero. It's not unusual for Senators to like and admire their colleagues. But John Glenn is that rare Senator who inspires in other Senators feelings of sheer awe.

In his 24 years in the Senate, John's extrodinary knowledge of aviation served America well. Over and over, it enabled him to see essential issues instantly. I saw that ability again on the morning of September 11, 2001.

John and I were in my office in the Capitol when someone told us that a plane had hit the World Trade Center. We turned on the TV just in time to see the second plane hit the tower. In that first, terrible moment, when the whole world seemed stunned and confused, John understood the nature of the horror instantly. His eyes narrowed and he said simply, "Pilots don't fly into buildings."

John's influence in the Senate extended far beyond aviation.

People who've been there say you see the world differently from space. You see how small and fragile our world is, and you are forever changed by that knowledge. That is certainly true of John Glenn. He fought to protect our fragile environment. And no Senator ever worked harder to prevent the spread of weapons of mass destruction, especially nuclear weapons. For that, we owe him our undying gratitude.

One of the most remarkable things about John is that he wears his heroism with such extraordinary modesty. Partly because he'd already had enough fame and tickertape parades before he came to the Senate—but mostly, I suspect, just because of who he is—Senator Glenn never worried about grabbing headlines. He worked quietly and diligently—with Democrats and Republicans—to solve difficult problems. He immersed himself in complicated but important issues—like troop readiness, government ethics and campaign finance reform.

He was willing to take on what he called the "grunt work" of government. He looked at government with the eyes of an engineer and tried to imagine ways it could work better. He used his position on the Government Affairs Committee to fight for efficiency in government. He was the author of the Paperwork Reduction Act and the lead sponsor of laws requiring inspectors general and chief financial officers in all federal agencies.

He used his seat on the Senate Armed Services Committee to keep America's military strong, and to advocate for our men and women in uniform, and for veterans.

He was a very good Senator. He was also a very popular one. In 1974, the year he was elected to the Senate, he carried all 88 counties in Ohio. In 1980, he was re-elected with the largest margin in his state's history. The last time he ran, in 1992, he became the first Ohio Senator ever to win four terms.

In 1985, he responded to a magazine survey of Senators. Next to "favorite book," he wrote, "In election years, the Cuyahoga County voter registration rolls; in all other years, the Bible." Next to "aspirations after the Senate," he wrote, "retire gracefully." Back then, probably not even Annie imagined what he had in mind.

Five centuries ago, Leonardo DaVinci wrote, "Once you have tasted flight, you will forever walk the earth with your eyes turned skyward, for there you have been, and there you will always long to return." Francis Gary Powers, the U2 pilot, described the pull to return to the heavens differently. After this first flight, at the age of 14, he told his father, "Dad, I left my heart up there."

In 1996, at the age of 75, John set yet another speed record by flying his Beechcraft Baron from Dayton, Ohio to Washington, DC in 96 minutes.

In retrospect, we should have known then that something was up.

I was among a group of Senators who went to Florida that day to witness our friend's return to space. Our friend, Senator Stevens, was there, too.

So much had changed in the 36 years since John's Friendship 7 orbit. Yet, some things were the same. Walter Cronkite came out of retirement to cover the Discovery mission. The people of Perth again turned on their lights to guide his voyage. And we all learned once again, because of the extraordinary courage of this man, that we can achieve more than we ever imagined.

Some people think there are two John Glenns: Lt. Colonel John Glenn, the astronaut-hero, and Senator John Glenn. In truth, there is only one John Glenn—the patriot. Love for his country is what motivated John Glenn to risk his life in two wars. It's what kept him in the United States Senate for 24 years and what prompted him, in 1984, to run for President. It is what sent him into space the first time and what sent him back at the age of 77. Love for his country is also why he is working today on a challenge that may be as hard as the putting a man in space was in 1962: teaching young people to understand and respect public service. He believes in his bones what he said when he announced his retirement from the Senate. "Despite all our problems—despite our sometimes inefficient bureaucracies . . . and all of the other problems we love to complain about—this is still the greatest nation in the history of the world, and still a shining beacon of hope and opportunity."

In July 1969, as the crew of the Apollo 11 prepared for lift-off, Esther Goddard was speaking to an AP reporter. She read these words from the diary of her late husband, Robert Goddard, "the father of American rocketry." "When old dreams die, new ones come to take their place. God pity a one-dream man." Tonight, I thank God for giving us John Glenn. By having the courage to live his many dreams, he gives us the courage to live our own. Thank you, John. Thank you, Annie. Godspeed to you both.

THE POLITICIZATION OF THE FOREIGN SERVICE

Mr. LEAHY. Mr. President, I rise today to bring to the Senate's attention a speech given by Ambassador Thomas Pickering in which he addressed some important issues concerning the Foreign Service.

I had the privilege of hearing this speech during an event at the Smithsonian last year, and I know of no one better qualified to talk about the Foreign Service than Ambassador Pickering. In over 41 years in the Foreign Service, Thomas Pickering served as ambassador to a dizzying number of important countries and international organizations, including Russia, India, Israel, Nigeria, and the United Nations. He also happens to speak 5 foreign languages.

In his speech, Ambassador Pickering warns of the increasing politicization of the Foreign Service. He points out that after disastrous experiences in the Civil War and Spanish-American War, the United States military professionalized its officer corps. Today, with the rise of international terrorism and the proliferation of other complex international problems, we should be thinking along the same lines.

However, we seem to be going in the wrong direction. Increasingly, individuals who have done little more than donate to a political campaign are being placed into key positions within the State Department. Ambassador Pickering appropriately points out that certain political appointees have and will continue to play an important role in pursuing U.S. diplomatic efforts overseas. Bringing individuals like Howard Baker and Felix Rohatyn, who possess unique skills, to the State Department is essential.

But the world is becoming more interconnected and more dangerous. International crises no longer confine themselves to remote corners of the world. For example, the outbreak of a deadly disease in Africa is only a plane ride away from the United States. We need seasoned, talented individuals capable of effectively advancing U.S. interests in key positions in Washington and abroad—not individuals whose primary talent is digging into their pockets to donate to a political campaign.

I urge all Senators to heed Ambassador Pickering's address and ask unanimous consent that the entire speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL PORTRAIT GALLERY'S PAUL PECK PRESIDENTIAL AWARD—ACCEPTANCE SPEECH BY AMBASSADOR THOMAS R. PICKERING

Thank you very much for the kind introduction. I am grateful to Strobe Talbott for his very kind remarks. Thank you too for this extremely generous and most unexpected award. I want to extend my warmest congratulations to Diana Walker, my co-recipient tonight, for her great contribution to portraying the presidency. I look forward to doing more television shows together.

I am even more grateful for this award, given my distinguished predecessors in receiving it, one of whom, General Brent Scowcroft, is here tonight, and the high respect I have for the members of the selection committee.

Let me also thank Mr. Peck for his unstinting generosity to the Portrait Gallery, the Presidency and to the pursuit of educational opportunities for disadvantaged Americans, including African Americans and Hispanics and many others. Your willingness to support so generously such worthy and deserving causes is more than admirable. Were I not a recipient of the award tonight, I would say with equal vigor "thank you for doing this for your country and its future." I want too to thank all the cooperating foundations and organizations that made the award and the evening possible.

I would be remiss in my own understanding of reality were I not to say immediately that it has been my family who have been my strongest supporters throughout my career in government. I'm happy to have with me tonight my son Timothy and members of his family, my daughter Margaret and members of her family and most especially my wife Alice. To all of them, but most especially to Alice, my firmest friend and toughest critic through many fascinating assignments, I owe the most, and they too should be receiving the award with me in every sense of the word—they surely deserve it.

I have had the honor of serving every president since Harry Truman, when I worked as a clerk in the U.S. Post Office and for the U.S. Weather Bureau as a summer intern in the Arctic. Since leaving the Foreign Service at the end of 2000, I have also served on a number of official advisory committees to U.S. departments and agencies.

My Foreign Service career was highly rewarding and in some respects, very unusual. I've had the pleasure of serving on all continents except Australia. But then too, I went to university there under the Fulbright program. I also spent three and one-half years in the U.S. Navy and over 41½ in the Foreign Service.

I wallowed in diversity, both ethnic and religious. I had the pleasure of being Ambassador to the world's only Jewish state (Israel); to a Muslim country (Jordan); to the world's largest Hindu state where Buddhism was born and where 150 million are Muslims, which makes it the world's second-largest Muslim state (India); to the largest Orthodox Christian country in the world (Russia); to a predominantly Roman Catholic republic (El Salvador); and to two countries, while still both Christian and Muslim, contain very large populations which practice traditional African religions (Nigeria and Tanzania). It's been a wonderful career, even though my mother often wondered why I kept moving around and couldn't keep a steady job.

Paul Peck is truly right. Public service, and we all serve the President in that regard, is essential for our country's survival and prosperity.

Last year, Mr. Peck encouraged us all to think about change and improvements—about ways to make our service to the Presidency and through the Presidency to all of the people more effective and more valuable.

Tonight, I want to talk about two aspects of that service and provide you some thoughts on improvement.

I do so in the certain knowledge that the Civil Service, the military service and the Foreign Service of the United States have made numerous sacrifices and provided enormous opportunities for us all as citizens. We are lucky that for the size of our population, we have one of the smallest public services in numbers, both at the Federal and State level, when we compare it with other countries around the world.

Also, I see it as one which is generally dedicated, intelligent and hard-working. Indeed, our public found out how essential was our public service when just a few years ago in a budget battle, there were selective shutdowns of activities of the Federal Service and the public uproar was immediate, vigorous and sustained.

However, I must tell you I am troubled by the fact that in our presidential elections there has been an increasing tendency for presidential candidates to run against our public service. It's not just the talk of "clean up the mess in Washington", but that plays a role in it. There have been implications that the public service hasn't been faithful or it has been lazy and self-indulgent, or that it has not met the needs of the people. And the candidate of course will not only throw out the rascals from the opposing party, but go down to Washington and clean up "that mess" for once and for all.

This has hurt the reputation of our career public servants and I am concerned that in another oncoming electoral season, we will see much of the same rhetoric repeated. I hope I am wrong. I will keep my fingers crossed. But on the very off-chance that any candidates are listening tonight, I ask them to consider this issue carefully.

Secondly, I am concerned by the increasing, what I can only call, politicization of our Civil and Foreign Service.

We all know that over the years, Congressional legislation has sought to draw a clear bright line between public service and the elected political leadership. Indeed, that is as it should be.

As a public servant, I have understood the necessity for loyalty to the President and his policies. That too is as it should be. Our system has always provided a remedy if there was conflict or confusion—resignation.

But let me mention that during recent administrations, in the department that I know best, the Department of State, there has been a general replacement in jobs, some well down in the bureaucracy, of career appointments with political appointments.

Let me also note that the plumb book which lists these jobs has grown several fold over the last two decades, yet again another indication of the pressure of politics on the public service.

And then, let me mention something that I perhaps know even more about—Ambassadors.

As an Ambassador who served coming from the Career Service, I appreciate what my colleagues from outside the Career Service have often brought to the job. There have been, and continue to be, outstanding appointments to those jobs. Stu Eizenstat and Howard Baker, and might I add Nancy Kassebaum Baker in Japan, and Felix Rohatyn in

France are but a few fine examples, and there are many others—Max Kampelman and Sol Linowitz among others.

What disturbs me is the large number of such appointments for whom one cannot say they bring special knowledge, background, experience or wisdom to the job. We must be frank that they are there because they are being rewarded in the main for their financial contributions to the winning political party. At a time of war on terrorism that should not be the standard for such service!

The spoils system went out in the 1880s, but this remnant is not one that speaks well of our Presidency or indeed of our needs at a time when we are the undoubted leader of the world community in such a war.

One wag has remarked that the first job that was truly professionalized by popular acclaim was brain surgery. And after disastrous experiences in the Civil and Spanish-American war, we professionalized our Military Officer Corps.

Right now, by tradition more than anything else, about 70% of our Ambassadors are from the Career Service and 30% from the outside. Not too long ago, a distinguished American senator, who has gone on to serve at a high post in the Executive Branch, led the fight for reducing that number to 10%. He was unsuccessful, but I don't believe the project should be abandoned.

Where knowledge, experience and good training can make a difference, America deserves the best. The Career Service is organized to do that, and I would hope that this important improvement, in what I believe is the spirit of Paul Peck's Award, can be picked up and implemented in the future, despite my full understanding of all the difficulties in doing so. And I say that in full knowledge of the fact that the Career Service needs to send its best men and women to this assignment.

For me and for all of my colleagues in the Foreign Service and with all of those with whom I worked in the Civil and Military Service, it was and is always a privilege to serve this country.

Every day was a day of new challenges and new opportunities. I used to tell my staff that the day in which you did not learn something new and important in the service of our country as a day wasted.

You all, as Americans, gave us that opportunity. If I was able to give something back to you in return, then it was for me both a great pleasure and the highest honor.

Thank you most sincerely for your recognition tonight. Because you recognize public service as well as individuals at this occasion, I am pleased as well to tell you that my acceptance of this honor must be on behalf of all of those who have so loyally and faithfully served our country down through the generations.

Thank you very much.

HONORING OUR ARMED FORCES

TRIBUTE TO SPEC JOSHUA L. KNOWLES

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to SPEC Joshua L. Knowles of Sheffield, IA who courageously gave his life for his country in Operation Iraqi Freedom. He is the 10th Iowan to be killed since the start of hostilities in Iraq. My deepest sympathy goes out to his parents, Sandy and Les, and his two sisters, Breanna and Michelle, as they deal with their loss. SPEC Joshua Knowles graduated from Sheffield-Chapin/Meservey-Thornton High School in 1999 where he played football. He enlisted in the Iowa National Guard 1133rd Transportation Company out of Mason City, IA, on February 18, 1999 and served as a motor transport operator. Specialist Knowles was killed on Thursday, February 5, 2004, when the cab of the military cargo truck he was riding in was hit by mortar fire as the convoy passed through Checkpoint 6 at the Baghdad International Airport. He was in the cab with fellow Iowan, SPEC Peter Bieber of Nora Springs, who was also injured in the attack. Specialist Knowles will be honored posthumously for his patriotic service to his country with the Purple Heart as well as the Bronze Star, which is awarded for members of the military who distinguish themselves "by heroic or meritorious achievement or service while engaged in an action against an enemy of the United States". In a press statement, Specialist Knowles' family recalled a shirt that he had sent them from Iraq. The shirt says, "U.S. Soldiers Never Die, They Just Take Cover Until the Next Mission" which they said exemplified his attitude toward military service. We can all be proud of this exceptional Iowan and I know he will be greatly missed by all those who knew him. In giving the ultimate sacrifice for his country, Specialist Knowles showed himself to be a true hero and patriot. I again want to express my sympathy for his family and my gratitude for his courageous service.

CBO COST ESTIMATE ON S. 1072

Mr. INHOFE. Mr President, I ask unanimous consent that a cost estimate prepared by the Congressional Budget Office to accompany Senate Report 108–222, the committee report to S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, be printed in the RECORD. The estimate was not available when the report was filed by the Committee on Environment and Public Works.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1072—Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003

Summary: Assuming appropriation action consistent with the funding levels specified in the bill, and assuming the appropriation of amounts necessary to complete highway and environmental studies and regulations required by the bill, CBO estimates that implementing S. 1072 would cost $172 billion over the 2004–2009 period and about $48 billion after 2009.

CBO estimates that enacting S. 1072 would reduce direct spending by about $1.7 billion over the 2004–2009 period and by about $3.4 billion over the 2004–2013 period. Finally, the Joint Committee on Taxation (JCT) estimates that enacting S. 1072 would reduce revenue collections by $52 million over the 2004–2009 period and by $130 million over the 2004–2013 period.

S. 1072 would extend the authority for the Federal-Aid Highway program. For this program, the bill would provide about $218 billion of contract authority over the 2004–2009 period, and it would authorize the appropriation of about $2.6 billion over the same period. S. 1072 also would require the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) to complete certain studies and regulations concerning highway construction and air quality.

Consistent with the Balanced Budget and Emergency Deficit Control Act, CBO assumes for this estimate that the contract authority for the Federal-Aid Highway program would continue at the same rate provided immediately before the program would expire at the end of 2009. Hence, this estimate includes an additional $4.9 billion in contract authority in each year over the 2010–2013 period.

S. 1072 would make several changes to current law that would affect direct spending. The legislation would end funding for DOT's Minimum Guarantee program, increase funding for the Emergency Relief program, provide DOT the authority to spend certain fees, and provide DOT the authority to share monetary judgments pertaining to fraud in the federal highway and transit programs with state and local agencies.

JCT estimates that enacting S. 1072 would result in lower revenue collections by expanding the State Infrastructure Banks program and by changing the eligibility requirements of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. Under current law, five states can use grants from the Federal-Aid Highway program to fund a state infrastructure bank. S. 1072 would extend that authority to all states. S. 1072 would change the TIFIA program by making smaller projects eligible for credit assistance. Both provisions would decrease revenue collections by increasing the use of tax-exempt bonds.

S. 1072 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state or local governments would result from complying with conditions of federal assistance. In general, the bill would benefit states by reauthorizing federal highway programs for the next six years.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1072 is shown in Table 1. The costs of this legislation fall within budget function 400 (transportation).

Basis of estimate: For this estimate, CBO assumes that S. 1072 will be enacted this spring. We also assume appropriation action consistent with the authorization and contract authority levels in the bill. Estimates of outlays are based on historical spending patterns of the Federal-Aid Highway program. CBO estimates that implementing S. 1072 would cost almost $172 billion over the 2004–2009 period and that enacting S. 1072 would lower direct spending by about $3.4 billion over the 2004–2013 period. JCT estimates that enacting S. 1072 would lower revenues by $130 million over the 2004–2013 period.

TABLE 1.—SUMMARY OF BUDGETARY EFFECTS OF S. 1072

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level [1]	392	417	431	440	450	464
Estimated Outlays	4,192	25,005	32,571	35,645	37,273	37,765
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	6,232	5,523	6,806	6,404	6,503	5,098
Estimated Outlays	−32	−161	−314	−376	−400	−415
CHANGES IN REVENUES						
Estimated Revenues [2]	−1	−3	−7	−10	−14	−17

[1] Under current law, most budget authority for the Federal-Aid Highway program is provided as contract authority, a mandatory form of budget authority. Most outlays that result from the contract authority, however, are subject to obligation limitations contained in appropriation acts and are therefore discretionary. S. 1072 would provide contract authority for the Federal-Aid Highway program. CBO assumes appropriation action will continue to limit outlays from the portions of the Federal-Aid Highway program that are subject to limitations under current law as well as new components of the program that would be authorized by S. 1072.

[2] Estimate provided by Joint Committee on Taxation.

Spending subject to appropriation

Over the 2004–2009 period, S. 1072 would provide about $218 billion of contract authority and authorize the appropriation of about $2.6 billion for the Federal-Aid Highway program. The bill also would require DOT and EPA to complete certain studies and regulations. Assuming appropriation action consistent with the contract authority and authorizations specified in the bill, and assuming the appropriation of amounts necessary to cover the studies and regulations, CBO estimates that implementing S. 1072 would cost almost $172 billion over the 2004–2009 period.

Under current law, most spending from the Federal-Aid Highway program is considered discretionary because it is controlled by annual limitations on obligations set in appropriations acts. For this estimate, CBO assumes appropriation action will continue to limit outlays from the Federal-Aid Highway program.

S. 1072 would require DOT and EPA to complete certain studies and regulations concerning highway construction and air quality. The bill would require DOT to assess the condition of the surface transportation system and develop a plan to ensure this system will continue to meet the nation's transportation needs, and it would require EPA to improve the methodology for measuring air particles. The bill also would require DOT to issue regulations to improve worker injury rates and traffic flow during road construction, and it would require EPA to issue regulations for the management of air quality data during disasters. Based on information from DOT and EPA, CBO estimates that completing these studies and regulations would cost $7 million over the 2004–2009 period, subject to appropriation of the necessary amounts.

Direct spending and revenues

The legislation would end funding for DOT's Minimum Guarantee program, increase funding for the Emergency Relief program, provide the authority to spend certain fees, and provide the authority to share certain monetary judgments. CBO estimates these changes would lower direct spending by about $3.4 billion over the 2004–2013 period and reduce revenues by $130 million over the same period. The bill's changes in direct spending and revenues are detailed in Table 2.

Minimum Guarantee Program. Of the total amount of contract authority for the Minimum Guarantee program, current law exempts $266 million of contract authority for fiscal year 2004 from any limitation on obligations. Consistent with the Balanced Budget and Emergency Deficit Control Act, CBO assumes this program continues at the same rate through fiscal year 2004 and in each of the following years. Under this baseline assumption, $639 million of contract authority for the Minimum Guarantee program is exempt from annual limits on obligations set in appropriation acts, and the resulting outlays are therefore considered mandatory. S. 1072 would eliminate funding for this program. CBO assumes that eliminating funding for the Minimum Guarantee program would lower direct spending by $5.2 billion over the 2004–2013 period relative to the current baseline.

Emergency Relief Program. Current law provides permanent authority for the Emergency Relief program and limits the program's obligations to $100 million each year. Because appropriation acts do not control spending from the program, its outlays are considered mandatory. S. 1072 would raise the limit on obligations to $300 million each year. CBO estimates that this provision would increase direct spending by $1.7 billion over the 2004–2013 period.

TABLE 2.—ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES FOR S. 1072

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
DIRECT SPENDING										
Baseline Spending for the Federal-Aid Highway Program:										
Estimated Budget Authority	26,264	30,633	30,633	30,633	30,633	30,633	30,633	30,633	30,633	30,633
Estimated Outlays	1,145	1,056	955	869	794	775	764	757	751	748
Proposed Changes:										
Federal-Aid Highway Program Components Subject to Obligation Limitations:										
Estimated Budget Authority	6,352	5,953	7,236	6,834	6,933	5,528	5,528	5,528	5,528	5,528
Estimated Outlays	0	0	0	0	0	0	0	0	0	0
Minimum Guarantee:										
Estimated Budget Authority	−320	−639	−639	−639	−639	−639	−639	−639	−639	−639
Estimated Outlays	−86	−308	−495	−569	−601	−620	−633	−639	−639	−639
Emergency Relief:										
Estimated Budget Authority	200	200	200	200	200	200	200	200	200	200
Estimated Outlays	54	138	172	184	192	196	200	200	200	200
Spending of Fees:										
Estimated Budget Authority	0	5	5	5	5	5	5	5	5	5
Estimated Outlays	0	5	5	5	5	5	5	5	5	5
Spending of Judgments:										
Estimated Budget Authority	0	4	4	4	4	4	4	4	4	4
Estimated Outlays	0	4	4	4	4	4	4	4	4	4
Total Changes:										
Estimated Budget Authority	6,232	5,523	6,806	6,404	6,503	5,098	5,098	5,098	5,098	5,098
Estimated Outlays	−32	−161	−314	−376	−400	−415	−424	−430	−430	−430
Direct Spending Under S. 1072 for the Federal-Aid Highway Program:										
Estimated Budget Authority	32,496	36,156	37,439	37,037	37,136	35,731	35,731	35,731	35,731	35,731
Estimated Outlays	1,113	895	641	493	394	360	340	327	321	318
CHANGES IN REVENUES										
Estimated Revenues [1]	−1	−3	−7	−10	−14	−17	−19	−20	−20	−20

[1] Estimate provided by Joint Committee on Taxation.

Spending of Certain Fees. Under current law, DOT collects fees from participants in classes held by the National Highway Institute and participants in the TIFIA program. These fees cover a portion of the administrative costs of the classes and the TIFIA program. S. 1072 would provide DOT the authority to spend the fees without further appropriation. Based on information from DOT, CBO estimates the department will collect—beginning in 2005—$4 million each year from participants in classes held by the National Highway Institute and $1 million each year from participants in the TIFIA program.

CBO estimates that this provision would increase direct spending by about $45 million over the 2005–2013 period.

Monetary Judgments. S. 1072 would provide DOT the authority to share monetary judgments pertaining to fraud in the federal highway and transit programs with state and local agencies. This provision would apply to judgments in criminal prosecutions as well as civil judgments. Under current law, monetary judgments that result from criminal prosecutions are deposited in the Crime Victims Fund and later spent. Civil judgments, however, are not spent under current law. The federal government received an average of $18 million each year in monetary judgments from civil cases over the 1999–2003 period. Because the federal government pays most costs associated with fraud investigations and generally requires states to provide only 20 percent of the total cost for most surface transportation projects, we expect that DOT would share 20 percent of such judgments with the states. Hence, CBO estimates that this provision would increase direct spending by $4 million each year, beginning in 2005, and by $36 million over the 2005–2013 period.

Revenues. Enacting S. 1072 would lower revenue collections by expanding the State Infrastructure Banks (SIBS) and the TIFIA programs. JCT estimates that enhancing both provisions would lower revenues by $52 million over the 2004–2009 period and $130 million over the 2004–2013 period.

Under current law, five states can use grants from the Federal-Aid Highway program to fund a state infrastructure bank. States use infrastructure banks to finance transportation projects by providing loans to local governments or repaying bonds. S. 1072 would extend that authority to all states. JCT estimates that this provision would increase the use of tax-exempt bonds and therefore decrease federal revenues by $73 million over the 2004–2013 period.

For a project to receive credit assistance under the TIFIA program, current law requires the projects' total cost to equal or exceed the lower of the following two amounts: $100 million, or 50 percent of the states' grants from certain highway programs in the previous fiscal year. S. 1072 would change those two amounts to $50 million and 20 percent of the states' highway grants. Credit assistance under the TIFIA program can cover a portion of the remaining cost with tax-exempt bonds. JCT estimates that enacting S. 1072 would increase the number of projects that receive credit assistance under TIFIA and, therefore, increase the use of tax-exempt bonds, reducing revenue collections by $57 million over the 2004–2013 period.

Intergovernmental and private-sector impact: S. 1072 contains no intergovernmental or private-sector mandates as defined in UMRA. Any additional costs to state or local governments to comply with grant conditions would be incurred voluntarily. In general, the bill would benefit states by reauthorizing federal highway programs for the next six years.

Subtitle E, Environmental Planning and Review, would clarify and expand existing conditions of aid by requiring Metropolitan Planning Organizations (MPOs) and states to consider additional environmental factors during the planning process and to update long-range transportation plans more frequently. MPOs and states have to comply with various transportation planning requirements in order to receive federal assistance. According to MPO representatives, the provisions of the bill may require smaller organizations to hire additional staff, however, CBO does not expect those costs to be significant. Furthermore, states and MPOs receive various forms of funding under title 23 and title 49 that would cover planning-related expenses. S. 1072 would increase the amount of title 23 funds set aside for MPOs.

States would benefit from other provisions of the bill, including funding to establish or update systems to report incidents more quickly, to develop intermodal passenger facilities, and to encourage the collection of tolls on certain interstate highways and high-occupancy-vehicle lanes.

Estimate prepared by: Federal Spending: Rachel Milberg and Deborah Reis. Federal Revenues: Mark Booth. Impact on State, Local, and Tribal Governments: Gregory Waring. Impact on the Private Sector: Jean Talarico and Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

ANNOUNCING THE BIRTH OF PRESTON CHARLES LUGAR

Mr. LUGAR. Mr. President, during this past recess of the Senate, my wife, Charlene, and I received the joyous news that Preston Charles Lugar, the newborn son and first child of our son, John Hoereth Lugar and his wife, Kelly Smith Lugar, had been born on February 20, 2004, at Sibley Hospital, in Washington, DC. Preston was a healthy 8 pounds, three and eight/tenths ounces at birth. Kelly's parents, Robert Lee Smith and Renee' Camille Smith, Charlene, and I were present to greet our new grandson and his parents as they returned to their Arlington, VA, residence on February 22.

Kelly and John were married on November 5, 2001, in the Washington Cathedral with Dr. Lloyd Ogilvie, former Chaplain of the Senate, presiding. They and their families and guests had enjoyed a rehearsal dinner in the Mansfield room of the Capitol on the night before the wedding. Kelly has worked with many of our colleagues during her current service to the administration of President George Bush and our former colleague, Secretary of Energy, Spencer Abraham, as Assistant Under Secretary with responsibilities for Congressional Relations. A graduate of the University of Texas, she was once a member of the staff of Congressman RALPH HALL of Texas. John Lugar came with us to Washington, along with his three brothers, 27 years ago. He graduated from Langley High School in McLean, VA, Indiana University, and received his Masters of Business Administration degree from Arizona State University. He has been active in the private equity industry in recent years.

We know that you will understand our excitement and our gratitude that they and we have been given divine blessing and responsibility for a glorious new chapter in our lives.

ADDITIONAL STATEMENTS

THE STATE OF PUBLIC EDUCATION

• Mr. INOUYE. Mr. President, the Hawaii State Legislature took a historic step on January 28, 2004, and invited education Superintendent Patricia Hamamoto to address a joint session of the house and senate, underscoring the priority public education will be accorded during their legislative session.

As a teacher first, then principal and now superintendent, her words were progressive, and at times, provocative. She was honest about the system's shortcomings, clear on the improvements that need to be made, and focused on increasing student achievement by enhancing and supporting the relationship between teacher and student.

Hawaii Superintendent Hamamoto's words are worthy of both local action and national consideration. I ask that the full text of her statement be printed in the RECORD.

The statement follows.

SUPERINTENDENT PATRICIA HAMAMOTO

THE STATE OF PUBLIC EDUCATION

JANUARY 28, 2004

President Bunda, Speaker Say, members of the Legislature, Lieutenant Governor Aiona, Congressman Abercrombie, distinguished guests from our business, labor, military and education communities, fellow citizens of Hawai'i, good morning.

My name is Pat Hamamoto and I am a teacher, a principal, and an educator. I believe teaching is one of our greatest callings, and I spent 12 happy and productive years teaching at Ilima Intermediate, Highlands Intermediate and Pearl City High School.

As a classroom teacher, I was often frustrated with the DOE bureaucracy. My 7th graders at Ilima struggled with math. I wanted to make math "real" by relating it to something they cared about, namely, money. So I set up a little in-class economics lesson. When my students turned in work that was acceptable, they got tokens they could use to buy classroom supplies like pencils, rulers and notebooks. I'll tell you—the lesson worked. The students saw the connection between math and money and buying things, and they did enough good work to empty out my supply closet. Now technically, I was supposed to just give out those supplies, no strings attached. So before I embarked on this program, I asked my principal for permission. He said, "Don't tell me! If I don't know, I can't tell you no. Just do it." And so I learned to work around the system. But teachers shouldn't have to work around a system; the system should work for them.

As principal of McKinley High School, I thought things would get easier within the system. When we were renovating McKinley's historic administration building, the whole campus was dug up to put in new wiring. Since the trenches were dug anyway, I thought it would be a perfect time to put in conduit pipes to wire our campus for computer technology. I was told no. The reason? It wasn't on the blueprints. Finally, in frustration, I called the head of the Department of Accounting & General Services, and asked for help. And he helped. McKinley's students now have a school fully wired for fiber optics. But principals shouldn't have to work around a system or use personal connections; the system should work for them.

As Superintendent of Schools, I recognize that a lot of people consider me, and the people who work with me in the DOE offices nearby, to be symbolic of the problem and unwilling to change. Nothing could be further from the truth. We have been changing this bureaucracy since the day I was named Superintendent two years ago. Before I talk about how we have changed and will continue to change, let me talk for a moment about something that hasn't changed—our principals, teachers and students who represent the best of what we are.

Our teachers work long hours, and pay for classroom supplies out of their own pockets. Our principals are dedicated to "finding a way around the system" to make their schools rich learning environments. Our students are excellent scholars, future scientists, inventors and CEOs, future legislators and perhaps a Governor or two. They have come from across the state to be here this morning, to remind us of why we are here, and why public education deserves every ounce of attention and support we can give it. Principals, teachers, and students of Hawaii's public school system, will you please rise and receive the acknowledgement you deserve!

Despite the many achievements of our public education system, I come before you today to report that Hawaii's public education is simply not working as it should. It is, in fact, obsolete. And in my view, this is the single biggest problem we face as a state. Why? Because we are not properly preparing Hawaii's citizens of the future, our workforce of the future, our business and civic leaders of the future.

Too many of our teenagers fail basic eighth grade English and math tests. They cannot qualify for journeyman apprenticeships in the building trades. They have little hope of decent-paying jobs that will allow them to raise and care for their families. We are failing them, the next generation. And that is not acceptable. I am not here to defend the status quo. I am here to tell you we must all work together, to transform public education in these Islands we call home.

I feel very fortunate to be standing here today because I have never seen so much focus on public education in the news media, on the fifth floor of this building and in these legislative chambers. That attention is an opportunity for all of us. It shows that the leaders in this state want the best possible education for the boys and girls of these islands. It shouts loud and clear that the opportunity for change is upon us, and we must embrace it!

In everything we do from this day forward as we go about the business of "reinventing" our education system, we need to focus not on school boards or superintendents or labor unions, not on Republicans or Democrats, but on the 184,000 students in our charge. The question isn't who is right, but what is right. I ask you to listen this morning with open minds and open hearts, so that collectively we can make informed decisions on what is best for our children.

Yes, the system of education governance is important. But it is a political decision, to be made by you. So I won't spend any of my time debating that issue. I will tell you that I believe education reform in Hawai'i is only going to happen at the most basic level—at the school and in the classroom. I am opposed to additional Boards of Education that add more layers of bureaucracy between our state school board and the schools. More school boards will not improve student achievement. I will forever champion the most direct and unfettered route from that state governing board to that individual school and ultimately the child in the classroom.

I couldn't agree more with Consultant William Ouchi's conclusion from his book, "Making Schools Work", page 17, which reads "If you focus only on decentralization, you'll get a decentralized district, but with low student achievement." That is, obviously, not our goal!

Differences over school board structure have received a lot of media and community attention, but it's encouraging to me that there is consensus on so many issues that will make more of a difference in the classroom.

Just look at areas where we already seem to be on the same page:

One: Empowering principals and school communities by providing more lump-sum funding directly to the schools and giving them the authority and the flexibility to decide how school funds are spent.

Two: Adopting the "weighted student formula" funding plan. Hawai'i is known for equity in public education. Our statewide funding system has provided that. Keiki in the poorest communities are guaranteed the same level of resources as those in wealthy neighborhoods. That's not true in other states, where local property taxes finance education. Hawai'i should be proud of having equalized resources at the school level. But not all students are created equal. Some have physical or psychological needs that require special education. Others speak no English, come from broken families or live with foster parents, and go home to drugs and drug users. The "Weighted Student Formula" plan allocates money based on the unique needs of each student. That funding follows that student wherever he or she goes to school, and equalizes opportunity at the student level. I applaud everyone, from the Board, the Legislature, and the Governor's CARE group, for their general agreement to adopt this plan. It is the right thing to do, and I hope we do it this year!

Three: Giving principals more training in finance and administration so that they can, in fact, become true CEO-educators on their own campuses. The Board of Education has now made this a priority for DOE implementation.

Four: Providing parents a choice to send their children to any public school that has room for them. Along with that choice comes the responsibility to get your child to and from school safely. Therefore, I believe in the long run, most parents will go to the quality schools with quality programs in their neighborhoods precisely because they are in their neighborhoods, easy to get to, and part of the fabric of their community. A logical extension of that belief is that parents will do what they can to make their own neighborhood schools better.

The new Board of Education, its leadership and members who sit behind me on this dais, are to be commended for the many hours of unselfish service they give to Hawaii's children. They have indicated by their words and their actions that they are committed to reinventing Hawaii's Public Education System. This is an endeavor that must be undertaken jointly by the Board, which sets policy, and by the Superintendent and her team, who implement that policy. I am invigorated by the leadership and courage I have seen coming from this Board, and I look forward to working together in this challenging and noble pursuit.

So, the Board and the Department are calling for help as we reinvent our schools.

First: We must empower schools and principals in the way I spoke of earlier, and accountability must go with the power. That means requiring principals and teachers to make sure that students meet standards. For example, by the end of Grade 3, every student must read.

Second: Parents must know how their child is doing. We will give parents and children user-friendly feedback—report cards that parents and students can understand easily. Parents are responsible to get their kids to school ready to learn, and students need to be responsible for their own learning.

Third: We will overhaul SCBM—School Community-Based Management. In its current form, it simply doesn't work the way the framers of this policy had originally intended and that was to improve student achievement. Therefore, as we empower individual schools, we must arm School-Community Councils with shared decision-making power, and give them meaningful responsibilities over spending, and through weighted student funding, insure student achievement. This will mean training participants to make these important choices and then trusting them to do the right thing. A nameless worker in an office in Honolulu should not be telling a principal in Honoka'a how to best spend his or her school's budget. Therefore, I envision a Board of Directors for each school, much like the models we see in the business world, in churches, or at our private schools. This Board would be made up of school and community members, elected by the parents, staff, teachers, principals, and even students in the older grades. They would have two main responsibilities: develop their academic plan for success which will get the educational results they desire for their children and decide how best to spend their own school's budgets! That, my friends, is local school governance at the most basic and important level—every school, with the parents, principals, teachers, staff and students making their own decisions!

Fourth: We expect quality, and we need to pay for performance. Principals should be put on performance contracts so we can reward the top performers with incentives, pay raises, time off, paid training or sabbaticals, and move non-performers to another line of work. Our professionals need to know that hard work and success pay off. We must do this while respecting collective bargaining and in cooperation with our partners in organized labor.

Fifth: As we empower principals, we need to have them on the job for 12 months and pay them for it. CEOs in private business don't work 10-month years. Every sector of our society operates on a year-round basis. If business, government, tourism, transportation, and utilities do it, then principals, as CEOs of their schools, need to be on the job year round. Teachers should be treated similarly and have a financial incentive for professional development. Teachers should be put on 11-month contracts—10 months of teaching, plus an additional month for 20 days of paid training.

Sixth: In order to make these ideas work, we need a common public school calendar. Our current calendar, which has long summer breaks, reflects a different age when parents needed their children free to harvest the crops and support the family. But we're in the technology and information age now. A common year-round school calendar would include more frequent breaks and vacation time for families and much-needed opportunities to train teachers so that they may serve your children better. And, it's more efficient.

Seventh and most important: If we are to truly reinvent our system and make deep structural changes, it is time to unshackle the DOE from other state departments that have so much control over the quality of life in our schools in the following ways:

In budgeting: Principals can never be sure how much appropriated money will be released for their use and when it comes, it comes too late. It's almost impossible to plan for educational excellence that way. We envision a law that requires that the Department of Budget and Finance release at least 80% of a fiscal year's appropriation to the schools, once that law is passed and signed by the governor, and early enough for school councils to have the time to plan.

In the area of hiring: If the State Department of Human Resources Development doesn't have a specific job description in its civil service system that meets our needs, we cannot hire for that job, even if we have identified the need and have the money to do so. That makes no sense whatsoever, and it's wrong. We want the authority and resources to set up our own employment system to meet the unique needs of education. The State Judiciary can do it now. Why not the Department of Education?

With regard to construction and repairs: The current process for school construction, repair and maintenance is obsolete—just like the toilets, windows and doors in so many public schools. The system, if you call something that dysfunctional a "system", makes our kids wait too long for decent basic facilities. We are at the mercy of the Department of Accounting & General Services and Budget & Finance for capital improvement projects and to repair bathrooms. That's not right. Give us both the money and the authority to do the capital projects, and the repair and maintenance we know we need for better, safer and more efficient campuses.

Finally, a word about centralized services: The DOE spends 1.7 billion tax dollars each year and we need to be managed. If teachers are to be free to teach, and principals free to lead that teaching, a lot of support work has to be done by somebody—bus routes, custodial service, school lunch programs, textbook purchases, compliance with the law and union contracts. Services like this do lend themselves to the efficiency of centralization. Schools will always need a central administration to take care of these necessities, or else the educators on campus will have to take time away to do it. Our pledge to you is that we will continue to aggressively look for ways of managing our needs cost-effectively and responsibly.

The CARE committee's report rightly stated: "So long as responsibility is diffused, no one can be held accountable." That's true. Hold me accountable and expect results.

But first, you must give me the tools and the space to do the job. And you must give the Board the authority it needs to do its job as well. While we need the help of the Legislature and Governor Lingle and her Administration to empower the schools so they can prepare our children for success, we also need to be able to do the job without interference or being told what our job is and how to do our job. Don't tie our hands!

Now let's talk about what these changes I've proposed could mean for the future. I see greater involvement in our public school system by every sector of our economy. Not every child is suited for or wants to attend college. We could benefit greatly from smaller schools within schools dedicated to teaching our young people trades and professions they can pursue after graduation. I invite our partners in organized labor unions, with their fine apprenticeship programs, to expand their role in preparing our youth at the high school level. I invite our business and professional communities to allow us to place more students in their businesses, to be "learning labs" for the future.

The private school system in the state can help us, too. Our gifted and talented teachers, the finest we have, would love to have the opportunity to exchange ideas with some of your finest minds. I know there are other partnerships toward which we could work.

We are already partnering in several ways with one of the most valuable and influential educational organizations in our state . . . The Kamehameha Schools. Our State Department of Education is proud of our own Hawaiian Language Immersion Program—the Kula Kaiapuni, along with the Aha Punana Leo and the many Hawaiian Immersion Charter schools. These schools are known around the world as the model for indigenous education. A partnership between Kamehameha Schools, Aha Punana Leo and the DOE in sustaining this program seems a natural extension to improve this important and unique aspect of life in Hawai'i.

And think for a moment. In every one of the instances I just mentioned, when you partner with the Department of Education, you free up resources and funding that can go to those who are truly the most needy in our system which allows for the flexibility for us to do our job. I ask you as you leave here to think about how you can support your neighborhood public school.

I said at the beginning of my remarks that public education is the concern of all of us; that one person cannot find all the solutions to all our problems. Therefore I ask every one of you here today, and every one of you listening from your homes or your places of work, to link arms with us, to help us along the road of change to our destiny of a free, first-class public education for every child of Hawai'i. I am announcing today that on March 27, 2004, less than two months from now, the Board of Education and the Superintendent will convene the first-ever statewide Education Summit to be held here in Honolulu. It will consist of representatives from every walk of life, from business and labor, from public and private sectors, from the early education/pre-school community, the University System and from our distinguished private schools. I invite representatives from the Hawaiian Community to join us in this effort. I invite teachers, parents, principals, students, graduates, members of our military community, whose children attend our public schools. We will come together, we will come with our own ideas and we will come prepared to listen to others' ideas. And we—we will collectively decide what we need to do to reinvent our public school system.

Let me conclude by saying the initiatives I've proposed here, and the ones that will come out of the Education Summit in March, will require new thinking, courage, a willingness to take risk, and it will require change in the entire government system, not just the Department of Education. I challenge you to stand with me, to take the risk, to embrace the change that is coming our way, and above all, to live up to our obligation to the young people of our islands. We CAN do it . . . and WE WILL!

Thank you and aloha.●

LOCAL LAW ENFORCEMENT ACT OF 2003

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In January 1999, Frank Breton, age 47, was convicted of hate crime assault for assaulting his neighbor in March because he believed the man was gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

TRIBUTE TO DUANE HALVERSON

● Mr. GRASSLEY. Mr. President, is my great honor and pleasure to be acquainted with Duane Halverson. In his 33-year career with Land O'Lakes, he has helped sustain agriculture, independent producers, and local economies through his dedication and commitment to rural America and the cooperative way of doing business.

Through his leadership, farmers across America now control a powerhouse supplier of agricultural inputs—feed, seed, crop nutrients, and protection products as well as state-of-the art technical advice and expertise.

Duane learned his love of agriculture and the people who work in it from growing up on a family farm near Eagle Grove, IA. Like most farm kids, Duane was active in 4-H and FFA. He earned a bushel full of ribbons from showing pigs and calves, and his 4-H projects focused on helping improve his dad's hog operation.

Through 4-H and school, Duane also began honing his leadership skills. He was elected president of the Webster County Boys' 4-H Clubs, and during his senior year at Eagle Grove High School he was chosen Mr. Future Business Executive of 1963 by the Future Business Leaders of America.

It was in High school that he met his future wife Mary Voigt. They now have two sons, Christian and Nicholas, and grandson, Jon.

After high school, he headed to Iowa State University where he earned his bachelor's and master's degrees in agricultural economics.

In 1970, Duane was hired by Land O'Lakes as a corporate planner. It was there where his illustrious career began. In 1978, he was named vice president of the petroleum division—the youngest vice president in the company's history. He rose through the ranks, heading up feed, seed, agronomy, international development and member services. By 1993, he was executive vice president and managing Land O'Lakes combined ag. services and dairy foods businesses. During his 5 years at the helm, total sales of Land O'Lakes doubled.

By the time he retired in December last year, Duane had helped build one of the most dynamic cooperative business systems in the world.

Duane has dedicated his life and his career to the agriculture industry. His legacy is a strong ag-supply cooperative system owned and controlled by those who do business with Land O'Lakes. Through his leadership, America will continue to be the bread basket of the world.

All of this is why it has been an honor for me to share his accomplishments today. We thank Duane Halverson. He deserves it.•

RECOGNITION OF ISIDORE NEWMAN SCHOOL

• Ms. LANDRIEU. Mr. President, I am honored to recognize Isidore Newman School as it celebrates 100 years of educating the children of New Orleans.

When the school opened its doors on October 3, 1904, it was in a class by itself. Then called Isidore Newman Manual Training School, it adopted a philosophy, in vogue at the time, that teaching children skills such as sewing and woodworking would enhance their minds. It was the only school of its kind in New Orleans. On Newman's opening day, the principal, James Edwin Addicott, explained the little-understood teaching concept to The New Orleans Times-Democrat: "The manual training school does not attempt to teach any particular art or trade. What it does attempt is to educate the hand as an invaluable and necessary aid in the development of the brain."

The school was unique for another reason: its unusual assortment of pupils. On that historic first day, the young Mr. Addicott stood at the doors of his brandnew school and waited for 102 children to arrive from a Jewish orphanage a few blocks away. It was for them that Isidore Newman, a German-Jewish, rags-to-riches immigrant, had endowed the school. But Mr. Addicott also waited for 23 children from private homes, Jewish and non-Jewish. For Mr. Newman had specified that this school be open to all children, regardless of religion.

The school's reputation for academic excellence and top-notch facilities spread, and within a few years, children from private homes outnumbered those from the orphanage. Gathered together in this unique environment—for New Orleans society was quite segregated at the time—the children did just what the founders dreamed they would do: they got along. The school became a haven of inclusiveness, and friendships formed on the playground lasted a lifetime.

By the 1930s, Newman had become a college preparatory school, no longer offering courses in the manual arts. By the 1940s, the orphanage had closed. But Newman continued to be the most religiously mixed prep school in the city.

Newman's first century has been filled with triumphs, tragedies, and lots of laughs. The school has always felt like a large, extended family, where the development of the individual and the individual's devotion to the whole are stressed equally. Newman instills in its students the value of service to one's community, while at the same time encouraging the personal growth, intellectual and otherwise, of each child. The results have been remarkable. In 1985, Newman was recognized as 1 of 281 exemplary schools in the United States by the U.S. Secretary of Education. It was one of only seventeen private, nonsectarian schools chosen. And Newman has been a model of diversity. In 1968, Newman became the first private, nonparochial school in New Orleans to desegregate.

Today, Newman is an accredited, independent, coeducational school serving more than 1,100 students from prekindergarten through 12th grade. The school's record of academic excellence is on a par with the best prep schools in the Nation. Its graduates have gone on to the finest colleges and universities. They have presided over Federal courts. They counsel Presidents. They write bestsellers. They are Rhodes scholars. They play professional sports. They run large media conglomerates and Fortune 500 companies, and they have been generous, important philanthropists and civic leaders in New Orleans and beyond.

I congratulate the school on reaching this important milestone, and I wish Newman all the best for another century of excellence.•

TRIBUTE TO PAUL LAURENCE DUNBAR HIGH SCHOOL VARSITY CHEERLEADING SQUAD

• Mr. BUNNING. Mr. President, I rise today in the Senate to pay tribute to the Paul Laurence Dunbar High School Varsity Cheerleading Squad from Lexington, KY. On February 8, the Paul Laurence Dunbar High School Varsity Cheerleading Squad won the Universal Cheerleading Association's National Championship in Orlando, FL.

For the young women on this squad this is not just a trophy, it is an affirmation that with hard work and determination, anything is possible. To accomplish this goal the members not only have to juggle long practices and games, but they continue to achieve academic excellence. Not only are these young women excellent athletes and students but they pride themselves in giving back to their community for all the support they have received by doing community service, fundraising, and school public relations. The citizens of Lexington, KY, are fortunate to have the 2004 National Champions living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I am very proud of the accomplishments these young women have made. I would like to congratulate the members of the Paul Laurence Dunbar High School Varsity Cheerleading Squad for their success. But also, I want to congratulate their peers, coaches, teachers, administrators, and parents for the support and sacrifices they've made to help the Paul Laurence Dunbar High School Varsity Cheerleading Squad make their dreams a reality.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, a treaty and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

Under authority of the order of the Senate of February 12, 2004, the Secretary of the Senate, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 523. An act to make technical corrections to law relating to Native Americans, and for other purposes.

H.R. 743. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

Under the authority of the order of February 12, 2004, the enrolled bills were signed by the President Pro Tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2095. A bill to enhance energy conservation and research and development and to provide for security and diversity in the energy supply for the American people.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 23, 2004, she had presented to the President of the United States the following enrolled bill:

S. 523. An act to make technical corrections to law relating to Native Americans, and for other purposes.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of February 12, 2004, the following reports of committees were submitted on February 18, 2004:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 741. A bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes (Rept. No. 108–226).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 2096. A bill to promote a free press and open media through the National Endowment for Democracy and for other purposes; to the Committee on Foreign Relations.

By Mr. INOUYE:

S. 2097. A bill to establish formally the United States Military Cancer Institute, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE:

S. 2098. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a federally-qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

By Mr. MILLER (for himself and Mr. DEWINE):

S. 2099. A bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MILLER (for himself and Mr. DEWINE):

S. 2100. A bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes; to the Committee on Armed Services.

By Mr. LEVIN:

S. 2101. A bill to decrease the matching funds requirement and authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself and Mr. SCHUMER):

S. 2102. A bill to amend title 18, United States Code, to prohibit the sale of a firearm to a person who has been convicted of a felony in a foreign court, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NELSON of Florida:

S. Res. 305. A resolution designating February 14, 2004, as "National Donor Day"; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. VOINOVICH):

S. Con. Res. 90. A concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 56

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

S. 333

At the request of Mr. BREAUX, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 427

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 427, a bill to amend the Homeland Security Act of 2002 to assist States and communities in preparing for and responding to threats to the agriculture of the United States.

S. 430

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 430, a bill to amend the Homeland Security Act of 2002 to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning.

S. 596

At the request of Mr. ENSIGN, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Jersey (Mr. CORZINE) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 604

At the request of Mr. BAYH, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 604, a bill to amend part D of title IV of the Social Security Act to provide grants to promote responsible fatherhood, and for other purposes.

S. 640

At the request of Mr. LEAHY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 750

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 750, a bill to amend title II of the Social Security Act to increase the level of earnings under which no individual who is blind is determined to have demonstrated an ability to engage in substantial gainful activity for purposes of determining disability.

S. 846

At the request of Mr. SMITH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1001

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1001, a bill to make the protection of women and children who are affected by a complex humanitarian emergency a priority of the United States Government, and for other purposes.

S. 1034

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1034, a bill to repeal the sunset date on the assault weapons ban, to ban the importation of large capacity ammunition feeding devices, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Illinois (Mr. FITZGERALD) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1431

At the request of Mr. LAUTENBERG, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1485

At the request of Mr. KENNEDY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1615

At the request of Mr. DASCHLE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1615, a bill to amend title 37, United States Code, to make permanent the rates of hostile fire and imminent danger special pay and family separation allowance for members of the uniformed services as increased by the Emergency Wartime Supplemental Appropriations Act, 2003.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1913

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1913, a bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes.

S. 1916

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 1963

At the request of Mr. SPECTER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1963, a bill to amend the Communications Act of 1934 to protect the privacy right of subscribers to wireless communication services.

S. 1980

At the request of Mr. GRAHAM of Florida, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1980, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 1998

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1998, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 2011

At the request of Mr. HAGEL, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. AKAKA) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 2011, a bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes.

S. 2032

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2032, a bill to provide assistance and security for women and children in Afghanistan and for other purposes.

S. 2061

At the request of Mr. FRIST, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2061, a bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

At the request of Mr. CORNYN, his name was added as a cosponsor of S. 2061, supra.

S. 2063

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2063, a bill to require the Secretary of Veterans Affairs to carry out a demonstration project on priorities in the scheduling of appointments of veterans for health care through the Department of Veterans Affairs, and for other purposes.

S. 2068

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2068, a bill to enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, and for other purposes.

S. 2076

At the request of Mr. BAUCUS, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2077

At the request of Mr. CRAIG, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2077, a bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance.

S. 2090

At the request of Mr. DASCHLE, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2090, a bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as "National Visiting Nurse Association Week".

S. CON. RES. 72

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 72, a concurrent resolution commemorating the 60th anniversary of the establishment of the United States Cadet Nurse Corps and voicing the appreciation of Congress regarding the service of the members of the United States Cadet Nurse Corps during World War II.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Maine (Ms. COLLINS), the Senator from Iowa (Mr. GRASSLEY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 298

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 298, a resolution designating May 2004 as "National Cystic Fibrosis Awareness Month".

S. RES. 299

At the request of Mr. CAMPBELL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 2096. A bill to promote a free press and open media through the National Endowment for Democracy and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the International Free Press and Open Media Act of 2004.

This legislation will provide greater focus on, and more coordination of, initiatives to develop free, fair, legally protected, and self-sustaining press and media in the world.

A free press is enshrined as a cornerstone of democracy in the First Amendment to the United States Constitution. The Universal Declaration of Human Rights, passed by the United Nations in 1948, also proscribes free press and media.

The United States government through various agencies and programs has long been involved in helping to train journalists around the world, and establish newspapers, magazines, and radio and television stations.

These programs, however, are not centralized in one bureau or agency. Many are orphans to other assistance programs. They are effective in training journalists, but they stop short of ensuring that the media in a developing country has the necessary legal protections, follows basic rules of fairness and equal access, and can sustain itself financially.

In addition, these existing media programs are not established in ways to leverage federal government spending with the assistance of America's vibrant media sector. There is a strong desire by our finest journalism schools, newspapers, broadcasters, and marketing and advertising enterprises to help build free press and open media in the world. We also need to engage all the new media, like Internet companies and wireless forms of communications.

To better organize and focus these efforts, this legislation directs the Secretary of State to provide funding to the National Endowment for Democracy for the work a free press institute. For more than 20 years the National Endowment for Democracy has been leading American efforts to help build the required democratic institutions of a free society. The President's proposed 2005 budget wisely doubles the funding for the work of the Endowment.

It is important to note that the National Endowment for Democracy and its four existing institutes—representing the two major political parties, business, and labor—have established a reputation in the world for integrity and transparency. They are ambassadors of the best traditions of American democracy, and they have provided continuity to democratization efforts, even as administrations and policies have changed.

Having served on the board of the Endowment for a number of years, as have some of my colleagues, I can attest that the independence of the NED is central to the success of its initiatives to help develop a free press in the world. This bill seeks to employ the uniquely independent organization of the NED to accomplish a mission that complements public diplomacy, but is separate from it. The U.S. government maintains important public diplomacy programs, where the goal is to communicate American views to the world. But developing a free press in emerging democracies goes beyond advocacy of American views. It requires us to have a tolerance for criticism, to take into account cultural differences, and to commit to long-term projects. The NED is suited to this mission.

A fully successful U.S. foreign policy requires that we make progress in building democratic institutions internationally, especially free and open media. Societies that are built on the foundation of a free press are far less likely to abuse human rights or threaten American security.

I look forward to the support of my colleagues on this legislation, and hope for speedy consideration.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Free Press and Open Media Act of 2004".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) It is in the national interest of the United States to promote the development of free press and open media around the world, as such development increases the national security of the United States.

(2) A free press and open media, including traditional forms of communications such as print media, television, and radio programming, and films and entertainment media, as well as emerging forms of communication such as media transmitted on the Internet and by wireless transmissions, are among the foundations of democratic institutions in an open society that respects human rights.

(3) A free press and open media can best be achieved if the press and media—

(A) are located in a country that—

(i) has legal protections to ensure that the press and media are independent of government control or subversion and are able to deliver information without impediment; and

(ii) has journalists, editors, publishers, producers, and business executives who are practiced in the basic concepts of fairness and equal access in a civil society; and

(B) are able to be financially self-sufficient through subscription fees, advertising revenues, donations, or other funding mechanisms.

(4) Private sector groups in the United States, including businesses and nongovernmental organizations, have carried out a variety of activities to promote free press and open media in foreign countries.

(5) There is a need to establish an entity—

(A) to address issues related to the development of a free press and open media; and

(B) to bring together individuals and institutions to organize and focus greater attention on the establishment of new, and the enhancement of existing, free media programs throughout the world.

(6) The National Endowment for Democracy (in this section referred to as the "NED") is a nonprofit, federally funded, grantmaking, nongovernmental organization recognized by Congress in the National Endowment for Democracy Act (22 U.S.C. 4411 et seq.).

(7) The NED has historically provided support and coordination of the activities of private sector groups and nongovernmental organizations that promote democratic institutions.

(8) The NED has received strong bipartisan support from Presidents and Congress since it was established in 1983.

(9) The NED is the appropriate entity—

(A) to address issues related to the development of a free press and open media; and

(B) to bring together individuals and institutions to organize and focus greater attention on the establishment of new, and enhancement of existing, free media programs throughout the world.

SEC. 3. AMENDMENTS TO THE NATIONAL ENDOWMENT FOR DEMOCRACY ACT.

(a) Purposes of the Endowment.—Section 502(b) of the National Endowment for Democracy Act (22 U.S.C. 4411(b)) is amended—

(1) in paragraph (1), by striking "rights)" and inserting "rights and freedom of the press and other media)";

(2) in paragraph (2), by striking "and business;" and inserting "business, and media;";

(3) in paragraph (3), by inserting "media," after "business,"; and

(4) in paragraph (5), by inserting "media," after "business,".

(b) Funds To Promote Freedom of the Press.—Section 503 of the National Endowment for Democracy Act (22 U.S.C. 4412) is amended by striking subsection (e) and inserting the following:

"(e) Not less than 10 percent of the amounts made available to the Endowment for fiscal year 2005 should be made available for programs to promote freedom of the press and other media.".

By Mr. INOUYE:

S. 2097. A bill to establish formally the United States Military Cancer Institute, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I introduce the U.S. Military Cancer Institute Research Collaborative Act of 2004. This legislation would formally establish the U.S. Military Cancer Institute (USMCI), and support the collaborative augmentation of research efforts in cancer epidemiology, prevention and control. Although the USMCI already exists as an informal collaborative effort, this bill will formally establish the institution with a mission of providing for the maintenance of health in the military by enhancing cancer research and treatment, and studying the epidemiological causes of cancer among various ethnic groups. By formally establishing the USMCI, it will be in a better position to unite military research efforts with other cancer research centers.

Cancer prevention, early detection, and treatment are significant issues for the military population, thus the USMCI was organized to coordinate the existing military cancer assets. The USMCI has a comprehensive database of its beneficiary population of 9 million people. The military's nationwide tumor registry, the Automated Central Tumor Registry, has acquired more than 180,000 cases in the last 14 years, and a serum repository of 30 million specimens from military personnel collected sequentially since 1987. This population is predominantly Caucasian, African American, and Hispanic.

The Director of the USMCI, Dr. John Potter, is a professor of surgery at the Uniformed Services University of the Health Sciences (USUHS). A highly talented cancer epidemiologist, Dr. Kangmin Zhu, has also been recruited to lead the USMCI Prevention and Control Programs.

The USMCI currently resides in the Washington, DC area, and its components are located at the National Naval Medical Center, the Malcolm Grow Medical Center, the Armed Forces Institute of Pathology, and the Armed Forces Radiobiology Research Institute. There are more than 70 research workers, both active duty and Department of Defense civilian scientists, working in the USMCI.

The USMCI intends to expand its research activities to military medical centers across the Nation. Special emphasis will be placed on the study of genetic and environmental factors in carcinogenesis among the entire population, including Asian, Caucasian, African American and Hispanic subpopulations.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Military Cancer Institute Act of 2004".

SEC. 2. RESEARCH BY UNITED STATES MILITARY CANCER INSTITUTE.

(a) Formal Establishment of United States Military Cancer Institute.—(1) There is a United States Military Cancer Institute in the Uniformed Services University of the Health Sciences (USUHS).

(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

(b) Research.—(1) The United States Military Cancer Institute shall carry out research studies on the following:

(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

(B) The prevention and early detection of cancer.

(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

(c) Collaborative Research.—The United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

(d) Reports.—(1) Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director of the United States Military Cancer Institute shall submit to the President of the Uniformed Services University of the Health Sciences a report on the results of the research studies carried out under subsection (b).

(2) Not later than 60 days after the receipt of a report under paragraph (1), the President of the University shall transmit such report to Congress.

By Mr. INOUYE:

S. 2098. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a federally-qualified health center or a Native Hawaiian care system; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the Native Hawaiian Medicaid Coverage Act of 2004. This legislation would authorize a Federal Medicaid Assistance Percent (FMAP) of 100 percent for the payment of health care costs of Native Hawaiians who receive health care from Federally Qualified Health Centers or the Native Hawaiian Health Care System.

This bill was originally a provision within the Medicare Prescription Drug Bill, which the Senate passed by an overwhelming majority of 76 to 21, but was dropped from the final Medicare Prescription Drug Conference Report.

This bill is modeled on the Native Alaskan Health Care Act, which provides for a Federal Medicaid Assistance Percent (FMAP) of 100 percent for payment of health care costs for Native Alaskans by the Indian Health Service, an Indian tribe, or a tribal organization.

Community health centers serve as the "safety net" for uninsured and medically underserved native Hawaiians and other United States citizens, providing comprehensive primary and preventive health services to the entire community. Outpatient services offered to the entire family include comprehensive primary care, preventive health maintenance, and education outreach in the local community. Community health centers, with their multi-disciplinary approach, offer cost effective integration of health promotion and wellness with chronic disease management and primary care focused on serving vulnerable populations.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Medicaid Coverage Act of 2004".

SEC. 2. 100 PERCENT FMAP FOR MEDICAL ASSISTANCE PROVIDED TO A NATIVE HAWAIIAN THROUGH A FEDERALLY-QUALIFIED HEALTH CENTER OR A NATIVE HAWAIIAN HEALTH CARE SYSTEM UNDER THE MEDICAID PROGRAM.

(a) MEDICAID.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting ", and with respect to medical assistance provided to a Native Hawaiian (as defined in section 12 of the Native Hawaiian Health Care Improvement Act) through a federally-qualified health center or a Native Hawaiian health care system (as so defined) whether directly, by referral, or under contract or other arrangement between a federally-qualified health center or a Native Hawaiian health care system and another health care provider" before the period.

(b) EFFECTIVE DATE.—The amendment made by this section applies to medical assistance provided on or after the date of enactment of this Act.

By Mr. LEVIN:

S. 2101. A bill to decrease the matching funds requirement and authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan; to the Committee on Energy and Natural Resources.

Mr. LEVIN. Mr. President. I ask unanimous consent that the text of the Keweenaw National Historical Park bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FUNDING FOR KEWEENAW NATIONAL HISTORICAL PARK.

(a) MATCHING FUNDS.—Section 8(b) of Public Law 102-543 (16 U.S.C. 410yy-7(b)) is amended by striking "$4" and inserting "$1".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of Public Law 102–543 (16 U.S.C. 410yy-9) is amended—

(1) in subsection (a)—

(A) by striking "$25,000,000" and inserting "$50,000,000"; and

(B) by striking "$3,000,000" and inserting "$25,000,000"; and

(2) in subsection (b), by striking "$100,000" and inserting "$250,000".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 305—DESIGNATING FEBRUARY 14, 2004, AS "NATIONAL DONOR DAY"

Mr. NELSON of Florida submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 305

Whereas National Donor Day is the largest annual 1-day lifesaving donation drive in the United States;

Whereas almost everyone is a potential organ, tissue, bone marrow, or blood donor;

Whereas at any given moment more than 80,000 people of the United States await a lifesaving organ transplant;

Whereas each day about 68 individuals receive an organ transplant, but another 18 individuals on the waiting list die because not enough organs are available;

Whereas of the nearly 30,000 people of the United States diagnosed each year with life-threatening diseases that are potentially treatable by marrow or blood stem cell transplants, ⅔ will not find a donor match within their family;

Whereas blood transfusions save 10,000 people of the United States every day;

Whereas although 60 percent of the people of the United States are eligible to donate blood, only 5 percent do;

Whereas the first 6 celebrations of National Donor Day informed millions of individuals across the United States of the need for organ and tissue donors;

Whereas as a result of past National Donor Day education efforts, more than 8,000 potential marrow and blood stem cell donors were added to the National Marrow Donor Program Registry and approximately 48,000 units of blood were collected; and

Whereas the following organizations are all partners in the National Donor Day efforts: the American Association of Blood Banks; the American Liver Foundation; the American Society of Transplant Surgeons; America's Blood Centers; the Association of Organ Procurement Organizations; the Children's Organ Transplant Association; the Coalition on Donation; the Emergency Nurses Association; the Juvenile Diabetes Research Foundation International; the Leukemia & Lymphoma Society; LifeSouth Community Blood Centers; the Marrow Foundation; the National Kidney Foundation; the National Marrow Donor Program; the National Minority Open Tissue Transplant Education Program; Saturn Corporation; United Auto Workers; and the Department of Health and Human Services: Now, therefore, be it

Resolved, That the Senate—

(1) designates February 14, 2004, as "National Donor Day";

(2) supports the goals and ideals of National Donor Day;

(3) urges everyone to learn about organ, tissue, bone marrow, and blood donations, and discuss such donations with their families and friends; and

(4) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for organ, tissue, bone marrow, and blood donations.

SENATE CONCURRENT RESOLUTION 90—EXPRESSING THE SENSE OF THE CONGRESS REGARDING NEGOTIATING, IN THE UNITED STATES-THAILAND FREE TRADE AGREEMENT, ACCESS TO THE UNITED STATES AUTOMOBILE INDUSTRY

Mr. LEVIN (for himself and Mr. VOINOVICH) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 90

Whereas the United States Trade Representative recently announced an intention to negotiate a free trade agreement (FTA) with Thailand;

Whereas properly structured FTAs may have important benefits for the United States, and a bilateral free trade agreement program pursued under a coherent policy and strategy may play an important role in United States trade policy;

Whereas the global automobile market is subject to inherently multilateral problems that need to be addressed on a multilateral basis, including numerous, widespread, and complex nontariff barriers maintained by major producing countries;

Whereas providing Thailand privileged access to critical segments of the United States automobile market would significantly erode United States leverage to negotiate reductions to global automobile market distortions in multilateral negotiations, because producers from third countries would be able to benefit from the privileged access of Thailand under the FTA;

Whereas Thailand is the second largest source of pick-up truck production in the world, with many major automobile manufacturers from outside of Thailand producing pick-up trucks there;

Whereas Thailand's Board of Investment has actively been recruiting automobile producers from outside of Thailand, including Japan, South Korea, and India, to produce automobiles in Thailand, and some of these producers have cited Thailand's privileged access to foreign markets through FTAs as a rationale for setting up production in Thailand;

Whereas many of these producers from outside of Thailand have moved their pick-up truck production out of their home countries and into Thailand in order to make Thailand their global pick-up truck production and export bases;

Whereas as a result of this activity by automobile producers from outside of Thailand, pick-up truck production in Thailand will soon approach 1,000,000 units annually, and could grow even larger;

Whereas given these facts, if Thailand were given privileged access to critical segments of the United States automobile market in an FTA, it could be used by third-country automobile producers as a backdoor into the United States market; however, Japan, South Korea, India, and other major producing countries would not be required to reduce their tariff and nontariff barriers to United States automobile producers, and in fact the tariff and nontariff barriers maintained by those countries would continue to distort global markets and restrict the access of United States exports to markets in those countries;

Whereas given that these third-country producers would already have privileged access to the United States market through the United States-Thailand FTA, their home countries would have less incentive to address the inherently multilateral problems in the global automobile market through negotiations on a multilateral basis; and

Whereas the United States automobile industry is a major driver of the United States economy—accounting annually for between 3 and 4 percent of the gross domestic product (GDP) of the United States, leading all United States industries in annual research and development spending, directly employing over 500,000 highly skilled and efficient workers in jobs that pay on average 60 percent higher than the average United States job, and supporting the jobs of over 7,000,000 other workers—and it has played a critical role in efforts to revive the United States economy: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that negotiations on access to critical segments of the United States automobile market should not take place on a piecemeal basis, but only—

(1) as part of negotiations that include all major automobile producing nations; and

(2) as part of comprehensive negotiations that address both tariff and nontariff barriers specific to the automobile industry, with progress on eliminating tariff barriers explicitly linked to concrete progress on eliminating nontariff barriers.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 11, 2004, at 10 a.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 2086, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines: S. 2049, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send a copy of their testimony electronically to kristin whitman@energy.senate.gov.

For further information, please contact Karen Billups at (202) 224-2576 or Kristin Whitman at (202) 224-5305.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

On Tuesday, February 24, at 10 a.m., in room SD-366, to receive testimony concerning the reliability of the Nation's electricity grid. Specifically, the recommendations in the February 10 "North American Reliability Council Report" regarding the August 14 blackout will be reviewed and implementation of the proposed solutions will be discussed.

(Contact: Lisa Epifani at 202-224-5269 or Shane Perkins at 202-224-7555.)

SUBCOMMITTEE ON ENERGY

Mr. ALEXANDER. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on Energy of the Committee on Energy and Natural Resources.

Thursday, March 4, at 2:30 p.m., in room SD-366, to receive testimony regarding "New Nuclear Power Generation" in the United States.

(Contact: Pete Lyons at 202-224-5861 or Shane Perkins at 202-224-7555.)

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 9, 2004, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: H.R. 1446 and S. 1306, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes; and H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Sarah Creachbaum at (202) 224-6293.

PRIVILEGES OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that Tiffany Kebodeaux, a member of my staff who does not currently have floor privileges, be given floor privileges for the duration of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Michael Hughes, a deputy U.S. marshal who is serving in Senator FRANK LAUTENBERG's office on a detail, be given floor privileges during consideration of S. 1805 and S. 1806.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2095

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2095) to enhance energy conservation and research and development and to provide for security and diversity in the energy supply for the American people.

Mr. FRIST. I object to further proceedings on the measure at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar pursuant to rule XIV.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108–16

Mr. FRIST. As in executive session, I ask unanimous consent the injunction of secrecy be removed from the following treaty transmitted to the Senate on February 23, 2004, by the President of the United States, U.N. Convention against Transnational Organized Crime, Treaty Document 108-16.

I further ask that the treaty be considered as having been read the first time; that it be referred with the accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the United Nations Convention Against Transnational Organized Crime (the "Convention"), as well as two supplementary protocols: (1) the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, and (2) the Protocol Against Smuggling of Migrants by Land, Sea and Air, which were adopted by the United Nations General Assembly on November 15, 2000. The Convention and Protocols were signed by the United States on December 13, 2000, at Palermo, Italy.

Accompanying the Convention and Protocols are interpretative notes for the official records (or "travaux preparatoires") that were prepared by the Secretariat of the Ad Hoc Committee that conducted the negotiations, based on discussions that took place throughout the process of negotiations. These notes are being submitted to the Senate for information purposes. I also transmit the report of the Department of State with respect to the Convention and Protocols.

The Convention and Protocols are the first multilateral treaties to address the phenomenon of transnational organized crime. Their provisions are explained in the accompanying report of the Department of State. The report also sets forth proposed reservations and understandings that would be deposited by the United States with its instruments of ratification. With these reservations and understandings, the Convention and Protocols will not require implementing legislation for the United States.

The Convention and Protocols will be effective tools to assist in the global effort to combat transnational organized crime in its many forms, such as trafficking and smuggling of persons. They provide for a broad range of cooperation, including extradition, mutual legal assistance, and measures regarding property, in relation to serious crimes committed by an organized group that has a transnational element.

The Convention also imposes on the States Parties an obligation to criminalize, if they have not already done so, certain types of conduct characteristic of transnational organized crime. For the Convention, these are: participation in an organized criminal group (i.e., conspiracy), money laundering, bribery of domestic public officials, and obstruction of justice. The Protocols require parties to criminalize trafficking in persons and smuggling of migrants. These provisions will serve to create a global criminal law standard for these offenses, several of which (e.g., trafficking in persons) currently are not criminal in many countries. The Trafficking Protocol also includes important provisions regarding assistance to and protection of victims of trafficking.

I recommend that the Senate give early and favorable consideration to the Convention and Protocols, and that it give its advice and consent to ratification, subject to the reservations and understandings described in the accompanying report of the Department of State.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 23, 2004.*

ORDERS FOR TUESDAY, FEBRUARY 24, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. Tuesday, February 24. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the motion to proceed to S. 2061, the OB/GYN medical malpractice bill.

I further ask consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of the motion to proceed to S. 2061, the OB/GYN medical malpractice bill. Senators who do wish to speak on this important bill are encouraged to come to the floor during tomorrow's session.

Under the previous order, at 5 p.m. tomorrow the Senate will vote on the motion to invoke cloture on the motion to proceed to that bill. It is my hope that our colleagues on the other side of the aisle will allow us to take up this important issue.

As a reminder, just a few minutes ago I filed cloture on the motion to proceed to S. 1805, the gun liability bill. While I did not want to have to file cloture, it became apparent that our Democratic colleagues would not let us move forward with this legislation either. The cloture vote on the motion to proceed to the gun liability bill will occur on Wednesday.

I inform my colleagues that the cloture vote on the medical malpractice bill will be the first vote of the day tomorrow. Additional votes are possible and Members will be notified if any additional votes are scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Tuesday, February 24, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 23, 2004:

DEPARTMENT OF STATE

PAUL V. APPLEGARTH, OF CONNECTICUT, TO BE CHIEF EXECUTIVE OFFICER, MILLENNIUM CHALLENGE CORPORATION. (NEW POSITION)

JOHN CAMPBELL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF NIGERIA.

UNITED STATES SENTENCING COMMISSION

RICARDO H. HINOJOSA, OF TEXAS, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION, VICE DIANA E. MURPHY, RESIGNED.

MICHAEL O'NEILL, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2009. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C. SECTION 53 IN THE GRADE INDICATED:

TO BE REAR ADMIRAL (LOWER HALF)

RADM (L) JAMES C. VAN SICE, 3714

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

CHRISTINA JEANNE AGOR, OF NEW YORK
JEFFREY J. ANDERSON, OF PENNSYLVANIA
SIMONE BAER, OF THE DISTRICT OF COLUMBIA
BRADFORD JOSEPH BELL, OF PENNSYLVANIA
NANCY BARICKMAN BRANNAMAN, OF IOWA
CELESTE A. CONNORS, OF HAWAII
JAMES TODD CROW, OF NEW MEXICO
JENNIFER DENISE DAVIS, OF GEORGIA
JEFFERSON KENNEDY DUBEL, OF FLORIDA
MICHAEL BENJAMIN GOLDMAN, OF WASHINGTON
MICHAEL C. GONZALES, OF CALIFORNIA
MOLLY ANN GOWER, OF MARYLAND
RIAN HARKER HARRIS, OF VIRGINIA
THOMAS R. HASTINGS, OF MARYLAND
ELAINE JONES, OF OHIO
JEANNETTE M. JURICIC, OF ILLINOIS
KEVIN KABUMOTO, OF ILLINOIS
WILLIAM HUGH KLEIN JR., OF CALIFORNIA
ANDREW ROBERT LORENZ, OF MINNESOTA
ALISON VICTORIA MAHER, OF MICHIGAN
MARCOS CHRISTINA MANDOJANA, OF TENNESSEE
KATHLEEN ANNE MCGOWAN, OF TEXAS
EDWARD P. MESSMER, OF VIRGINIA
KRISTINA INDIRA MIDHA, OF ILLINOIS
JENNIFER H. MOORE, OF GEORGIA
REBECCA HOSINGTON NEFF, OF MICHIGAN
THOMAS W. OHLSON, OF FLORIDA
DAVID A. OSGOOD, OF OREGON
KRISTEN L. PISANI, OF NEW YORK
KATHRYN PONGONIS, OF KENTUCKY
CAMILLE C. PURVIS, OF TEXAS
COLLEEN ANN QUINN, OF THE DISTRICT OF COLUMBIA
TRACY ELIZABETH ROBERTS, OF MISSOURI
DOROTHY BROWNING ROGERS, OF PENNSYLVANIA
MATTHEW SCOTT ROSENSTOCK, OF PENNSYLVANIA
REBECCA A. ROSS, OF FLORIDA
KENNETH MICHAEL ROY, OF MICHIGAN
ROBERT PATRICK SANDERS, OF CALIFORNIA
STEPHEN C. SIMPSON, OF FLORIDA
REGGIE SINGH, OF MARYLAND
KEVIN D. SKILLIN, OF PENNSYLVANIA
RAKESH SURAMPUDI, OF PENNSYLVANIA
SHERRY ZALIKA SYKES, OF FLORIDA
MICHAEL P. TAYLOR, OF WEST VIRGINIA
LISSA CLAIRE WELDON, OF MINNESOTA
KIRSTEN S. WIVEL, OF MARYLAND
DEREK SCHILLING WORMAN, OF MINNESOTA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ELLEN M. AHRENS, OF VIRGINIA
STACEY L. AKERS, OF FLORIDA
TANYA A. ALLEN, OF MARYLAND
ERIC R. ALLISON, OF VIRGINIA
ANTHONY J. ALTIMORE, OF MICHIGAN
ERIC S. ANTHONY, OF VIRGINIA
JEFFREY L. BAKER, OF VIRGINIA
TIMOTHY DAVID BIRNER, OF INDIANA
ALISON B. BLOSSER, OF OHIO
NEDA ANTOINETTE BROWN, OF NORTH CAROLINA
TRACY R. BROWN, OF UTAH
SANDRA F. CASTILLO, OF VIRGINIA
FARAH N. CHERY-MEDOR, OF MARYLAND
CHRISTOPHER WILLIAM CLAYTON, OF THE DISTRICT OF COLUMBIA
CAROLYN N. COOLEY, OF GEORGIA
WILLIAM STUART DARLING, OF VIRGINIA
STEVEN B. DELAGE, OF VIRGINIA
KAREN L. DENNEY, OF VIRGINIA
MARK S. DIEKER, OF OHIO
TRACIE L. DOBBINS, OF VIRGINIA
H. BRETT DODY, OF VIRGINIA
ANDREA LUZ DOYLE, OF VIRGINIA
JON M. DURKOS, OF VIRGINIA
ANA A. ESCROGIMA, OF NEW YORK
STEVEN LYNN EVERETT, OF NORTH CAROLINA
TED FATOVIC, OF VIRGINIA
CYRIL M. FERENCHAK, OF FLORIDA
CASEY D. FICKLIN, OF VIRGINIA
DOUGLAS A. FISK, OF NEW MEXICO
HARRISON S. FORD III, OF VIRGINIA
DAVID M. FRIEDMAN, OF VIRGINIA
NANCY GALLAGHER, OF THE DISTRICT OF COLUMBIA
MICHAEL R. GASKELL, OF VIRGINIA
MARILYN R. GAYTON, OF CALIFORNIA
LORI J. GIL, OF INDIANA
GEOFFREY N. GILES, OF THE DISTRICT OF COLUMBIA
CLAUDIA D.V. GONZALES, OF VIRGINIA
YVONNE MARIE GONZALES, OF CALIFORNIA
RACHEL DIANE GRAAF, OF MARYLAND
KHATERA HABIBZAI, OF VIRGINIA
MARIELLE HALLER MARTIN, OF INDIANA
RAPHAEL HART, OF FLORIDA
DARRYL E. HASKELL, OF VIRGINIA
HUGH F. HAWLEY, OF VIRGINIA
ROBERT G. HECHLER, OF VIRGINIA
CAMERON R. HECK, OF VIRGINIA
CHERYL A. HEPBURN, OF VIRGINIA
STEPHANIE M. HERGENROEDER, OF VIRGINIA
SCOTT CHARLES HIGGINS, OF VIRGINIA
JEFFREY HILSGEN, OF FLORIDA
KATHRYN HOFFMAN, OF THE DISTRICT OF COLUMBIA
LAUREN G. HOLT-HANSEN, OF CALIFORNIA
NATALIYA YEVGENIYEVNA IOFFE, OF THE DISTRICT OF COLUMBIA
DAVID JOHN JEA, OF FLORIDA
TODD JOHNSON, OF THE DISTRICT OF COLUMBIA
JEHAN SADIA JONES, OF VIRGINIA
KEVIN V. JONES, OF NEVADA

JEANNE D. KATZ, OF MARYLAND
ANGELA B. KELLOGG, OF MARYLAND
VIRGINIA KENT, OF TEXAS
JOEY E. KLINGER, OF PENNSYLVANIA
SEAMAN ARTHUR KNAPP IV, OF VIRGINIA
JASON F. KNEELAND, OF VERMONT
SRI KULKARNI, OF TEXAS
MARY H. LANGFORD, OF VIRGINIA
JILL MARY LARSON, OF THE DISTRICT OF COLUMBIA
ANDREW NICHOLAS LENTZ, OF VIRGINIA
HENRY L. LEW, OF VIRGINIA
DEBRA LO, OF CALIFORNIA
CHARLES A. LOBDELL III, OF FLORIDA
KEITH ALAN LOMMEL, OF NORTH CAROLINA
JULIANA L. MABREY, OF MISSOURI
MITCHELL GEORGE MABREY, OF MISSOURI
ANDREW T. MACDONALD, OF TEXAS
WILLIAM M. MACMILLAN, OF VIRGINIA
ERIK J. MAGDANZ, OF CALIFORNIA
ELIZABETH MANAK, OF VIRGINIA
LAUREN MARCUS, OF THE DISTRICT OF COLUMBIA
HOLLY P. MARKHAM, OF THE DISTRICT OF COLUMBIA
JENNIFER N. MATHIS, OF VIRGINIA
KEVIN L. MATHIS, OF VIRGINIA
TAWNIE A. MCNEIL, OF ARIZONA
MATTHEW CAVIN MEADOWS, OF WASHINGTON
ERIC REDPATH MEHLER, OF WASHINGTON
MICHAEL J. MEKEOWN, OF VIRGINIA
DENNY J. MERIDETH III, OF MISSOURI
COLLEEN MIHAILOVICH, OF VIRGINIA
MICHAEL A. MISLOCK, OF THE DISTRICT OF COLUMBIA
MICHAEL P.L. MITCHEM, OF MARYLAND
JAMES G. NORMAN, OF VIRGINIA
JEFF OGREN, OF ILLINOIS
TED M. ONEAL, OF VIRGINIA
SUE ELLEN KRISTINE OSTREM, OF NEW JERSEY
ROSS EMERSON PARK, OF IDAHO
JONATHAN MATTHEW PERKINS, OF VIRGINIA
EMILY E. PFIFFNER, OF THE DISTRICT OF COLUMBIA
MARTIAL PIERRE, OF VIRGINIA
JEAN L. PIERRE-LOUIS, OF FLORIDA
RICHARD ERIC POUND, OF VIRGINIA
ANDREW RAHAMAN, OF TEXAS
ROBERT ADRIAN RAINES, OF MAINE
RONDA R. RANDLE, OF MARYLAND
LAWRENCE M. RANDOLPH, OF MASSACHUSETTS
MARGOT JOSEPHINE RATCLIFFE, OF WASHINGTON
PAMELA LAZOE REED, OF VIRGINIA
JESSE LOREN REEDER, OF VIRGINIA
PHILIP FRANCIS REILLY, OF VIRGINIA
MARY BETH REINCKE, OF VIRGINIA
BRIAN ROBERT REYNOLDS, OF UTAH
MICHAEL J. RISHLING, OF VIRGINIA
MICHAEL R. J. ROTH, OF NEW MEXICO
DOUGLAS ANDREW SCHEERER, OF THE DISTRICT OF COLUMBIA
ELIZABETH A. SEWALL, OF TENNESSEE
THOMAS E. SHEALY, OF VIRGINIA
JOHN J. SHEEHAN, OF VIRGINIA
MATTHEW A. SINGER, OF MARYLAND
BRYANT DANIEL SMITH, OF VIRGINIA
ROBERT W. SMITH, OF VIRGINIA
KATHERINE CHASE SNOW, OF THE DISTRICT OF COLUMBIA
JOHN D. SPYKERMAN, OF THE DISTRICT OF COLUMBIA
VIRGINIA L. STAAB, OF CALIFORNIA
CHRISTOPHER M. STACK, OF VIRGINIA
JULIA A. STEWART, OF VIRGINIA
DANIEL STOIAN, OF CALIFORNIA
THOMAS J. SULLIVAN, OF ILLINOIS
JOHN A. SYLVESTER, OF VIRGINIA
JOHN C. TAYLOR, OF WYOMING
MICHAEL TODD, OF VIRGINIA
SANDRA A. TOMLINSON, OF VIRGINIA
NATHAN B. TRENT, OF FLORIDA
RUTH NIKOLA URRY, OF OREGON
DOUGLAS B. VAN ZANDT JR., OF VIRGINIA
PATRICK HAYDN VENTRELL, OF COLORADO
DANIEL WALD, OF CONNECTICUT
ROBERT M. WATERSON, OF INDIANA
ERIN E. WEBSTER-MAIN, OF CALIFORNIA
BENJAMIN M. WHITFIELD, OF VIRGINIA
MATTHEW W. ZIRBEL, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

TED K. GONG, OF CALIFORNIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

PAUL BELMONT, OF VIRGINIA
DIANNE GRAHAM, OF VIRGINIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

MARIBESS ARMSTRONG, OF TEXAS
MARK D. ELLIS, OF LOUISIANA
ABDOULAYE GUEYE, OF TEXAS
JERRY L. HINTZ, OF COLORADO
SUNIL R. KADAM, OF MARYLAND
RAUL J. RAYMUNDO, OF FLORIDA

DEPARTMENT OF STATE

RONALD D. ACUFF, OF FLORIDA
DESIREE A. BARON, OF FLORIDA
EDWARD BRERETON BESTIC, OF THE DISTRICT OF COLUMBIA
MARK JOSEPH BIEDLINGMAIER, OF FLORIDA
SCOTT ALLAN BRANDON, OF NEW JERSEY
JOYCE ANN BROOKS, OF NEW YORK
DANA M. BROWN, OF CALIFORNIA
CAROLE J. BUTLER, OF FLORIDA
MATTHEW VICTOR CASSETTA, OF VIRGINIA
ELIZABETH OVERTON COLTON, OF VIRGINIA
MATTHEW A. COTTRELL, OF WASHINGTON
ERIC G. FALLS, OF VIRGINIA
DANIEL J. FENNELL II, OF PENNSYLVANIA
TERRENCE ROBERT FLYNN, OF MINNESOTA
ELISE JEAN FOX, OF CALIFORNIA
DANIEL HANAN GERSHATOR, OF CALIFORNIA
JULIET S. GOLE, OF FLORIDA
BRIAN M. GRIMM, OF PENNSYLVANIA
TRACY L. HAILEY-GEORGIEVA, OF FLORIDA
TRACY HISER HARDING, OF TEXAS
CLIFFORD D. HEINZER, OF NEW JERSEY
ANDREW R. HERRUP, OF THE DISTRICT OF COLUMBIA
JENIFER JOYCE, OF NEW YORK
CRYSTAL TERRY KAPLAN, OF VIRGINIA
DEAN MARSHALL KAPLAN, OF VIRGINIA
LISA DOUGHERTY KENNA, OF VERMONT
JOSEPH C. KOEN, OF TEXAS
ANDREA MICHELLE LEWIS, OF FLORIDA
DENISE M. MARSH, OF THE DISTRICT OF COLUMBIA
RICHARD CHARLES MERRIN, OF CALIFORNIA
DAVID THOMAS MOORE, OF CALIFORNIA
KATHARINE PAYNE MOSELEY, OF THE DISTRICT OF COLUMBIA
TINA D. ONUFER, OF MARYLAND
RONALD SCOTT PACKOWITZ, OF ILLINOIS
ANDREW B. PAUL, OF OHIO
VERA PAULI-WIDENHOUSE, OF WASHINGTON
KATHERINE MOLLOY PEREZ, OF COLORADO
PEGGY LE-AM PLUNKETT, OF OHIO
BRIAN S. QUIGLEY JR., OF FLORIDA
MARK A. SCHAPIRO, OF NEW YORK
DAVID C. SCHROEDER, OF FLORIDA
PHILIP FRANZ D. SEITZ, OF VIRGINIA
MICHAEL K. SINGH, OF VIRGINIA
WENDY ROBIN SNEFF, OF VIRGINIA
CLAYTON MICHAEL STANGER, OF CALIFORNIA
KATHRYN ALLENE TAYLOR, OF NORTH CAROLINA
TRACY L. TAYLOR, OF NEW HAMPSHIRE
NICOLE D. THERIOT, OF LOUISIANA
MARKO GREGDR VELIKONJA, OF WASHINGTON
DANIEL JOSEPH WARTKO, OF NEW YORK
DANIEL RUSSELL WENDELL, OF CALIFORNIA
KAREN BETH ZARESKI, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

MARTHA PULTZ AMLIN, OF CALIFORNIA
MARTIN J. AVERSA, OF VIRGINIA
EDIE J. BACKMAN, OF VIRGINIA
JOHN A. BALLARD, OF VIRGINIA
MICHELLE MARIE BISKUP, OF ILLINOIS
CHARLES EDWARD BOULDIN, OF CALIFORNIA
CRAIG P. BRYANT, OF OKLAHOMA
SITA LIANE CHAKRAWARTI, OF MISSOURI
JOHN P. COONEY, OF NEW YORK
CHAD PARKER CUMMINS, OF CALIFORNIA
CHRISTOPHER K. DERRICK, OF TEXAS
NATHAN D. FLOOK, OF MARYLAND
MICHAEL JOSEPH GARUCKIS, OF FLORIDA
LISA CLAIRE GISVOLD, OF OREGON
HEATHER GOETHERT, OF VIRGINIA
LESLIE MICHELE HAYDEN, OF CALIFORNIA
PAUL JOHN HERMAN, OF NEW YORK
ELLEN PRISCILLA IRVINE, OF CALIFORNIA
GREGORY W. KAY, OF TEXAS
NATHANIEL P. LANE, OF CALIFORNIA
GREGORY DANIEL LOGERFO, OF NEW YORK
JENNY HAN MALHEIRO, OF LOUISIANA
GEOFFREY J. MARTINEAU, OF ILLINOIS
DONALD GENE MATTINGLEY, OF ARIZONA
JOHN H. MCCORMICK, OF MARYLAND
LAURA L. MCKINNEY, OF SOUTH CAROLINA
ANNE MARIE MOORE, OF NEW HAMPSHIRE
TIFFANY ANITA MURPHY, OF WASHINGTON
SHANE IAN MYERS, OF NEW JERSEY
BRIAN W. NAFZIGER, OF THE DISTRICT OF COLUMBIA
ANDREW HUANG NISSEN, OF MARYLAND
MARTIN JUAN LEYERLY OPPUS, OF CALIFORNIA
DAVID N. RICHELSOPH, OF CONNECTICUT
LEIGH A. RIEDER, OF VIRGINIA
GREGORY KENT SCHIFFER, OF TEXAS
RUTH ANNE STEVENS, OF OHIO
GREGORY M. WINSTEAD, OF NORTH CAROLINA
NOAH SAMUEL ZARING, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

BRUCE W. BLAKEMAN, OF FLORIDA
SALLY A. HASTINGS, OF ILLINOIS
CHARLES R. RANADO, OF NEW YORK
CATHERINE P. SPILLMAN, OF PENNSYLVANIA

DEPARTMENT OF STATE

GREGORY ADAM ALMS, OF VIRGINIA
MARCIA ANGLARILL, OF MARYLAND
KIMBERLY KRISTINE ATKINSON, OF SOUTH DAKOTA
DEIDRA D. AVENDASORA, OF MINNESOTA
NATASHA M. BASLEY, OF CALIFORNIA
CHRISTOPHER GRAYDON BEARD, OF FLORIDA
CARLA ANN BENINI, OF WASHINGTON
TIMOTHY A. BETONI, OF VIRGINIA
SHERYL J. DUREN BISTRANSKY, OF VIRGINIA
RICHARD BLEE, OF THE DISTRICT OF COLUMBIA
HOLLY M. BOOTH, OF VIRGINIA
MICHAEL ALAN BRADECAMP, OF VIRGINIA
BRETT PLITT BRUEN, OF NEW YORK
MALGORZATA BULA-DUANE, OF NEW YORK
MARK COLBOURNE CARLSON, OF WASHINGTON
DANIEL R. CASTER, OF VIRGINIA
DELARAM M. CAVEY, OF VIRGINIA
MICHAEL ALBERT CHUNG, OF WASHINGTON
SARA M. COBB, OF FLORIDA
CHRISTOPHER JARED COFFIN, OF MARYLAND
KATHLEEN MARIE COREY, OF WASHINGTON
SONATA N. COULTER, OF CALIFORNIA
HILARY CHISATO WATANABE DAUER, OF VIRGINIA
GARY THOMAS DEMPSEY, OF VIRGINIA
CHRISTOPHER M. DEUTSCH, OF VIRGINIA
BEVERLI J. DEWALT, OF WASHINGTON
LINDSEY D. DIEFENDERFER, OF WASHINGTON
SNEZANA DJORDJEVIC, OF VIRGINIA
JAMES A. DRAGON, OF VIRGINIA
DAVID C. EDGINTON, OF IOWA
ELLEN B. EISEMAN, OF NEW YORK
GUNTHER T. FEHR, OF NORTH CAROLINA
CHRISTIANA M. FOREMAN, OF CALIFORNIA
JILL FOSTER, OF CALIFORNIA
TOBIE DEON GASS, OF VIRGINIA
WARREN MITCHELL GRAY, OF MARYLAND
LUANN GRIER, OF CALIFORNIA
H. REBECCA GRUTZ, OF TEXAS
RICHARD PAUL HANSEN, OF MARYLAND
CASH A. HERBOLICH, OF ARIZONA
SABIN MANZEL HINTON, OF UTAH
HOWARD LEE HOLSOMBACK, OF VIRGINIA
AMY J. HOOD, OF VIRGINIA
JESSICA MARIE FRANZ HUARACAYO, OF CALIFORNIA
DORIAN HURTADO, OF FLORIDA
MOLLIE JAX JACKSON, OF OREGON
ADAM DEWAYNE JANSEN, OF VIRGINIA
ANDREW JAY, OF NEW YORK
TIFFNEY J. JOHNSON, OF TEXAS
JASON B. KHILE, OF ILLINOIS
LEANNE N. KOONTZ, OF THE DISTRICT OF COLUMBIA
JULIANNA JUNGHWA KIM, OF NEVADA
EMILY L. KING, OF VIRGINIA
FILIP B. LABAN, OF HAWAII
MARIA VIRGINIA LANE, OF COLORADO
JOHN S. LAROCHELLE, OF FLORIDA
WILLIAM A. LAWRENCE, OF MASSACHUSETTS
GUY M. LAWSON, OF TEXAS
SARA LECHTENBERG-KASTEN, OF VIRGINIA
ALICA EMIN LEJLIC, OF ILLINOIS
RYAN C. LEONG, OF THE DISTRICT OF COLUMBIA
NOAH BRADLEY LITTIN, OF TEXAS
INGA LITVINSKY, OF VIRGINIA
DONALD E. LOCKE, OF WISCONSIN
LOU ANN LORA-PLATT, OF NEW MEXICO
LAURA DE NELLE LUCAS, OF IDAHO
MARY ELIZABETH MADDEN, OF VIRGINIA
PAMELA JANE HACK MAGNANT, OF NEW HAMPSHIRE
HAGEN D. MARONEY, OF THE DISTRICT OF COLUMBIA
JAMES J. MATTHEWS, OF MARYLAND
PARTHA MAZUMDAR, OF PENNSYLVANIA
LISSA MEI-LIN MCATEE, OF WASHINGTON
NANCY HILLERY MCCARTHY, OF TEXAS
BRIAN J. MCGRATH, OF VIRGINIA
AUD-FRANCES MCKERNAN, OF CALIFORNIA
ROBERT RANDALL MEARKLE, OF MINNESOTA
SARA MARIE MERCADO, OF CALIFORNIA
LIA N. MILLER, OF NEW YORK
K.G. MOORE, OF COLORADO
JOHN K. MOYER, OF PENNSYLVANIA
MICHAEL P. MURRAY, OF THE DISTRICT OF COLUMBIA
MEGAN THANA MYERS, OF MINNESOTA
JOSEPH W. NAVARRE, OF VIRGINIA
THU NGUYEN, OF MASSACHUSETTS
DOUGLAS SCOTT O'NEILL, OF VIRGINIA
GINO P. PAGOTTO, OF VIRGINIA
THOMAS R. PALUMBO, OF THE DISTRICT OF COLUMBIA
RACHEL H. PARK, OF VIRGINIA
TODD W. PARMENT, OF VIRGINIA
SWATI MARSUKH PATEL, OF ALABAMA
JILL M. PETERSON, OF MARYLAND
ALEX JOHANN REPONEN, OF VIRGINIA
MICHAEL R. ROBERTS, OF NEW JERSEY
KRISTIN LYNN ROCKWOOD, OF CALIFORNIA
SUSAN ROSS, OF MARYLAND
MATTHEW ALBERT ROY, OF VIRGINIA
URSULA M. RUDD, OF MARYLAND
MATTHEW C. RUMFELT, OF VIRGINIA
BRENDAN M. SALMON, OF VIRGINIA

JENNIFER L. SAUERBRUNN, OF TEXAS
WILLIAM JOSEPH SCHMITT JR., OF FLORIDA
JASON DANIEL SEYMOUR, OF CALIFORNIA
FRANC X. SHELTON, OF TEXAS
WILLIAM D. SHINGLETON, OF MARYLAND
NOAH SIEGEL, OF OREGON
MATTHEW L. SONNTAG, OF VIRGINIA
SHANNON J. SPANN, OF VIRGINIA
JOHN THOMAS SPEAKS III, OF NEW YORK
SCOTT ADAM STERNBERG, OF FLORIDA
STEPHEN BRUCE STEWART, OF CALIFORNIA
PAUL M. STRONSKI, OF NEW YORK
RACHEL SUNDEN, OF NEW YORK
DIVYA L. SWAMY, OF VIRGINIA
WILLIAM H. SYLL, OF LOUISIANA
KATHLEEN S. SZPILA, OF MASSACHUSETTS
VICTORIA J. TAYLOR, OF MISSOURI
BERNARD CHITONGCO UADAN, OF FLORIDA
MATTHEW DAVID WALLACE, OF VIRGINIA
EVA KAY WALSH, OF ILLINOIS
ELIJAH J. WATERMAN, OF PENNSYLVANIA
JOEL R. WIEGERT, OF NEBRASKA
ELLEN WONG, OF MISSOURI
MARISA L. ZAVISLAK, OF VIRGINIA
NINGCHUAN ZHU, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

JOSEPH D. STAFFORD III, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

WILLIAM L. BRANT II, OF OKLAHOMA
LARRY M. SENGER, OF WASHINGTON

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

SUZANNE E. HEINEN, OF MICHIGAN
RALPH IWAMOTO JR., OF HAWAII
DANNY J. SHEESLEY, OF COLORADO
GEOFFREY W. WIGGIN, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

NICHOLAS GUTIERREZ, OF NEW MEXICO
LISA A. HARDY-BASS, OF CALIFORNIA
GRANT A. PETTRIE, OF VIRGINIA
KENT D. SISSON, OF VIRGINIA
WILLIAM W. WESTMAN, OF FLORIDA

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL ROBERT R. ALLARDICE, 0051
COLONEL C.D. ALSTON, 3231
COLONEL THOMAS K. ANDERSEN, 8905
COLONEL BROOKS L. BASH, 3966
COLONEL MICHAEL J. BASLA, 6753
COLONEL MARK S. BORKOWSKI, 5289
COLONEL FRANCIS M. BRUNO, 3512
COLONEL HERBERT J. CARLISLE, 9032
COLONEL GARY S. CONNOR, 3923
COLONEL CHARLES R. DAVIS, 8766
COLONEL DANIEL R. DINKINS JR., 2842
COLONEL GREGORY A. FEEST, 5242
COLONEL FRANK GORENC, 1011
COLONEL BLAIR E. HANSEN, 0421
COLONEL MARY K. HERTOG, 9595
COLONEL JIMMIE C. JACKSON JR., 9118
COLONEL FRANK J. KISNER, 0380
COLONEL JAMES M. KOWALSKI, 3604
COLONEL DONALD LUSTIG, 4218
COLONEL WILLIAM N. MCCASLAND, 7469
COLONEL CHRISTOPHER D. MILLER, 9947
COLONEL HAROLD W. MOULTON II, 5917
COLONEL JOSEPH F. MUDD JR., 8962
COLONEL MARK H. OWEN, 6573
COLONEL ELLEN M. PAWLIKOWSKI, 2245
COLONEL ROBIN RAND, 6920
COLONEL JOSEPH M. REHEISER, 0899
COLONEL JOSEPH REYNES JR., 5709
COLONEL ALBERT F. RIGGLE, 3194
COLONEL PAUL G. SCHAFER, 7952
COLONEL STEPHEN D. SCHMIDT, 3532
COLONEL MARK S. SOLO, 7827
COLONEL LAWRENCE A. STUTZRIEM, 7077
COLONEL JANET ANTHEA THERIANOS, 7369
COLONEL ROBERT YATES, 5708

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MELISSA A. RANK, 1159
COL. THOMAS W. TRAVIS, 2543

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. CECIL R. RICHARDSON, 3790

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

GARY W. STINNETT, 1493

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

JAMES M. IVES, 1035

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

PAUL SWICORD, 7339

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

STEPHEN A. BERNSTEIN, 6841

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

JAMES R. HUDSON, 2351

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

GARY J. GARAY, 8296

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

JOHN W. ERVIN, 4192

WITHDRAWAL

Executive message transmitted by the President to the Senate on February 23, 2004, withdrawing from further Senate consideration the following nomination:

JAYMIE ALAN DURNAN, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF THE ARMY, WHICH WAS SENT TO THE SENATE ON NOVEMBER 21, 2003.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 24, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 25

9:30 a.m.

Commerce, Science, and Transportation
To hold hearings to examine processor quotas.
SR-253

Appropriations
District of Columbia Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the government of the District of Columbia.
SD-138

Foreign Relations
To hold hearings to examine the Japanese tax treaty and the SriLanka tax protocol.
SD-419

Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR-485

Armed Services
Personnel Subcommittee
To hold hearings to examine policies and programs for preventing and responding to incidents of sexual assault in the armed services.
SH-216

10 a.m.

Banking, Housing, and Urban Affairs
To hold hearings to examine current investigations and regulatory actions regarding the mutual fund industry, focusing on understanding the fund industry from the investor's perspective.
SD-538

Budget
To hold hearings to examine the President's proposed homeland security budget request for fiscal year 2005.
SD-106

Judiciary
To hold hearings to examine the nomination of Roger T. Benitez, to be United States District Judge for the Southern District of California.
SD-226

Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold joint hearings with the House Committee on Government Reform Subcommittee on Civil Service and Agency Reorganization, to examine the key to homeland security relating to the new human resources system.
2154 RHOB

Joint Economic Committee
To hold hearings to examine the performance and potential of consumer driven health care.
SD-628

2 p.m.

Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD-430

2:30 p.m.

Banking, Housing, and Urban Affairs
To continue hearings to examine proposals for improving the regulation of the housing government sponsored enterprises.
SD-538

Armed Services
Strategic Forces Subcommittee
To hold hearings to examine the Department of Energy's Office of Environmental Management, Office of Future Liabilities, and Office of Legacy Management, relating to the defense authorization request for fiscal year 2005.
SR-232A

3:30 p.m.

Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine USAID contracting policies.
SD-419

FEBRUARY 26

9:30 a.m.

Armed Services
To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed session in SH-219.
SH-216

Foreign Relations
To hold hearings to examine public diplomacy and international free press.
SD-419

Judiciary
Business meeting to consider pending calendar business.
SD-226

10 a.m.

Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Alphonso R. Jackson, of Texas, to be Secretary of Housing and Urban Development, Linda Mysliwy Conlin, of New Jersey, to be a Member of the Board of Directors of the Export-Import Bank of the United States, and Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Services.
SD-538

Budget
To hold hearings to examine the President's proposed international affairs budget request for fiscal year 2005.
SD-106

Appropriations
Homeland Security Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for emergency preparedness and response budget.
SD-124

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Office of Science and Technology Policy and the National Science Foundation.
SD-192

2 p.m.

Banking, Housing, and Urban Affairs
To continue hearings to examine current investigations and regulatory actions regarding the mutual fund industry, focusing on fund operations and governance.
SD-538

Health, Education, Labor, and Pensions
To hold hearings to examine ensuring quality and accountability regarding higher education accreditation.
SD-430

2:30 p.m.

Energy and Natural Resources
To hold hearings to examine the nomination of Susan Johnson Grant, of Virginia, to be Chief Financial Officer, Department of Energy.
SD-366

Foreign Relations
To hold hearings to examine next steps in U.S. relations regarding Libya.
SD-419

MARCH 1

10 a.m.

Appropriations
Defense Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Defense.
SD-192

11 a.m.

Governmental Affairs
Financial Management, the Budget, and International Security Subcommittee
To hold hearings to examine the management, investment, and oversight policies of the federal government's Thrift Savings Plan (TSP) to ensure the integrity of federal employees' retirement savings.
SD-342

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MARCH 2

9:30 a.m.

Armed Services

To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.

SH–216

10 a.m.

Energy and Natural Resources

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.

SD–366

Health, Education, Labor, and Pensions

Substance Abuse and Mental Health Services Subcommittee

To hold hearings to examine substance abuse.

SD–430

2:15 p.m.

Veterans' Affairs

To hold hearings to examine the final report of the Department of Veterans' Affairs' Capital Asset Realignment for Enhanced Services (CARES) Commission.

SR–418

MARCH 3

10 a.m.

Indian Affairs

To hold oversight hearings to examine the status of the completion of the National Museum of the American Indian.

SR–485

2 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings to examine future Navy and Marine Corps capabilities and requirements in review of the defense authorization request for fiscal year 2005 and the future years defense program.

SR–232A

MARCH 4

9:30 a.m.

Armed Services

To hold open and closed hearings to examine the Defense Authorization Request for Fiscal Year 2005, focusing on military strategy and operational requirements (closed in SH–219).

SH–216

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine higher education.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.

345 CHOB

2:30 p.m.

Energy and Natural Resources

Energy Subcommittee

To hold hearings to examine new nuclear power generation in the United States.

SD–366

MARCH 9

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine H.R. 1446, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, S. 1306, to introduce the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania.

SD–366

MARCH 10

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

11:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

2 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings to examine the posture of the U.S. Transportation Command in review of the defense authorization request for fiscal year 2005 and the future years defense program.

SR–232A

MARCH 11

10 a.m.

Health, Education, Labor, and Pensions

Children and Families Subcommittee

To hold hearings to examine child and family issues.

SD–430

Energy and Natural Resources

To hold hearings to examine S. 2086, to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines, and S. 2049, to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

SD–366

2 p.m.

Armed Services

Airland Subcommittee

To hold hearings to examine Army Transformation in review of the defense authorization request for fiscal year 2005 and the future years defense program.

SR–232A

MARCH 18

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.

345 CHOB

MARCH 23

9:30 a.m.

Armed Services

To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.

SD–106

10 a.m.

Health, Education, Labor, and Pensions

Substance Abuse and Mental Health Services Subcommittee

To hold hearings to examine mental health services.

SD–430

MARCH 25

9:30 a.m.

Armed Services

To hold hearings to examine the role of the U.S. Northern Command and U.S. Special Operations Command in defending the homeland and in the global war on terrorism, in review of the defense authorization request for fiscal year 2005; to be followed by a closed session in SH–219.

SH–216

10 a.m.

Health, Education, Labor, and Pensions

Employment, Safety, and Training Subcommittee

To hold hearings to examine MSDS and OSHA hazardous commission.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.

345 CHOB

MARCH 31

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB

SENATE—*Tuesday, February 24, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAXBY CHAMBLISS, a Senator from Georgia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and glory, we owe You far more than we can ever repay. Thank You for Your gift of abundant life and freedom from the chains of evil. Thank You also for the love of family, for the joy of health, and for the challenges that make us stronger.

Lord, deliver us from pride and ingratitude. Inspire our leaders with Your presence. May each Senator enable You to lay the foundation for every decision he or she makes. Protect these leaders as they come and go.

Continue to keep each of us from falling. Empower us to be faithful to our high calling to be Your sons and daughters. Bless our military and all who risk their lives for freedom. We pray this in Your gracious Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAXBY CHAMBLISS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, February 24, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAXBY CHAMBLISS, a Senator from the State of Georgia, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. CHAMBLISS thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. ENSIGN. Mr. President, today the Senate resumes consideration of the motion to proceed to S. 2061, the OB/GYN medical malpractice bill. Senators who wish to speak on the bill are encouraged to come to the floor during today's session. The Senate will recess from 12:30 until 2:15 for the weekly party lunches.

At 5 p.m. the Senate will vote on the motion to invoke cloture on the motion to proceed to the bill. As a reminder, last night the majority leader filed cloture on the motion to proceed to S. 1805, the gun liability bill. The cloture vote on the motion to proceed to the gun liability bill will occur on Wednesday.

I ask unanimous consent that the time until 12:30 p.m. be equally divided between the two managers or their designees: provided further that the time from 2:15 until 4:50 p.m. be equally divided in the same manner; with the final 10 minutes prior to the 5 p.m. cloture vote equally divided between the two leaders or their designees, with the majority leader in control of the final 5 minutes.

Mr. REID. Mr. President, this is an equitable distribution of time and will save a lot of confusion. We therefore agree.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to consideration of S. 2061.

Mr. ENSIGN. Mr. President, I wish to make a few opening comments on the medical liability bill. Last year we had a debate in the Senate on proceeding—not voting on but proceeding—to an overall medical liability reform bill. That vote was 49 to 48 in favor of going to the bill. Unfortunately, the rules of the Senate provide that one needs 60 votes. Otherwise, a filibuster, as it is commonly referred to, is continued. You cannot proceed to debating the legislation or to votes or amendments.

There are currently 19 States, according to the American Medical Association, that are in crisis. Nineteen States are experiencing some kind of crisis with their medical system because of problems with medical liability insurance. All but 5 States of the remaining are showing some problems, the type of problems that have led to those 19 States being in crisis.

We had the vote last year and couldn't get it done. Senator GREGG and I have introduced the bill before us today, the Healthy Mothers and Healthy Babies Access to Medical Care Act. This bill limits the scope of reform of the medical liability system to the practice of obstetrics and gynecology and the doctors involved in those practices.

Using my own State as an example, at the University of Nevada School of Medicine there has been a dramatic decrease in the number of medical students deciding to go into obstetrics. This is happening at a time when Nevada is the fastest growing State in the country. Southern Nevada—Las Vegas, in particular—is by far the fastest growing metropolitan area in the Nation. Not only are we not adding the OB/GYNs we need, we are actually losing them.

The other side will argue that the General Accounting Office did a study and determined that doctors are not giving up their licenses. They said that doctors are not leaving their States.

The problem with what the General Accounting Office did is, they went to the State boards and only did a survey of licenses. I was a practicing veterinarian and still have a license in veterinary medicine. Once you have a license, you never give it up because you never want to take the exam again. So when the General Accounting Office asked the State board of medical examiners how many doctors have given up their licenses, and they found out nobody had given up their licenses, that should not surprise anybody because they are not going to give them up. That does not mean these doctors are not quitting practice in Nevada and other States—Pennsylvania, West Virginia, Washington State, Mississippi, and many others around the country. It means they haven't given up their licenses because they don't want to take the exam again. But they are limiting their practices. And many of them are leaving those States that are affected.

Several years ago, California gave us a good model. California is right next to my State of Nevada. California passed what is known as MICRA. It is a medical liability reform bill. Luckily, they passed it back then because the trial lawyers have become so powerful across the United States that you could never get the same piece of legislation passed in California. That would be a shame because it has worked so well. It is the model around which we built the legislation on the Senate floor today.

In California—Los Angeles, for example—OB/GYN medical liability insurance is somewhere a little over $50,000 a year. In Las Vegas, where we don't have and haven't had this wonderful MICRA law on the books, premiums can run anywhere from $110,000 up to $200,000 a year. Not only that, they are telling the doctors in Las Vegas, you have to limit the number of deliveries you do, especially if you are practicing on high-risk deliveries.

If you are a woman who has a high-risk pregnancy, you want the best possible doctor you can get. Unfortunately, those doctors are having to limit their practice or retire or leave the State because they cannot afford medical liability coverage any longer.

This is a crisis—a crisis of access to health care for women who need the health care, women who are in search of gynecological services or women who are about to deliver babies. The stories—there are many of them—are tragic in many circumstances.

This is, by the way, only one area of our health care system that is in crisis. Trauma is another place, and we are going to address that later this year—emergency rooms. As a matter of fact, the level I trauma center in Las Vegas closed a couple of years ago because the doctors could not afford to practice there because of the liability. There were so many lawsuits—not lawsuits that actually had merit to them; some of them did but most of them did not. Because of the potential liability, the doctors said we cannot afford to work here. So the level I trauma center that serves a four-State region had to close. That is the same level I trauma center, for those who followed the national news this last year, where Roy Horn of Siegfried and Roy was treated after the tiger had attacked him. It is an excellent level I trauma center. It saves many lives.

We had a press conference last year where a woman whose father was in Las Vegas and had an accident while the level I trauma center was closed. He had to be transferred to another hospital, and because of the delay in treating him, we could definitely argue that this man would be alive today if the trauma center had not closed. That trauma center was only closed for 1 week, and it was closed for that reason. The State of Nevada stepped up; our Governor stepped up and said we will cover that trauma center under the laws of the State of Nevada.

What are the laws of the State of Nevada? It has a $50,000 cap of liability—total cap. Not $50,000 for pain and suffering but a total cap of $50,000. That is not even close to what this bill says. This bill has a $250,000 cap on noneconomic, nonmedical damages. You can still get all the economic damages you would have incurred; for instance, loss of income or other types of economic damages. You can get all of the medical coverage you would need. It is just that $250,000 cap on pain and suffering awards. Those are the awards we have seen that are getting outrageous all across America.

That level I trauma center, luckily for Roy Horn, was open. Without the type of intense care you can receive in a trauma center, Roy Horn, I think it could be argued, would not be with us today.

Mr. President, even though we have limited this bill to the practice of obstetrics and gynecology, we do have a much bigger problem in this country, a problem that must be addressed. We are in a political season today. We know that. It is an election year for the President, the Senate, and the House, and there is a lot of politics going on. Some people say: You guys are just doing this with OB/GYNs to make a political issue out of it.

If people want to stand up and say that they don't want to fix the problem happening with access to care for women and children, then I guess that is a political issue. I think it is a legitimate political issue. People need to know where Senators stand. They need to know where our Presidential candidates stand on issues of this importance. I believe that when they find out where candidates stand, whether they are incumbents or challengers, this issue will make a difference in their vote come November.

It is that important to our overall quality of life in America. I believe it is wrong that we have to have people moving, or not moving, from State to State because they cannot get access to quality care because the medical liability costs are too high—one reason versus another reason.

Some States have enacted good reform. Colorado and California are the best examples. My State enacted a bill, but, unfortunately, it will take several years before we know whether that bill will withstand challenge in the courts. Also, there were two huge loopholes in that bill that the trial lawyers were able to get in that you will be able to drive a truck through. That is why many in the medical community in Nevada are trying to close those loopholes.

We need enactment at the national level. Sixty percent of all medical bills are paid by the Federal Government between Medicare, Medicaid, and veterans. It is a national priority. We must get this medical liability crisis under control so that our trauma centers are not closing, so that women have access to their OBs, gynecologists, and nurse midwives, who are also covered under this bill. They sometimes get left out of the discussion, but they are a very important part of our health care delivery system in this country and delivering healthy babies.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from Nevada. I know of his personal interest in this issue. He has offered legislation before. Today we are considering S. 2061, which has been offered initially by Senator GREGG of New Hampshire and Senator ENSIGN.

It is important to note that this bill, which was brought directly to the floor, has not been the subject of any committee hearings. In fact, there has been no effort, to my knowledge, to sit down and find a bipartisan compromise or sponsorship for this legislation. This bill was presented to the Senate a few days before we went into recess, and now it is being called this day.

What is interesting, as well, is that there are announcements from the Republican leadership that we will quickly move after the vote on this bill to other issues, and they have been enunciated.

The point I want to make is this: I don't believe this is a constructive effort that leads us to a solution to a national problem. This, instead, is a bill being called for one reason only: To get a rollcall. It is a bill being called today to put Senators on the spot. Vote yes; vote no. Why? Because, frankly, there are some on one side of the issue who want to demonstrate that they are concerned. So they are bringing a bill to the floor. They want a rollcall so they can say to those who are looking for some change and for some legislative progress: See, we moved quickly on this. We brought a bill to the floor and, darn it, it didn't pass. We will try to get to it later in the session.

From my point of view, that is not the way to approach this. We should have dealt with this in good faith and constructive, bipartisan effort to try to find a solution to a serious national problem. But that is not the case. Instead, we are having a head-on collision between the trial lawyers on one side and the doctors on the other side.

I come to this debate as someone who had a little bit of experience in this issue a long time ago. Before I was elected to Congress 21 years ago, I was a practicing lawyer. I used to defend doctors who were sued for medical malpractice. I did that for 5 or 6 years. I came to understand the nature of these lawsuits and how complicated and painful many of them are. Then I was on the other side of the table, representing patients who went into a doctor's office or a hospital and were injured and they sought compensation because of these injuries. So I have seen both sides of the issue. I come to this debate with the belief that we need to bring all of the parties together to find a solution. What we have with this bill, I am afraid, does not come close to addressing a serious national issue.

Mr. President, I see that the Democratic leader, Senator DASCHLE, has taken to the Senate floor. I planned on giving a rather lengthy speech. At this point, I would like to yield the floor to the Senator from South Dakota and then I can resume after he is finished.

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Illinois for his courtesy, and I appreciate very much the leadership he has provided. He has said on many occasions that it is imperative we address this issue in a meaningful, comprehensive way. Senators on both sides of the aisle recognize that this situation will not resolve itself; that it must be addressed. But like him, I share the concern that the bill before us just doesn't do that.

Last year, the Senate was asked to consider a bill that promised to reduce insurance premiums for doctors by restricting the legal rights of injured patients. That bill was rejected by a strong bipartisan margin in the Senate for one simple reason: It was a sham. It put the profits of insurers ahead of the rights of patients, while offering doctors no real relief whatsoever.

Today we are being asked to consider yet another bill that seeks to close the doors of the courthouse to victims of malpractice, this time under the guise of expanding health care access for women and infants.

Once again, the Senate should reject this bill for what it is: a maneuver designed to protect nothing but the profits of insurance companies, HMOs, pharmaceutical companies, and medical device manufacturers.

Democrats and Republicans agree that skyrocketing malpractice insurance premiums are a serious challenge. Too many doctors, especially obstetricians and gynecologists, are being forced to pay exorbitant premiums because of the arbitrary actuarial formulas of insurance companies. This is a national problem, and it demands our attention. But like last year, this bill actually does nothing to help doctors. Despite the claims of the insurance companies, every piece of available evidence shows that capping damages has absolutely no impact on the cost of malpractice insurance.

According to the Medical Liability Monitor in a sampling representative of all States with caps on damages, malpractice insurance premiums for OB/GYNs actually increased by as much as 54 percent in 2003. In States without caps on damages, OB/GYN premiums increased no more than 14 percent in 2003. Many States without caps saw no increases whatsoever.

We have a situation, again documented by the Medical Liability Monitor, that States with caps saw increases of as much as 54 percent last year. States with no caps saw increases of no more than 14 percent last year.

A recent study by the Weiss rating organization found that caps on noneconomic damages failed to result in lower premiums for doctors, despite the fact they did reduce the amount insurers had to pay out to victims. Insurers merely kept the savings for themselves and left doctors to fend for themselves.

In the months since we last discussed this issue, the GAO and the CBO both released reports demonstrating that the primary factor driving insurance premiums higher is not malpractice awards, but the insurance companies' desire to recover their investment losses. After trying to pass on the cost of their bad investments to doctors, they are now trying to do the same thing by limiting the rights of injured patients.

Even the insurance industry admits that caps will not protect doctors from higher insurance premiums. A press release published on March 13, 2002, by the American Insurance Association stated:

> Insurers never promised that tort reform would achieve specific premium savings. . . .

Just last year, Bob White, president of the largest medical malpractice insurer in Florida, stated:

> No responsible insurer can cut its rates after a [medical malpractice tort "reform"] bill passes.

Take it from the insurers themselves, no doctor should expect lower insurance rates as a result of this bill, and no woman should expect greater access to health care for themselves or their babies.

What women should expect, on the other hand, is a two-tiered legal system that restricts their rights in the courthouse if they are hurt by the negligence of a doctor, HMO, drug company, or medical device manufacturer.

This bill is unjust. It restricts women's access to the legal system while preserving it actually for men.

Under this bill, if a man shows signs of lung cancer and his illness is misdiagnosed due to the negligence of his doctor, he can recover damages to compensate him fully for his injuries. But if a woman with cervical cancer suffers the same negligence, her damages will be arbitrarily capped. If a man is prescribed defective blood pressure medication by an internist, he can recover full damages. But if a woman is prescribed blood pressure medication during pregnancy that causes blood clots, her damages will be capped.

The real problem with this bill is not merely that it values the injuries of men and women differently, as troubling as that is, the real problem is that it presumes that politicians in Washington are better able to determine how to compensate injured patients.

Every year, tens of thousands of women and infants are injured at the hands of OB/GYNs.

Nine years ago, Colin Gourely of Nebraska suffered complications at birth due to his doctor's negligence. Today, he has cerebral palsy and is confined to a wheelchair. In his short life, he has needed five surgeries to correct bone problems and sleeps in a cast every night to prevent further orthopedic problems.

Shannon Hughes from South Carolina was in the middle of a difficult labor. Despite repeated calls, the doctor wouldn't come until her 35th hour of labor. It turned out that the umbilical cord was wrapped around her baby's neck cutting off oxygen. Today, Shannon's son, Tyler, is severely brain damaged and bedridden. He requires constant medical care and is fed through a tube.

When Alexandra Katada was born in McKinney, TX, the doctor stretched her spine, destroying her nerves, leaving her partially paralyzed. The baby's elbow was pulled from its socket and broken. She died 8 months later from her spinal injuries.

Let us be clear: No amount of money can compensate a parent for their child's pain, but malpractice awards are not simply about money. They are about offering victims a sense of justice, a way to hold accountable those responsible for their injuries or the death of their loved ones.

Some have said that without limits, the legal system looks more like a lottery. But no jury award could ever make the parents of Colin Gourely or Tyler Hughes or Alexandra Katada feel that they were holding a winning ticket.

Malpractice awards are decided by juries and approved by judges. This is the same system on which we rely to decide life and death issues in capital cases. Why would we not trust our citizens to fairly evaluate how to deliver justice for the victims of medical malpractice?

Democrats are eager to work together with our colleagues to craft a real solution to the problem of rising malpractice premiums. But, once again, rather than working with us to craft a true compromise that would address the problems of increasing insurance premiums, the Republican leadership has decided to bring this bill to the floor with the same level of problems, the same concerns we had 7 months ago.

If our colleagues were serious about combating the rising cost of malpractice premiums, they would join us in supporting bipartisan legislation that includes both long-term and short-term solutions that directly address the rising premiums without harming injured Americans—solutions such as individual tax credits to offset costs when premiums rise sharply; reasonable limits to punitive damages; prohibitions against commercial insurers engaging in activities that violate Federal antitrust laws; sensible ways to reduce medical errors; and direct assistance to geographic areas that have a shortage of health care providers due to dramatic increases in malpractice premiums.

The Senate faced a similar situation discussing concerns about the rising terrorism insurance rates. Some thought then that the only solution was to undo the jury system. Instead, the Senate worked together and developed a bipartisan solution that fixed the problem and brought down insurance rates dramatically.

We should pursue the same model for addressing this problem as well.

There is no question that malpractice rates are a serious problem. Doctors and patients deserve a real answer. This bill is not it. I urge my colleagues to reject cloture.

I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from South Dakota because I think he has raised an important issue of concern in this debate and that is one I have initiated in my opening remarks. We need to have a constructive bipartisan conversation about a serious national problem. Instead, this bill, S. 2061, was introduced just a few days ago without a committee hearing, reference to committee, without any attempt to find common ground and find a solution. In fact, it is being called today so there will be a vote on record and nothing else. It is anticipated the bill will not go forward.

I spoke to doctors in Illinois over the weekend, doctors who share my concern about the medical malpractice premium situation in our State. I have told them what we are doing today is frankly a political exercise. It is an exercise to come up with a roll call vote so those on one side of the issue can go to their supporters and say, we have worked hard. We brought this bill to the floor, we have been stopped, and we cannot get back to it because we are so busy. Frankly, that is no solution. In State after State, including my State, there are areas where there are serious medical malpractice premium problems. They arise for a variety of reasons. Memorial Hospital in Belleville, IL, has lost numerous obstetricians and gynecologists in the last year due to rising malpractice premiums. Community leaders in that town, which I am familiar with—it is an area I grew up in—have come to me and said, this is a real source of concern. We are losing doctors. They are doctors who are leaving the practice to retire early, and I met one doctor in that circumstance. There are some who are moving to rural counties where the malpractice premiums are lower and they are further away, of course, from the people they originally served. Some are moving across the river to Missouri where they are finding malpractice premiums are a fraction of what they are in Illinois.

There is no doubt in my mind there is a serious problem that needs to be addressed. It is not just in the obstetrical/gynecological area. The OB/GYN issue is an important one, but there are other areas of need relative to trauma care, neurosurgery, and orthopedic surgery. The list is long and we need to address it in a serious and responsible way.

This bill, however, is being brought to us on a moment's notice. This bill is being brought to us in an effort to really check off the box that says, yes, we considered medical malpractice and now we are going to move on. That is unfair and it is unfortunate, and we can do better.

I will tell my colleagues a story about some of the situations I know of in my State. Eduardo Barriuso, who is a physician in the Humboldt Park area of Chicago, pays $104,000 a year for malpractice insurance. He earns about $175,000 because the patients he sees are poor patients, Medicaid and Medicare patients. Doctors who depend on Medicaid and Medicare are not wealthy individuals, but they perform a valuable function because if they are not there to serve the poorest of the poor, then who will?

This doctor says that faced with $104,000 in annual premiums and a $175,000 annual income, he cannot continue his practice, and he certainly cannot pass on the higher costs of medical malpractice insurance to his patients who are poor people.

Another Chicago area OB/GYN has announced he is going to study to obtain his pharmacist license. Right now he is paying $115,000 a year for liability insurance.

Let's go to the root cause of the issue. Why are we even debating this issue of medical malpractice? There are several reasons. First, the men and women who are engaged in the medical profession are some of the most important people in our lives, some of the most important people in America. These are men and women who at great personal sacrifice go to medical school so that they are trained and skilled to be there when we need them, when our families need them. Time and again, my family and most who are following this debate have turned to a doctor in the hopes that he or she can cure an illness, provide some hope, give people some reason to believe they can overcome a disease, disability, or an injury.

Doctors are so critically important to all of us and yet when one takes a look at a doctor's practice, at a doctor's skills, there is a human side to the equation. They are human beings. They do make mistakes. Some are simple negligence. Some are far worse. When these mistakes occur, when a patient is in a hospital or a doctor's office and the wrong thing is done and that patient is injured, what should happen? In most walks of life in America, we are held accountable for our actions.

If I decide this evening to take my car and go out speeding on a highway, strike another car and injure someone, I will be held accountable. I was negligent. I did not reach the standard of safety that is expected of me as a driver and I must pay the price. That is true for businesspeople, for individuals, for virtually everyone in America. It is certainly true for medical professionals. When they make a mistake by negligence or intentional misconduct, they can and should be held accountable. I think that is part of our system of justice. Very few, if any, people argue that is not a reasonable thing to do.

How serious then are the number of medical errors and medical malpractice cases that occur across the United States? Well, the most far-reaching study of the extended cost of medical errors in hospitals and doctors' offices was published by the Journal of the American Medical Association last October. This is a dispassionate, objective analysis of the likelihood of medical errors and medical negligence in America. The authors of the study analyzed 7.4 million patient records from 994 hospitals in 28 States, representing some 20 percent of all the hospitals in America. This was an exhaustive study.

They concluded medical injuries in hospitals "pose a significant threat to patients and incur substantial costs to society," and "are a serious epidemic confronting our health care system."

A study in the Journal of the American Medical Association has told us as we go into this debate the first thing we can acknowledge is we have an epidemic of medical negligence in America. Now this was not the Journal of the American Trial Lawyers. This was the Journal of the American Medical Association. They published a study that told us and warned us we have a serious problem in America.

The study found injuries in U.S. hospitals in the year 2000, for just one year, led to approximately 32,600 deaths, at least 2.4 million extra days of patient hospitalization, and additional costs of up to $9.3 billion. These injuries did not include adverse drug reactions or malfunctioning medical devices.

Dr. Carolyn Clancy, Director of the Agency for Health Care Research and

Quality, called medical errors "a national problem of epidemic proportions."

This was at a hearing before the Government Affairs Committee last June. She said Congress and the Bush administration need to make sure health care professionals work in systems that are designed to prevent mistakes and catch problems before patients are injured.

According to the Institute of Medicine, the medical errors epidemic has caused more American deaths per year than breast cancer, AIDS, and automobile accidents combined. It is the equivalent to a jumbo jetliner crashing every 24 hours for an entire year.

More than 70 studies of the past decade have documented serious quality problems in medical treatment, yet this bill before us today, S. 2061, does absolutely nothing to address this underlying problem of patient safety. How can we in good conscience talk about a medical malpractice problem and conclude the only place we need look is to the courtroom, to the patient once injured who goes to the courthouse seeking some compensation, some accountability for an injury that was absolutely no fault of their own? Yet the bill before us is absolutely silent when it comes to making doctors' offices, hospitals, and patient treatment safer.

This last Sunday in the New York Times, an interesting article on patient safety was published. I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 22, 2004]

RUNNING A HOSPITAL LIKE A FACTORY, IN A GOOD WAY

(By Andrea Gabor)

On the face of it, SSM St. Joseph Health Center, a small hospital in suburban St. Louis, does not seem very revolutionary in business terms. The hospital is a nonprofit institution run by the Franciscan Sisters of Mary. The chief executive, Alan Kevin Kast, is a former seminarian who begins his meetings with prayer and refers to his hospital as a ministry. A crucifix hangs in every room.

Yet St. Joseph is also guided by worldly objectives. The 364-bed hospital, part of SSM Health Care, which has 20 hospitals in four states and is led by Sister Mary Jean Ryan, is in the vanguard of health care change. By using the quality and productivity techniques that helped strengthen American industry in the 1980's, the hospital has improved patient care and reduced medication errors, waiting time in the emergency room and infection rates. It has even sharply reduced nursing turnover, which prevents many hospitals from delivering consistent care.

Other hospitals are also starting to use some of the techniques that have made industry more efficient in its quest to improve quality and save money. Every year, preventable medical errors cost $9 billion, and tens of thousands of lives, according to a recent study by the Agency for Healthcare Research and Quality, part of the Department of Health and Human Services, and Johns Hopkins University.

Whether in industry or in health care, a quality strategy "gives a unified vocabulary for thinking about production as a system with a focus on customers," said Donald Berwick, founder of the Institute for Healthcare Improvement, an advocacy organization based in Boston.

Many hospitals are using a road map provided by General Electric, which has been selling its productivity-enhancing, cost-cutting elixir known as Six Sigma, along with medical imaging equipment, to hospitals around the country. Six Sigma is a statistical measure that can be applied to any industry and refers to a goal of reducing errors to 3.5 parts per million. Two years ago, for example, the North Shore-Long Island Jewish Health System contracted with GE Medical Systems and the Harvard School of Public Health to help start a leadership training center. Similarly, after close to a decade of cost-cutting, the Yale New Haven Hospital also recently signed up with GE.

New devotees of quality are beginning to measure and analyze everything from waste and waiting time to infection rates and the narrow avoidances of mistakes in treatment, as well as organizational barriers to improvement.

In a culture ruled by a fear of malpractice, the focus on quality involves a shift from secrecy to transparency—including reporting and dissecting mistakes.

That shift may be helped by a provision of the Medicare legislation passed in December that withholds a small part of Medicare payments if a hospital refuses to disclose quality data. "It's not a lot of money, but it's incredibly historic," said Robert Galvin, director for global health care of G.E. and a founder of the Leapfrog Group, an industry consortium aimed at improving health care.

A few hospitals, including Dartmouth Hitchcock Medical Center in New Hampshire and the nine hospitals that form the Wisconsin Collaborative for Healthcare Quality, have begun to publish comparative quality data on their Web sites, including statistics like mortality rates.

At St. Joseph, where a quality strategy was first embraced in the late 1980's, measurement, standardization and analysis are obsessions.

"When I came here, everything was done differently," said Filippo Ferrigni, who has led the hospital's intensive care unit since 1987. "We didn't even measure blood pressure the same way in everyone. We decided we needed to have internal standards for measurement of at least blood pressure, pulmonary artery pressure, temperature, the fundamental building blocks of medicine."

The quality push at St. Joseph and the other hospitals in the group has led to systemwide benefits. In 1999, the company was in the red, but in 2002 it had net income of $17 million, on revenue of $1.8 billion. Amid nationwide nursing shortages, it lowered annual turnover to about 10 percent in 2002 from 15 percent in 2000. The national average turnover rate is more than 20 percent.

At St. Joseph, the zeal for quality improvement is helping the sickest patients. When Dr. Ferrigni read an article in a recent issue of The New England Journal of Medicine linking high glucose levels to an increased chance of infections, he knew that he had found his next big opportunity for improving patient care. Infections acquired in hospitals and intensive care units are common, according to a report released in December by the government's Agency for Healthcare Research and Quality: about two million patients are infected each year at a cost of more than $4.5 billion.

The stress of illness results in higher gluclose levels for most patients—not just those with diabetes. Dr. Ferrigni decided to see if lowering glucose levels in the intensive care unit by giving patients intravenous insulin would lower infection levels. Initially, the project ran into "tremendous resistance," he said. Doctors were concerned that giving patients insulin might result in brain injury and seizures. Dr. Ferrigni, however, persuaded his colleagues to allow him to gradually reduce blood sugars of patients in the intensive care unit. As blood sugars declined among the patients, overall mortality in the unit declined by 40 percent.

The results were so astonishing that the hospital decided to make the reduction of glucose levels for all patients, not just those in intensive care, a quality goal. Today, all patients are given glucose tests and, if necessary, get insulin. Hospitalwide, that change is credited with reducing deaths over all, not just from infections, by 28 percent from the average recorded from 1998 to 2001.

Because each serious infection costs about $35,000, the savings are also huge. "This is the single most important leverage point for reducing mortality that's available to hospitals," Dr. Ferrigni said. "This is incredibly powerful stuff."

The effort, however, also demonstrated a major organizational challenge. "Doctors write the orders, but nurses have to make it work," Dr. Ferrigni said, explaining that the glucose initiative significantly increased nurses' workloads.

Blood sugar, once measured four times a day, now must be measured 12 times a day in intensive care. Once nurses saw the impact of the glucose testing, however, "they got all over it," Dr. Ferrigni said.

Some of the greatest quality challenges involve persuading employees in various departments to cooperate. Consider the effort, known as 30/30, to cut waiting time in emergency rooms. The goal is to evaluate patients with life-threatening illnesses or injuries in just 30 seconds and to reduce the time needed to admit patients to a hospital bed from the emergency room to 30 minutes.

Improvements in the emergency room involved a number of departments. When X-rays were needed, it often took an hour for an X-ray technician to get to the emergency room. To solve the problem, one X-ray technician was permanently transferred there. Or, in admitting psychiatric patients, the hospital had to wait for an evaluation by an outside psychological social worker before moving patients out of the emergency room, a process that averaged 90 minutes. To reduce the wait, the hospital hired a psychological social worker.

Within two years, SSM St. Joseph has met its objectives in the emergency room 94 percent of the time, up from about 65 percent when the project began. To help keep the organization from becoming complacent, patients receive a coupon for $10 of groceries when SSM misses its 30/30 target. The hospital spent $14,450 in 2003 on coupons.

The hospital now spends about $200,000 more each year on increased emergency-room staffing. But a jump in admissions has more than made up for that cost. In 2002, St Joseph garnered about 68 percent of all new emergency room admissions in St. Charles County. After years without growth, the hospital also had a 7 percent increase in patient admissions in general in 2001, and the same increase in 2002.

> Some major health care institutions, like Johns Hopkins and the Mayo Clinic, have been pursuing quality initiatives for years, but generally the mantra has been slower to penetrate big institutions.
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> Large teaching hospitals, which juggle teaching, research and patient care, have special challenges. Because of their residency programs, many of their doctors are temporary. At Yale-New Haven, one big question is whether a hospitalwide quality effort can succeed when only 10 percent of the hospital's 2,600 physicians are full-time. The rest are community physicians or professors at the School of Medicine.
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> The hospital began its Six Sigma effort in the intensive care unit, which had its own staff of nurses. The project involved reducing a relatively high rate of blood-stream infections that occur in patients who have catheters.
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> When management broached the subject with Heidi Frankel, director of surgical critical care at the hospital and a doctor at the Yale School of Medicine, she was skeptical. "This isn't an assembly line; it's an I.C.U.," Dr. Frankel recalled saying. "But it turned out to be a brilliant and inspired thing to use rigid corporate improvement techniques in a patient model because there are many things we do that are repetitive, and that we could standardize."
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> After winning over fellow doctors and residents, Dr. Frankel standardized the catheterization procedure and created a training video for the regular influx of new residents. During the last year, the surgical intensive care unit cut its catheter-related infection rates by about 75 percent. A rigorous quality strategy appeals to many hospitals not only because it controls costs, but also because it can improve care. But the process can take years to master. That is why, at St. Joseph, the true believers would also recommend a little prayer.

Mr. DURBIN. Let me just note a few things about it. It is entitled "Running a Hospital Like a Factory, in a Good Way."

The article tells a story of a hospital in suburban St. Louis, the SSM St. Joseph Health Center. It is a very complimentary article. The hospital is a nonprofit institution run by the Franciscan Sisters of Mary and the chief executive, a former seminarian, has really decided to make St. Joseph's Hospital different. They have decided they are going to go after quality control and the reduction of patient injuries and accidents at their hospital. They are using techniques that are used by private industry. I will quote from the article:

> Other hospitals are also starting to use some of the techniques that have made the hospital industry more efficient in its quest to improve quality and save money. Every year, preventable medical errors cost $9 billion, and tens of thousands of lives, according to a recent study by the Agency for Healthcare Research and Quality, . . .

So this hospital, St. Joseph's, in suburban St. Louis, decided to consult with General Electric, a major corporation, to find a way to make the services they offer to their patients better. They are using a process called Six Sigma. It is a statistical measure and refers to the goal of reducing errors to 3.5 parts per million. What they found is this:

> New devotees of quality are beginning to measure and analyze everything from waste and waiting time to infection rates and the narrow avoidances of mistakes in treatment, as well as organizational barriers to improvement.

The article says:

> In a culture ruled by a fear of malpractice, the focus on quality involves a shift from secrecy to transparency—including reporting and dissecting mistakes.

Let me go on in the article. They noted here one specific example. The New England Journal of Medicine had linked high glucose levels to an increased chance of infection, so this hospital decided, particularly in the emergency room and for critical patients, to continue to monitor their glucose levels to avoid the incidence of infection. The blood sugars declined among patients when they started monitoring them and administering insulin to keep blood sugars down. Simply by using this quality approach to reduce the likelihood of infection, this hospital reduced the overall mortality in the intensive care unit by 40 percent. The results were so astonishing that the hospital—and I quote again:

> . . . decided to make the reduction of glucose levels of all patients, not just those in intensive care, a quality goal. Today, all patients are given glucose tests and, if necessary, get insulin. Hospitalwide, that change is credited with reducing deaths overall, not just from infection, by 28 percent from the average recorded from 1998 to 2001.
>
> Blood sugar in this hospital, once measured four times a day, now is measured 12 times a day.

Those who follow this debate and will read this article in the CONGRESSIONAL RECORD I think will understand the point I am trying to make. If we are going to reduce the likelihood of doctors being sued for malpractice, the first stop in that conversation should be the reduction of medical errors. If we do that, we are serving two goals: reducing doctors' exposure to malpractice and we are making certain that patients will go through their medical experience with a much better outcome.

You would think that would be the first title in this bill, "Reducing Medical Accidents, Reducing Medical Errors." This bill does not even address that. This bill says that after you are injured, after you have gone to court, after you have successfully been given a verdict, this bill is going to restrict and reduce the amount of money you can recover.

From an insurance company's point of view and the view of some doctors, that is good enough. But from the viewpoint of making American hospitals and medical practice safer, that is hardly the place to start. Frankly, this bill does not address the core issue.

Mr. CORNYN. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. CORNYN. In my own State of Texas, that passed a constitutional amendment along with implementing legislation to reduce the cost of medical liability insurance, we have seen reductions offered by medical liability carriers of 12 percent in one case and projected to be as much as a 19 percent reduction in medical liability insurance costs.

While I certainly would agree with the Senator from Illinois that reduction of errors is an important goal, would he not find a reduction of medical liability insurance rates of 12 to 19 percent one way to reduce the cost of health insurance and health care generally, in a way that would benefit the public generally?

Mr. DURBIN. I thank the Senator from Texas. I am aware of his State's experience. I am not an expert on it, but I read a little bit about it.

I will say to him I will be citing some statistics in the course of my remarks that will show that the caps on recovery for victims of medical negligence have reduced premiums in some States but not in others. It is an unpredictable outcome, when you reduce the exposure of a doctor for his malpractice, as to whether or not the cost of medical malpractice premiums goes down.

I would further say to the Senator from Texas, if our goal is simply to reduce medical malpractice premiums, frankly, we could stop people from suing in court. We could basically say you can't go to a courthouse if you are a victim. Malpractice insurance would cease to exist in that case.

What we are trying to do here is find a balance, a balance that is just and fair and says if you are an innocent victim of medical negligence, you are entitled to a day in court and a reasonable recovery. That doesn't mean you can come in and expect punitive damages in every instance, or some enormous verdict in every instance, but we should be able to say that if you are a victim, you will be able to recover a reasonable amount for your injuries.

I say to the Senator from Texas, in this bill, this jury of the Senate has decided that we know the maximum amount any woman or baby should be entitled to recover in a medical malpractice action for noneconomic losses. We are saying here that, regardless of the facts, regardless of the culpability of the doctor, regardless of the circumstances, regardless of how serious the injury is, the maximum amount which the jury of the Senate will render in verdict for the victim is $250,000 for pain, suffering, and disfigurement.

I say to my friend from Texas, there are some who say that is just the price you have to pay; if you want to keep malpractice premiums down, you are going to have to say in some circumstances there is going to be an outcome that makes us feel a little uncomfortable. I am going to give examples of specific cases where $250,000 in pain and suffering is not even close to compensating the family and the child who are the victims of malpractice in these OB/GYN circumstances.

Mr. CORNYN. Will the Senator yield for a further question?

Mr. DURBIN. I am happy to yield without yielding the floor.

Mr. CORNYN. The Senator from Illinois makes an important point, and that is there will invariably be one or two, perhaps, cases, or a handful of cases, or an example you can point to where a $250,000 limit on noneconomic damages might seem to be too low. But would the Senator agree that what we are trying to do is use a rather indirect means to try to accomplish a greater good for the patients who are denied access to health care?

For example, in 154 of the 254 counties in my State, a woman cannot find a baby doctor to deliver her baby because of the cost of malpractice insurance. Many obstetricians simply decide to give up and retire or to move someplace else where malpractice liability rates are lower.

While the Senator no doubt can find an example where the amount is lower than a jury perhaps might award, why shouldn't we take a step in the direction of bringing some predictability and thus bringing some reasonableness in reducing the rates for liability insurance so people can have access to doctors where they live?

Mr. DURBIN. The Senator from Texas makes an excellent point. I think that is the reason, I would say to my colleague, why once this bill is defeated—and I hope it is defeated—once it is defeated, we really have a responsibility here.

We come from different sides of the political spectrum. We are about as far apart as they come in this Chamber in terms of our political philosophy, but I think we both can see there has a been problem. The medical malpractice premiums in parts of your State and parts of my State have reached record high levels. These premiums are forcing my good doctors in Illinois to retire, move away to another State or to an area that is friendlier when it comes to the cost of the premiums. There is a denial of coverage. There is a denial of services to a lot of poor people in Texas, Illinois, and a lot of other States.

Shouldn't we come together instead of a take it or leave it bill that has never been referred to the Senate Judiciary Committee, never been the subject of a hearing, does not address issues of medical safety and other issues we can agree should be part of this conversation? Shouldn't we at the end of this debate on this bill sit down and honestly try, on a bipartisan basis, to find common ground and compromise that would serve the goal the Senator is suggesting, the greater good, to make sure these good doctors across America will be there when we need them?

I thank the Senator from Texas.

Mr. CORNYN. If the Senator will yield for a final question.

Mr. DURBIN. I am happy to yield.

Mr. CORNYN. I appreciate the spirit in which the comments are offered by the Senator from Illinois, because this is a subject where we do need to have a rational debate. Unfortunately, because we cannot get 60 votes to allow the floor debate and actually vote, we are engaging in a hypothetical exercise.

Wouldn't the Senator from Illinois deem it important for this body to have a realistic, rational debate and ultimately vote to see what the will of this body and the people we represent is when it comes to trying to get some handle on reducing the costs of liability insurance so more mothers can have access to obstetricians and more people can have access to health insurance by reducing health insurance costs?

Mr. DURBIN. I agree with the Senator from Texas. I thank him for his comments which I believe are good-faith comments.

In my rank on this side, I do not set the calendar of how bills are determined; your leader, Senator FRIST, does that. I suggest the best place to start is not on the floor of the Senate but for a group, on a bipartisan basis, to try to come up with an honest answer to this issue and bring it to the floor and stand together to try to pass this bill in a responsible way. Simply bringing a bill, take it or leave it, a few days, no committee hearings, does not serve the needs we are addressing.

I see a few other colleagues on the floor so I will go through a few points quickly and return to the Senate later in the day if there is an opportunity.

This particular bill does not address the problems of malpractice premiums in an honest fashion. The problem with malpractice premiums is a cyclical insurance problem. We have had crises before with high premiums in the 1970s and 1980s. Many States passed changes in the law to address this, some in tort reform and some in insurance reform.

This bill does not even look at the insurance companies that are offering medical malpractice insurance. What it is basically saying is that we are not even going to ask the question as to whether these companies are overcharging doctors and hospitals. Instead, we are going to say that the only culprits, the only people who are at fault in this conversation, are the victims of medical malpractice. They are the ones who have to tighten their belt, take fewer dollars. We will not even consider in 2061 asking that the insurance companies be held accountable for their own conduct and ask whether they are gouging us when it comes to prices.

How can we have an honest discussion of the medical malpractice issue without addressing medical safety, without asking these important questions of the insurance company?

This bill does not address frivolous lawsuits. The proponents of tort reform claim frivolous lawsuits are at the root of the problem. This bill does not do anything to cut down on the number of such suits but only punishes those who make it to court.

Keep this in mind: If a lawsuit is worth $250,000 in noneconomic losses, which is the maximum under this bill, this is a lawsuit where the plaintiff clearly has a cause of action which a jury or judge has decided is a worthy cause of action worth compensation. These are not frivolous lawsuits that would have $250,000 in noneconomic losses. Something happened. A patient went to a hospital or to a doctor and was injured wrongly.

This bill is saying we are not going to address frivolous lawsuits. We will basically say those who are entitled to recover are limited in the amount they can recovery.

One of the worst parts of this bill, we will hear arguments in the Senate that we need OB/GYNs across America and without these doctors to deliver babies we will be at a disadvantage. Frankly, no one can argue with that. But when we read the bill, it is about more than doctors. This bill, like the last one we considered last year, has been expanded to provide protection against lawsuits filed against pharmaceutical companies and medical device companies.

We are finding, time and again in the Senate, whatever the issue, the Republican side of the aisle insists there be at least one provision in every bill that is going to benefit the drug companies of America. In this situation they are saying these drug companies should not be held accountable for the damages and injuries caused by their products involved in OB/GYN practice.

Why would we do this? Why would we decide we are going to exempt them from exposure, liability, and accountability for some of the drugs and devices that are being used across America that cause injury to innocent people? That is exactly what they do.

Let me give some examples of the types of litigation that would have been eliminated by this bill, had it been in law. The Dalkon Shield was an IUD on the market in the early 1970s and caused thousands of women to suffer miscarriages, loss of their female organs, and infertility. It took eight punitive damage awards to force the manager of the Dalkon Shield to finally recall the product. It was not a law passed by Congress. It was a lawsuit filed against the company because of their dangerous product; 400,000 claims were eventually filed against A.H. Robins, the manufacturer of Dalkon Shields. Evidence established that Robins, the device company, knew that its IUD was associated with high rates of pelvic disease and septic abortion and that this company had misled doctors about the device's safety and had dropped or concealed studies on the device.

Why in the world we would protect this brand of reckless, irresponsible corporate behavior with this bill? The honest answer is because politically the pharmaceutical companies and the medical device companies have a death grip on this Congress. They get what they want. We saw that when we considered the prescription drug bill for seniors and we are seeing it again. There is not a bill that comes through here, not one that passes through the traffic in the Senate, where somebody is not looking for a way to increase the profits and reduce the liability of pharmaceutical companies. This is a further illustration of it.

There are other things I could point out, drugs or devices that have been used. Let me give one from the State of Georgia. A&A Medical, a Georgia-based manufacturer of OB/GYN devices such as forceps, failed to sterilize tens of thousands of devices from 1999 to 2002, posing life-threatening injuries to women. Former staff of this company told FDA investigators that sterile and nonsterile devices were routinely shipped in the same batches. A month after urging the company to voluntarily recall its products, the FDA seized and destroyed the company's inventory. The owners of A&A Medical left the country after the seizure.

These are the kinds of companies we are trying to protect with this bill? This is not a question about whether a doctor could deliver a baby in Texas, Connecticut, Ohio, or Alabama. It is a question about whether or not these companies will be held accountable for their wrongdoing.

There is an approach that can be used and should be used that can bring a positive outcome. Senator LINDSEY GRAHAM from the State of South Carolina and I have introduced bipartisan legislation. We have worked to try to include in this legislation the key elements that we think are necessary for medical malpractice reform. Let me tell you what they include.

First, dealing with medical safety, establish a voluntary system to share medical error information among providers and patient safety organizations. The information shared will be immune from legal discovery so there is some transparency in what occurs but no liability, so a greater likelihood they would exchange information.

Also, consistent with the Institute of Medicine, the bill creates a new center for quality improvement. We provide immediate relief for doctors and hospitals.

If there is one point I make, it is this: If Senators are hearing back home that medical malpractice premiums are too high and that you should vote for this bill, keep in mind what Senator ENSIGN of Nevada said in the debate we had a few months ago on a similar bill. Capping noneconomic losses will not reduce medical malpractice premiums for doctors for 4 to 6 to 8 years. Why? Because there is a long tail of liability. Doctors' acts today that constitute negligence can result in court suits tomorrow, next year, and for years to come when those injuries are finally discovered. If we cap noneconomic losses today, there will not be a relief for doctors in their medical malpractice premiums for years to come.

Senator GRAHAM and I considered that and said we have to deal with this directly. And dealing with it directly means offering a tax credit, particularly to those doctors in specialties where the premiums have gone too high. Doctors today deduct the cost of medical malpractice premiums from their business expenses.

We would go further and offer to doctors and hospitals a tax credit when their premiums skyrocket. That is the only reasonable way to provide immediate relief. We have given tax breaks to a lot of wealthy people across America under this Bush administration. Why can't we, when it comes to the medical professionals, say they should have a tax credit so that skyrocketing premiums do not force them out of business into retirement or to move their practice?

In our legislation, we reduce frivolous lawsuits. We put in the Durbin-Graham bill penalties for attorneys who file frivolous lawsuits: The first time, damages; the second time, even more expense; and the third time we would subject them to losing their license to practice law for a frivolous lawsuit. There is no reason any doctor or any person, for that matter, should be subjected to a lawsuit which ties them up at great expense, costs their insurance company money, and raises their premiums when, in fact, that lawsuit is frivolous. There are few of these, but there should be none. We think there should be a penalty for those who take advantage.

We also stop any competitive activities by insurers under the McCarran-Ferguson Act, and we provide resources to help hard-hit areas of doctor shortages, particularly rural and inner-city areas, through the Department of Health and Human Services.

We also address the issue of reinsurance. This is a topic we never talk about. Most medical malpractice premiums are charged against the initial liability which is usually in the range of $1 million, and then the umbrella policy which covers all the damages which might exceed $1 million. Then companies are brought in, reinsurance companies, that sell the original insurance policy. These are the areas where we believe there is a need for reform.

Reinsurance costs are about 28 percent of medical malpractice premiums. Their prices swing widely. They are mainly international corporations subjected to little regulation. Frankly, since September 11, reinsurance costs have gone up dramatically across America.

As this chart illustrates, this is Hurricane Andrew; reinsurance costs spiked in America. Then they went back down again. This is 9/11. After 9/11, reinsurance costs have gone up. So why are these medical malpractice insurance companies charging higher premiums? Part of it is the cost of reinsurance. Senator GRAHAM and I address this and believe that we should create a Federal fund which deals with reinsurance, where there would be contributions from doctors, hospitals, and health care professionals, and we can see some stability in the amount that is charged.

This situation we have before us is clear. Caps don't work. This chart shows the percentage increase in median premiums for medical malpractice from 1991 to 2002, the States without caps, no limitations on recoveries in verdicts, and the States with caps are shown in red. You can see that Arizona, New York, Georgia, and Washington, with no caps, had very modest increases in malpractice premiums.

Take a look at California, which has a $250,000 cap, Kansas, Utah, and Louisiana. In this period of time, malpractice premiums went up dramatically in the States with the caps. There is little or no correlation between the caps and the fact that malpractice premiums are going up.

Look at these OB/GYN insurance premiums in damage cap States versus noncap States in 2003: In California, a State with caps, there was a 54-percent increase in OB/GYN premiums with caps in place at the State level; in Oregon, zero percent increase; against the State of Washington, California, 15 percent, State of Washington, zero percent; Colorado, 29 percent with caps, Georgia, only 10 percent without caps; New Mexico, 52 percent increase in OB/GYN medical malpractice premiums with caps, and in the State of Arizona, 14 percent. It is an illustration that you just can't rely on these caps to bring down malpractice premiums for many years, if at all, and in many cases not at all.

Look at the percentage increase in median premiums: States with caps, 48 percent between 1991 and 2002; States without caps, 36 percent.

This is an important issue that needs to be addressed. I see my colleagues waiting. I will yield the floor but return later in the debate.

I hope my colleagues will understand that we have a serious national problem that needs to be addressed, but we should not address it in a way that is partial, that does not do justice to the serious challenges we face. We need to reduce medical errors. We need to hold insurance companies accountable. We need to bring about tort reform which stops frivolous lawsuits. We need to move into the area of tax credits for doctors now—not 4, 6, and 8 years from now—so they can pay their malpractice premiums and do it in a fashion that is fair—fair to the people who have been injured and fair to the medical professionals who are so important to all of our communities.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Alabama.

Mr. SESSIONS. Mr. President, we are, indeed, losing physicians in the practice of medicine throughout America. Senator DURBIN expressed concern in the conversations he has been having with doctors in his State, even though he opposes this bill. I traveled to Alabama this past week and visited five or six hospitals. I was at Fayette and Wedowee and Gadsden and Alexander City. As I traveled the State talking to doctors, to hospitals about their insurance premiums, it is a very real problem.

This is not a new issue. We have been talking about it for a number of years. The reform of litigation of malpractice cases in California is the model for this legislation. It has worked very well in California.

The people who are paying the premiums, people who are subjected to lawsuits, people who care about this every day, people who are giving up their practice every day as a result of abusive lawsuits, they support this legislation. Do they not know what this is all about? Do they not know what they are asking for? These are matters that are quite serious.

I believe capping noneconomic damages has a good effect. When you look at a doctor who delivers a baby, is that doctor a guarantor of a healthy baby? They can't do that. They cannot be the guarantor that every birth they preside over will result in a healthy baby. They are responsible if they are negligent and that negligence causes damage to a child. There is no doubt about that. So that is what we need to focus on.

The limit on damages does not limit damages for injuries in care for a child who lives many years with a great disability. They can recover unlimited amounts for that.

Under California law, these are some of the verdicts that have been rendered to compensate families for children who were born with serious disabilities: In December, an $84 million verdict was rendered because of a 5-year-old with cerebral palsy after a mishandled birth; $25 million in San Diego County because a boy had severe brain damage; $27 million in San Bernardino for a woman who was a quadriplegic because of failure to diagnose a spinal injury; $21 million in Los Angeles for a newborn girl with cerebral palsy and mental retardation as a result of a birth-related injury. They go on.

These are real recoveries to compensate people for economic losses they will have in the future and to allow them every possibility to see that the child or the person who is injured can be taken care of with the best conditions we can make. We are concerned about the explosion of punitive damages. Some people say the person who did wrong ought to be punished.

As a matter that we need to think about, the system is out of whack. The person who commits malpractice is not the one who is punished. The person who commits malpractice—for the most part, hopefully, certainly, all of them doctors—has insurance. They don't pay the verdict. The insurance company pays the verdict. How do they get the $21 million or whatever they have to pay out in the verdict? How do they get that money to compensate the victims? They raise the rates on everybody; the innocent and those who commit errors. It is driving up the cost to practice.

I have a wonderful friend, an OB/GYN, in my hometown of Mobile. We go to church together. He was telling me about a doctor that just gave up his practice. He handled 60 or 80 births a year. His insurance was $60,000 a year. That is almost $1,000 per birth. This week, I was in a hospital in Alabama. They told me 3 years ago they gave up deliveries—there were 200 deliveries a year in this small town, and the hospital had less than 50 beds—because they could not afford the insurance. The hospital quit doing it. The physician in the community also quit delivering. This is a fact, a reality, and it is driving good physicians out of health care.

No group of doctors in America has the hammer falling harder on them than the doctors who deliver our babies. They are getting hit with extraordinary increases. They are getting sued to an extraordinary degree. We need to do something about it. We have bills here, and whatever the bill is, they say "we need to do something, but this isn't the way to do it; but we want to do something." They say "there are problems, I will admit, Senator, but this isn't the right bill." They say "you have not done this or that," and on and on. The result of that is we never pass anything. I believe it is time to do something about this issue. We can do something about this.

When you look at the cost of delivering babies in America today, the liability cost is a very significant portion of it. Not only that, doctors—particularly those who have been practicing for a number of years—do not like the agony of going through a lawsuit. There is the combination of premiums and the threat of being dragged through court for long periods of time, and that is not good. That is why they are quitting.

I was at one of the hospitals in Gadsden this week. One of the nurse supervisors came up to me after I had been asked in the meeting whether we were going to do anything about the liability problem. She said she and the hospital had been in litigation. She had been away from the hospital for 10 days during the trial of this case. They were not negligent and they won the lawsuit, but millions of dollars were spent on that litigation. This is happening all over America. Most of the cases are defendants' verdicts, but many cases are coming in with extraordinarily high verdicts. The BMW case out of Alabama, decided by the Supreme Court, raised real questions about how do you decide what punitive damages ought to be. Does the jury just feel bad this day or look at the victim and feel sympathetic, or are they more sympathetic to one person than another? They come up with $50 million for one person, and maybe in a similar situation they would come up with $500,000. These are aberrational verdicts in the country.

We are saying that there should be a limit for compensating noneconomic damages. It is modeled on a successful program in California. I believe we are facing a national crisis in health care. It is a crisis that ought to be confronted. It is not going to go away. A big part of it is litigation. If you don't believe it, ask any doctor or hospital you know. They sue everybody, including the nurses, doctors, the aides, the hospital, the manufacturer of the hospital bed, or whatever, that might be possibly construed as being connected. All of that adds up to a tremendous burden, a tremendous cost on our health care system.

The truth is health care costs are continuing to go up. One of the factors is litigation costs, which are going up even faster than other costs. We need to contain that and bring some rationality into it. I am willing to listen to other ideas. I am not sure California is perfect, but I will say it is working there. I believe it will work for our country. I thank our majority leader, Dr. BILL FRIST, for bringing this up. It is time to debate this. We need to pass something soon to protect the availability of health care. We need to make sure hospitals and doctors are not quitting delivering babies. That hurts us in America and hurts health care in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I have been listening to the arguments posed by our colleague from Illinois, Senator DURBIN, and our colleague from Alabama, Senator SESSIONS. I find myself sort of agreeing with both of these individuals. Clearly, this is an area that cries out for some solution. We have been back at this issue over and over again. Like my colleague from Alabama, and I suspect my colleague from Illinois as well, I was home in Connecticut over the past week and I have received letters from radiologists, and I have talked to OB/GYNs and others. My State ranks third in the country in the rate of premiums for OB/GYNs, which I will address in a minute. This is an area that clearly needs to be addressed. So I appreciate the comments of my colleague from Alabama, that is, to see if we cannot find solutions to this.

As the Senator may recall, I have not been shy when it comes to tort reform issues, having authored the securities litigation reform bill, uniform standards legislation; and I have dealt with the issue of terrorism insurance, and Y2K legislation with BOB BENNETT. I am someone who wishes we were debating class action reform now. There, we have an agreement. It is not going to satisfy everybody, but I have agreed with BILL FRIST and others. Senators SCHUMER and LANDRIEU and I have worked across party lines to come up with a compromise solution on class action reform. That is a bill I believe we could actually adopt.

Here we are going to spend 2 days debating a cloture motion we both recognize is probably going to fail this evening. But we have a class action reform bill we can get done. I regret I am not arguing on behalf of that proposal, rather than standing here and reluctantly disagreeing with this particular bill; although I am agreeing with my colleague from Alabama that we cannot allow year after year to go by without addressing this issue. I regret we didn't make the effort here we did on class action. On class action, once the cloture motion was defeated on the motion to proceed, people reached out and said let's see where we can find common ground on this. I think we have done that. Only time will tell if the compromise will work. That is how you have to function in this body, when you have 100 Members representing different constituencies and ideas and proposals, where there is a commonality and purpose to try to arrive at an answer to a staggering problem. One of the problems—not all, but one of the problems—is associated with health care. I will go into that in a minute. It seems to me we should pause and reach out and see if we cannot find that common answer. It may not satisfy everybody, but certainly it will come up with some intelligent responses to this problem.

So I say to my constituency in Connecticut, and elsewhere, I am listening to you and I hear you. I know we have to answer this. The question is, is this particular proposal the answer to the problem we face, with the rising increase in malpractice premiums. What actually could be done that may address the issue?

As my colleagues know, this legislation is similar to the one the Senate rejected last year. It would place, as we all know, a $250,000 cap on noneconomic damages that can be awarded to a plaintiff in a medical malpractice case. The bill we are considering today has been narrowed, but in narrowing it, its defects have not been remedied. Like S. 11, the previous bill, this bill would apply to claims brought by health care professionals, health care organizations, such as HMOs, insurance companies, as well as product liability claims brought against medical device and drug manufacturers, by and on behalf of pregnant women and children. However, it would only apply to claims relating to obstetrics and gynecological services. We are dealing with a reduced universe of people in this area, much narrower from the proposal of last year.

Once again, this legislation would cap noneconomic damages at $250,000. It would put the same cap on punitive damages while imposing a stiffer evidentiary standard. It would also reduce economic damages a victim could collect by subtracting benefits paid by health insurance, life insurance, disability insurance, and Social Security benefits. In short, it would make it much harder for the victims of medical malpractice in this narrow area to receive fair and just compensation, in my view.

This legislation would not affect all victims of malpractice. We pointed out the bill we are dealing with seeks to limit the legal rights of a specific segment of our society, women and newborns.

It is important to remember that this bill is going to affect those who have actually been injured by malpractice. We are not debating whether there has been a judgment. There has been a decision that malpractice has occurred. A jury has already, in these cases, decided the victims are eligible to collect noneconomic damages. Furthermore, it will hurt the most seriously injured, those who might receive a noneconomic damage award of more than $250,000 were it not for the arbitrary cap.

We are essentially telling women and infants that the injuries and suffering they experience are not worth as much as injuries and suffering of others.

The assumption is if we just do this in this one area, we are then going to be able to bring down the costs of these premiums. In fact, I suggest that if the empirical evidence made that case, I would be very tempted to support this bill. I say that to my colleagues who are the authors of this legislation. But, in fact, the data and information, unfortunately, does not substantiate the claim that by establishing a cap, you will achieve the desired results of lesser premiums on malpractice insurance.

The argument used by supporters of this bill is OB/GYNs are particularly hit by rising medical premiums. I want to make it clear that I am not insensitive to that claim. As I said earlier, I have heard from many in my own State. In Connecticut, we face the third highest premiums in the country for OB/GYNs. My doctors pay an average of $102,000 every year in medical liability premiums. I have heard from them on numerous occasions about the difficulties they face in the current environment. The vast majority are good doctors who are working to provide the best possible care they can for their patients. They are doctors on whom families in Connecticut and newborns can rely. It is the same across the country. I know, having had a newborn in my own household, a child born to my wife Jackie and me a little over 2 years ago, the tremendous care and attention we received from our OB/GYN in Virginia, where Grace was born.

The question is not whether these people are paying higher premiums. The question is, Is the solution being proposed by this legislation actually going to address this problem? Again, if I thought it would do that, I would be very tempted to support this legislation, as someone who has offered legislation dealing with frivolous lawsuits and other claims. I am not adverse to tort reform. In fact, I am disappointed. We are discussing tort reform in this instance, and we are also going to be talking about the tort liability of gun manufacturers. It is going to be interesting to hear people on that issue.

We had language included in the Energy bill to deal with MTBE. Senator SCHUMER of New York eloquently made the case, asking why we should be eliminating the liability of a product that was causing such damage. I am frustrated to know that we are protecting people from liability because of the political pressures that occur.

I am prepared to support intelligent tort reform, but this problem, as serious as it is, is not addressed by this solution. Will this legislation do anything to reduce premiums? Let me tell you why I don't think it does.

If we are limiting the ability of women and young children to hold accountable doctors, nurses, insurance companies, and others for harm resulting from a mistake, we certainly must make sure we are doing so for a very good reason.

The answer to the question posed above is a resounding no, in my view. The suggestive link between jury awards and rising premiums has not been established at all. In fact, to the contrary. Nor is there a link between insurance premiums and access to health care. In fact, the evidence suggests quite the opposite.

The two pillars upon which this bill is based are deeply flawed, in my view. First, some would suggest jury awards have exploded in both numbers and dollar amounts. That is something we will hear over and over, that victims are winning more and more so-called jackpot malpractice cases. But the facts are quite different.

The amount defendants and insurers are paying for medical malpractice claims, including jury awards and settlements, has increased in a manner that is consistent with and even lags behind medical inflation. Over the 10-year period from 1992 to 2001, the mean payout in medical malpractice cases rose by 6.2 percent per year, while medical inflation was rising at 6.7 percent annually over the same period of time. In other words, malpractice awards are rising exactly in the manner we would expect. They are tracking health care costs.

Of course, a rise in premiums might also be explained by an increase in the number of malpractice claims. That is also an argument we are hearing. Again, this is not the case. Between 1995 and 2000, the number of claims filed actually decreased by 4 percent, and the number of medical malpractice payouts decreased by 8.2 percent between 2001 and 2002. So we are not seeing these numbers go up financially, nor are the actual numbers of malpractice cases increasing. Both are the two pillars upon which this bill is based. It is the reason people are saying we need to have the cap on these noneconomic awards.

The case made by supporters of this legislation is further damaged, in my view, when we compare States that currently have caps on noneconomic damages with States that have no such caps. As I mentioned previously, my home State of Connecticut has the third highest average premium for OB/GYNs. Connecticut has no cap. However, seven of the 10 States with the highest premiums do have caps. Last year, premiums actually increased by 17.1 percent for OB/GYNs in States with caps compared to a 16.6 percent increase in States without caps.

In the year 2003, the average premium for an OB/GYN in States with caps was $63,000. The average premium in States without caps was $59,000. So if anything, the evidence suggests caps on patient damages actually correspond to higher insurance premiums for doctors.

I said that rather quickly. Let me run by it again and make the case. The argument, again, is if you don't have caps, then these premiums go up. But if you look at places that have caps, seven of the 10 States with the highest premiums for OB/GYNs do have caps—seven of the 10. Last year, premiums actually increased by 17.1 percent in States with caps—an increase of 17.1 percent—compared to 16.6 percent in States without caps.

Again, if anything, the evidence suggests caps on patient damages actually correspond to higher insurance premiums for doctors.

The ineffectiveness of caps is illustrated by the experience in the State of California. Ironically, supporters of caps point to California as the model for limiting noneconomic damages. The State does, in fact, have a $250,000 cap and premiums have remained stable relative to the rest of the country. However, California adopted the cap in 1975, and over the next 13 years in California, with a cap of $250,000, premiums increased by 450 percent. This is comparable to a nationwide trend during that same period.

Then in 1988, California did something else. It passed comprehensive insurance reform. Only at that point did insurance premiums stabilize, decreasing 2 percent between 1988 and 2001. So for 13 years, when they had caps on the awards, they actually had premiums go up 450 percent, tracking the national average. In 1988, they put a cap on insurance premiums. Then they began to see the decline.

California is very worthwhile to look at, but we have to look at it in its totality. Don't disregard what happened in 1988. If we only look at 1975 to 1988, for that 13 years, there is nothing to brag about at all. The numbers went up as much as they did all across the country. It is only from 1988 up to now that we begin to see the real changes as a result of the insurance reforms in that State.

So California is a good example, but look to all of California. I could continue to quote numbers to underscore my point, but I do not want to bore my colleagues with recitations of data. I think it is important because without knowing what the facts are and understanding the argument, we cannot understand how best to deal with a very legitimate problem of trying to get these premium costs down. Does this solution meet that problem? One has to look at the data and the facts, and the facts are not holding this point up very well, in my view.

The point is very simple: The number of medical malpractice claims is not rising. The amount awarded to victims is consistent with inflation. The story in States with caps is similar to that without caps. Based on this evidence, we are being asked to limit the rights of pregnant mothers and infants. I do not think we ought to do that. The facts fail utterly to dictate such a conclusion.

If neither the number nor the amount of malpractice awards can explain rising premiums, then what is the explanation? Something is going on that is causing these premiums to continue to skyrocket as they are in my State and others across the country. According to several analyses that have been done, the increase in premiums does in fact correlate with the stock market and interest rates.

One recent study showed that premiums very closely tracked the insurers' economic cycle. During good economic times, insurers slash premiums in order to attract as much business as possible. Insurance companies receive their money from two sources. They get it from premium payments as well as investments. So when there is a good, healthy market going on, then they will reduce premiums because the cycles in the market are allowing them to sustain their economic growth. When there is a downturn in the economy and the stock market is not doing as well, the insurance industry is faced with only one other solution and that is to raise the premiums in order to keep the cashflow coming in.

So it is not complicated. As someone who comes from a State with a lot of insurance companies, I know that is how this is done. There is not some great magical secret out there. This is exactly how it occurs. So, obviously, during good economic times, insurers will cut the premiums in order to attract as much business as possible, which makes sense. This is because every new policy brings in additional float, money to invest in a booming market so they bring in the dollars. However, when the market turns and investment returns are weak, as has happened in the last few years, insurers raise their rates or, in some cases, leave the market altogether. When this happens, the result is often a crisis in the availability and affordability of insurance, and that is exactly what we are seeing today.

I will take a moment to address one other claim made by the supporters of this bill, and that is that rising premiums have reduced access to care for women and infants. Again, this is a very significant claim and needs to be addressed. Once again, I do not think the facts support that argument.

Between 1999 and the year 2002, the number of OB/GYNs across the country actually increased by 1,700 people. Only 6 States out of 50 saw a decrease in the number of OB/GYNs. That is not good news for those six States, but the argument that across the country this is occurring is not borne out by the facts. Actually, there were 1,700 new OB/GYNs in 44 States, so the number is stable or increasing, and in 6 States the number is going down. We ought to be conscious of that because that could be a trend that needs to be addressed.

Again, I underscore what I said at the outset. This is a serious problem but a serious problem demands a serious solution. Unfortunately, this bill is not that answer.

As an interesting note, by the way, where we are losing OB/GYNs, half of those six States have caps on the amount that can be collected in noneconomic terms. So we are talking about a bill that places caps on noneconomic awards, and in six States the number of OB/GYNs is declining, and yet three out of the six States have actual caps. One has to ask oneself: If this is failing in half of the States in terms of attracting or keeping OB/GYNs, is this bill or this idea the right solution to this problem? I think the conclusion is no, it is not, unfortunately, if those are the facts.

A GAO report from August of last year identified access to care as a problem—and I am quoting—"in scattered, often rural areas where providers identified other long-standing factors that also affect the availability of services."

The question was asked: Why is this happening? The General Accounting Office comes back and said there are a lot of other factors that are causing a decline in the number of OB/GYNs. In addition, the GAO found—and I am quoting them again—"that many of the reported provider actions were not substantiated or did not affect access to health care on a widespread basis."

Unfortunately, this bill is a misguided attempt to solve a health care problem with a tort reform solution. I am disappointed that we are not using this time today to discuss the real issues. One issue I wish we were discussing is class action reform because I think we have come up with an answer that a majority of us could support. Regrettably, we are not spending two days debating that issue. We are debating a bill that is not going to go anywhere because the solution that is being called for does not do the job.

So instead of taking the few valuable days we have in this Chamber to deal with some issues before we adjourn for elections and conventions, we are not debating class action reform, we are debating a bill that is going nowhere. That does not make any sense to me at all in terms of this agenda. So this is a waste of our time.

Let me get into other areas of health care because there are health care problems that need addressing. I am disappointed, though, that we are not going to debate class action reform but instead these tort reform issues. We do have problems with access to care in our country. We do have a patient safety problem in our country. We do have a health care quality issue in this Nation of ours. We do have a problem with rising health care costs in the Nation. This bill does not answer any of those problems.

Why are we not discussing real solutions to the issue of access to health care, to patient safety, to health care quality in this country, and to the problem of rising health care costs? The American people have a right to expect from this body better answers than the ones we are giving them on this bill dealing with the issue of rising premium costs.

Supporters of this bill are right about one thing: Far too many in this country have little or no access to health care. The latest Census Bureau figures released in September are alarming, to say the least. Forty-four million of our fellow countrymen, more than one out of every seven people in our great Nation, were without health care in the year 2002. This figure represents a 10 percent increase in the number of uninsured since the year 2000.

Numerous studies have shown that being uninsured has a drastic impact on the amount and quality of care individuals receive. Put very simply, the uninsured receive less care, lower quality care, and are at a greater risk of dying. The Institute of Medicine has estimated that every year 18,000 of our fellow citizens die prematurely in this country as a result of the effects of being uninsured.

Our country has a growing health care underclass. The Bush administration's response to this crisis has been woefully inadequate. Tax credits and health savings accounts will do little or nothing to help the vast majority of the 44 million people who are uninsured, such as low-income working families. By the way, the majority of the uninsured work every day on one, two, three, and four jobs. These are not people sitting around doing nothing. They are working. And we have nothing to say to them.

We are debating an issue of tort reform when we ought to be dealing with how to provide some health care coverage for these people and explain why 18,000 lives a year are being lost prematurely because of the lack of health insurance. We should be talking about creative ideas to offer meaningful assistance to the uninsured. There are a variety of ideas out there that are worth discussing.

We also have a health care quality and patient safety problem in the country. Again, according to the Institute of Medicine, as many as 98,000 Americans are killed every year as a result of medical errors. A study conducted by the Rand Corporation and published in the New England Journal of Medicine last year came to a similar conclusion. Individuals received the recommended treatment for their condition in only 55 percent of the cases, according to that study. In other words, nearly half the time patients did not receive the appropriate care. Why are we not debating that and discussing that issue today?

There are a variety of proposals to address this real threat to the American public. I am currently working with our colleagues on both sides of the aisle on issues that would have some real impact on the quality of care in our country. One meaningful step we can take almost immediately is to encourage the use of information technology in the health care setting.

The Senator from New York, Mrs. CLINTON, is deeply interested in this subject matter, as are several other colleagues. Improving quality is the best tool we have to address rising health care costs. Supporters of this legislation we are debating today would have you believe medical liability costs are the main driver of rising health care costs. But that is simply not the case. The Congressional Budget Office has estimated that malpractice costs represent, at most, only 2 percent of the overall health care costs in our country.

We ought to address this issue, but let's talk about it in the context in which it is really a problem. Furthermore, while health care costs more than doubled between the years 1987 and 2001, the total amount spent on medical liability premiums rose by only 52 percent over that same period. The real drivers of health care costs are prescription drugs and hospital spending. We should be using the time to pursue proposals to address these issues, including expanding the use of inexpensive generic prescription drugs, better chronic disease management and preventive medicine, and improving health care quality and efficiency.

Let me finish by saying, as ranking member of the Subcommittee on Children and Families, improving the health of women and children has been a priority of mine and many others who serve on that committee, including the Presiding Officer. If my colleagues are genuinely interested in healthier mothers and healthier babies, I can suggest any number of pieces of legislation that are pending here that would represent real steps towards achieving that goal. I am the coauthor of two bills, the Newborn Screening Save Lives Act and the Prematurity Research Expansion and Education for Mothers who Deliver Infants Early Act, the PREEMIE legislation, that I believe would go a long way towards improving the health and well-being of newborns. During the 107th Congress, Senator HARKIN introduced the Safe Motherhood Act a comprehensive bill to ensure safe pregnancy for all women. Senator BINGAMAN introduced legislation to expand health care coverage for pregnant women under Medicaid and the State Children's Health Insurance Program.

There are a variety of such bills out there, offered on a bipartisan basis. The Senator from Ohio, Mr. DEWINE, and I have worked very hard on a number of these bills. I am not going to suggest they solve all the problems, but they are designed to deal with some of the very issues pregnant women and infants face every day. The idea that you are going to put a cap on noneconomic recoveries here and that is somehow going to address these other issues is ludicrous on its face. We ought to be spending the valuable time of this institution in debating and discussing and getting some of this legislation passed that could make a difference to these people.

I am not shy when it comes to tort reform. I have spent a good deal of time in my Senate career authoring bills dealing with tort reform. This is not one of them. This is not tort reform. This is not addressing the issue that people face every day and doctors face with rising premiums. There is a way of addressing that problem. When we get around to doing it and working on it, then we can take some pride in passing something that does something meaningful in this area. This bill doesn't do it.

I hope cloture will be denied. I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today in strong support of S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act, and I strongly encourage my colleagues to vote for cloture on the motion to proceed on this very important legislation.

I would like to point out in the beginning of my remarks, in response to some of the statements that have been made on the floor this morning, that there has to be a reason the American College for Obstetrics and Gynecology, the American Medical Association, and just about every medical group in the United States of America is supportive of this legislation. We would not be talking about it unless they really believed the passage of this legislation would have a dramatic impact on the liability costs that OB/GYNs are experiencing, causing so many of them to leave their practices.

This is a personal issue for me. Last summer when my daughter-in-law was expecting her fourth child, she learned that after the delivery, her doctor would no longer deliver babies. At the time, her doctor was in a four-physician group, all of them obstetricians. They never had any lawsuits against them. Yet their insurance premiums had skyrocketed from $81,000 to over $381,000 in just 3 years. That is $75,000 per person over a period of 3 years. How could physicians be expected to afford rate hikes such as these?

We need to be doing something about it. This legislation is going to help. This legislation is so important because the effects of the medical liability crisis can be felt acutely by the obstetrics/gynecology community. Data from the American Medical Association indicates that 19 States currently face a medical liability crisis and 25 States show problem signs. Women of childbearing age have been impacted the most because 1 out of 11 obstetricians nationwide has stopped delivering babies and, instead, has scaled back their practice to gynecology only or just gotten out of the practice. In addition, one in six has begun to refuse high-risk cases.

How does this affect a patient's access to care? As premiums increase, women's access to general health care, including regular screenings for reproductive cancers, high blood pressure, cholesterol, diabetes, and other serious health risks, will decrease. It leads to more uninsured women because of health care costs that have gone up as a result of the fact that malpractice costs have gone up so astronomically in the last couple of years.

In 2002, 11.7 million women of childbearing age were uninsured. Without medical liability reform, a greater number of women ages 19 to 44 will move into the ranks of the uninsured. With fewer health care providers offering full services, the workload has increased significantly for those who still do. Wait times increase, putting women at risk. A physician facing higher premiums is likely to practice defensively, ordering more tests than medically necessary, seeking more opinions, and giving more referrals.

Women receive less prenatal care in our current environment. Improved access to prenatal care has resulted in record low infant mortality rates, an advance now threatened as OB/GYNs drop obstetrics. As some of you may have read, for the first time since 1958, the U.S. infant mortality rate is up. According to preliminary data released this month by statisticians from the CDC, the Nation's infant mortality rate in 2002 was 7 per 1,000 births. That is up from 6.8 in 2001. Some experts are attributing this to poor access to prenatal care, that that is the cause of this problem. Women have less preventive care. Women's general health care is routinely provided by community clinics and OB/GYNs. Women receive fewer screenings for reproductive cancers, high blood pressure and cholesterol, diabetes, and other serious health risks as OB/GYNs and community clinics reduce care.

The ramifications of this medical liability crisis on women's health care are shocking, and we feel this crisis very strongly in Ohio. The Medical Liability Monitor ranked Ohio among the top five States for premium increases in 2002. The OHIC Insurance Company, among the largest medical liability insurers in the State, has reported that average premiums for Ohio doctors have doubled over the last 3 years.

I would like to point out that the argument that the insurance industry is ripping off doctors and raising rates to make up for investment losses, as some contended here on the floor of the Senate this morning, is preposterous.

I invite those Members who believe this to read an article from Brown Brothers Harriman Insurance Asset Management Group.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From BBH & Co. Insurance Asset
Management, Jan. 21, 2003]

DID INVESTMENTS AFFECT MEDICAL MALPRACTICE PREMIUMS?

(By Raghu Ramachandran)

It's deja vu all over again in the medical malpractice arena.

Last July, the only trauma center in Las Vegas was forced to close. At the beginning of this year, doctors in Pennsylvania threatened to go on strike but relented when the incoming governor promised to support legislative reforms to limit jury awards in malpractice suits. Also in January, doctors in Weirton, West Virginia went on strike, forcing patients to travel up to 40 miles to find medical care. Doctors in neighboring areas of West Virginia considered joining the strike, threatening a near complete shutdown of the medical delivery system in the region. Doctors and hospitals around the country are suspending their practices and closing their doors because they can no longer afford the huge and increasing cost of medical malpractice insurance. The situation is increasingly reminiscent of the malpractice crisis of the 1970's. What is causing this controversy and what can be done about it?

According to Americans for Insurance Reform (AIR), "insurance companies raise rates when they are seeking ways to make up for declining interest rates and market-based investment losses." Mainstream media, such as The New York Times, have picked up this argument: "The steep drop in bond yields and the stock market has also fueled the crisis." These arguments are both misleading and inaccurate. The root causes of the problem are quite different from what is often suggested by the media, and their resolution is far less simplistic than the pundits imply.

In this paper, we will analyze several variables to demonstrate that asset allocation and investment returns have had little, if any, correlation to the development of the current malpractice problem. The crisis is rather the result of a generally unconstrained increase in losses and, over several years, inadequate premium income to cover those losses.

Given that conclusion, we will then examine several possible solutions and attempt to gauge the magnitude of changes necessary to resolve this problem.

AIR uses the following graph to demonstrate that losses have tracked inflation and that premiums vary because of the economy. The graph attempts to compare two key trends underlying the medical malpractice controversy: premiums per doctor (DPW/MD) and paid losses per doctor (DLP/MD). Both of these variables are expressed in constant medical dollars.[1]

LOSS INFLATION

AIR claims this shows "that since 1975, medical malpractice paid claims per doctor have tracked medical inflation very closely." In fact, the graph and the underlying data suggest exactly the opposite. First, they make an erroneous comparison. Since AIR uses real (or constant) medical dollars, they have already factored out the effect of medical inflation. So, any increase is a "real" increase in excess of medical inflation. One cannot compare real increases to inflation.

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[1] Graphs not reproducible in the Record.

Second, the data show loss costs have increased significantly faster than inflation. Using data from the AIR report, we plotted medical inflation (CPI-U), premiums, and losses to show how each has grown since 1975.

One sees that the losses per doctor have grown at a much higher rate than either medical inflation or premiums per doctor. In order for losses in 2001 to have equaled the build up created by inflation in medical care during the period 1975–2001, companies would have to reduce the amount of paid losses by approximately 60%. Therefore, losses, not inflation, are the problem.

ECONOMIC EFFECT

The other claim made by AIR is that "insurance premiums (in constant dollars) increase or decrease in direct relationship to the strength or weakness of the economy, reflecting the gains or losses experienced by the insurance industry's market investments and their perception of how much they can earn on the investment 'float'." Unfortunately, they make this claim without any supporting analysis. Using the premium data from AIR, we found no correlation between premiums and the economy.

The standard measure of the effect one variable has on another is the coefficient of determination (r^2); this value shows how consistently two variables move in the same direction. The coefficient of determination has values between 0 and 1. A value of 1 means that if the first variable moves up the second will move up at the same time; a value of zero means that there is no similarity in the movement of the two variables. The correlation coefficient has to be greater than 0.75 for us to claim the observed effect between the two variables is significant.

As a measure of the economy, we used the year-over-year change in GDP; as a measure of investment yield, we used the yield on a 5-year Treasury note. In our analysis, neither the direct premiums written nor the direct premiums per doctor showed any significant correlation to either the investment yield or GDP variable. The table lists the coefficients of determination generated by the regression analysis between the economy, investment yield, and medical malpractice premiums.

	GDP	Yield
DPW	0.0001	0.1255
DPW/MD	0.0104	0.0318

Several other analyses also failed to show a correlation between premiums and the economy. To test if the premium increases are related to the economy or bond market, we analyzed the correlation of the change in premiums to GDP and investment yield. To test whether premiums go up when the investment yield goes down, we analyzed the correlation between premiums and the change in yield as well as the correlation between the change in premiums and the change in yield.

One could reasonably claim that the premiums (or increases in premiums) are dependent not upon the company's performance this year but upon the company's performance in the previous year. To test this hypothesis, we regressed both premiums and change in premiums to both the economy and investment yield in the previous year. For thoroughness, we also analyzed the correlation between both premiums and change in premiums with the change in yields in the prior year.

We also considered alternate measures for GDP and yield. We used industrial production as an alternate measure of the economy and the 10-year Treasury note as an alternate measure of yield. We also analyzed the effect the slope of the yield curve and the change in slope had on premiums. We performed all of the analyses above on these new variables.

In 64 different regressions between the economy, yield, and premiums, the highest coefficient of determination was 0.1505. Therefore, we can state with a fair degree of certainty that investment yield and the performance of the economy and interest rates do not influence medical malpractice premiums.

STOCK MARKET EFFECT

But what about the stock market? How did the drop in the equity markets affect insurance company performance? Are companies raising premiums because they lost money on Enron or WorldCom?

Obviously, the market decline affects insurance companies like every other investor, but the magnitude of the losses gets lost in the media hype. We analyzed the equity exposure in two stages. Stage one: Did medical malpractice companies have an unusually large amount of equities in their portfolio? Stage Two: Given their level of equity exposure, did they invest prudently in the market or did they gamble by investing in technology or telecom stocks?

Using NAIC filings, we can determine the amount of assets invested in equities.

Over the last five years, the amount medical malpractice companies have invested in equities has remained fairly constant. In 2001, the equity allocation was 9.03%. We can also compare how the medical malpractice sector compares to other P&C sectors.

This graph shows that medical malpractice companies have less invested in equities than other sectors of the industry.

Even if the equity allocation is not large relative to the industry or other insurance sectors, is 10% the correct amount for medical malpractice insurers to invest in equities? Insurance companies invest their assets as a fiduciary of the policyholders. As such, they must invest according to a "prudent investor" standard. This requires the company not only to consider the risk in an individual security, but also the risk to the portfolio as a whole. Prudent investors know that diversifying across asset classes can enhance return and reduce volatility. A simple analysis shows a conservative investor will have at least 10% invested in equities. Thus, a prudent insurance company should have some allocation to equities.

If the degree of equity exposure was not unusual, was the investing? Again using NAIC filing data, we can analyze the distribution of equity investments for medical malpractice companies and compare it to S&P performance.

[In percentage]

Sector	Medical malpractice companies	S&P sector return
Energy	5.6	−11.0
Materials	1.9	−5.4
Industrials	11.9	−26.2
Consumer Discretionary	15.9	−23.7
Consumer Staples	7.3	−4.3
Healthcare	14.1	−18.8
Financials	17.8	−14.5
Technology	17.9	−37.4
Telecom	6.3	−34.0
Utilities	1.4	−29.5
	100.0%	
Total Return	−22.4%	
S&P Return	−22.2%	

We see that medical malpractice companies had returns similar to the market as a whole. This indicates that they maintained a diversified equity investment strategy.

As medical malpractice companies did not have an unusual amount invested in equities and since they invested these monies in a reasonable market-like fashion, we conclude that the decline in equity valuations is not the cause of rising medical malpractice premiums.

WHERE DO WE GO FROM HERE?

In order for any form of insurance coverage to be viable, the insurance company must receive more in premium dollars and investment income than they pay in losses and expenses. A simple measure of this is the ratio of paid losses to premiums Over the last 27 years, and especially over the last 16, the paid loss ratio in medical malpractice coverage has steadily increased. Without some form of relief, this is not a good sign.

Although the paid loss ratio is a good starting point, that metric excludes other expenses such as incurred losses, loss adjustment expenses, general operating expenses, etc. as well as income from investments. A.M. Best provides the combined loss ratio (paid loss + change in reserves + expenses) for the medical malpractice industry. By subtracting the paid loss ratio, from the AIR report, from the combined ratio, we can get an estimate of the other expenses for an insurance company. The average expense ratio for medical malpractice companies was 43% when investment income is included and 74% when investment income is excluded.

Over the last 27 years, the average paid loss ratio was 47% and the minimum paid loss ratio was 16%. In 2001, the industry paid loss ratio was nearly 75%. In other words, for every dollar that comes in the door, 75 cents is paid out. When combined with the expense ratios cited earlier, it is clear that it has been extremely difficult—if not impossible—for insurance companies to earn a profit writing medical malpractice insurance. Further, at this rate of expenditure, after the company pays its losses and expenses, there is very little "float" on which they can earn investment income.

Medical malpractice paid loss ratio 1975–2001

	In percent
Average loss ratio	46.8
Minimum loss ratio	15.9
2001 loss ratio	74.4

To increase profitability, companies must effect one of three changes: reduce their losses, increase their premiums, or increase their investment income. As the industry, in aggregate, cannot control return on investments, they have only two choices. Using the methodology above, we can estimate the magnitude of the change required to restore profitability to the industry.

If losses are held constant—i.e., no change in loss and expense trends, then we are left with increasing premiums to restore the industry to profitability. For premiums to have kept up with medical inflation for the period 1975 to 2001, they would have to increase by 41%. For premiums to have kept up with the increases in paid losses since 1975, they would have to increase by 325%. For the industry's average loss ratio to drop back to its 27-year average, premiums would need to rise by 59%. For the loss ratio to drop to its nadir during that period, premiums would have to increase by 368%.

	Dollars	% Increase
2001 DPW/MD	$9.719	
Premium required for:		
Average Loss Ratio	15.448	59
Minimum Loss Ratio	45.478	368

Clearly, increases of this magnitude are intolerable, for both the industry and state regulators. In this regard, St. Paul's experience is noteworthy. Prior to its withdrawal from the market, the company was granted 31% less in rate increases than indicated. It is little wonder that they responded as they did!

ST. PAUL RATE FILINGS

[In percentage]

State	Date	Indicated increase	Increase filed	Difference
1	1/1/2001	76.10	25.00	40.90
2	3/7/2001	−34.30	−43.00	15.30
3	1/1/2001	54.50	35.00	14.40
4	6/1/2000	39.20	5.00	32.60
5	11/1/1999	28.70	5.00	22.60
6	1/1/2001	55.20	10.00	41.10
7	2/1/2001	18.90	−21.00	50.50
8	1/1/2001	90.80	35.00	41.30
9	1/1/1999	18.50	5.00	12.90
10	1/1/2002	73.00	35.00	28.10
11	1/1/2001	26.80	12.50	12.70
12	1/1/2002	70.20	45.00	17.40
13	1/1/2002	67.30	40.00	19.50
14	1/1/2001	49.30	10.00	35.70
15	10/1/1999	88.10	5.00	79.10
16	1/1/2002	71.00	10.00	55.50
17	1/1/2002	82.60	45.00	25.90
18	7/1/2000	12.50	0.00	12.50
19	7/15/2000	57.00	7.50	46.00
20	7/1/2000	17.10	5.00	11.50
21	1/1/2000	40.90	5.00	34.20
22	7/1/2000	58.90	8.50	46.50
23	1/1/2001	50.70	15.00	31.00
Average		48.40	13.00	31.60
Average excluding #2		52.20	15.60	32.40

St. Paul had the luxury of falling back on other lines of business. Unfortunately, many special medical malpractice companies, such as state PIAA companies, do not have other lines of business to fall back on.

RATING AGENCY RESPONSE

The reaction of rating agencies to these trends is another important ingredient in the medical malpractice landscape. Principal concerns of the agencies are "solvency" and the "leverage" built into the premium and surplus structure of the industry. While agencies usually express the benchmarks for the measurements (ratios) in ranges, trends are also important. Either level or trend can result in a downgrade in a company's rating, a serious event in the corporate life of an insurer.

In 2001, medical malpractice companies had an average premium-to-surplus ratio of 0.72. As premiums are increased, this ratio will rise. If premiums rise too quickly, we would observe a spike in this ratio as it takes time for the increased premiums to show up in surplus. Unless rating agencies account for this, a company could find they cannot raise their rates by the required amount for fear of impairing their rating. In fact, several companies have been downgraded recently, with premium leverage given as the primary reason. (The situation is exacerbated by the fact that with the industry suffering from reduced capacity as a result of the St. Paul type experiences, companies are adding to their number of insureds. This puts further strain on their leverage ratios.) Fortunately, the rating agencies seem to be aware of the problem.

TAMING LOSSES

If companies cannot increase their premiums, then they must be able to control the burgeoning increase in losses. Our analysis suggests that the level of losses would have to decrease by 37% to achieve the average loss ratio and by 79% to obtain the minimum loss ratio observed over the past 27 years. Such reductions would require significant change in the tort environment.

	Dollars	% decrease
2001 DLP/MD	$7.232	
Losses required for:		
Average Loss Ratio	4.549	−37
Minimum Loss Ratio	1.545	−79

The paid loss number cited above includes both jury awards and settlements. Large jury awards have the pernicious effect of enticing more lawsuits, most of which are settled out of court but with an expense to the company. Prudent reforms, such as MICRA, reduce not only the jury awards but also reduce the amount of lawsuits filed.

SUMMARY

The magnitude of these changes suggests that the eventual solution to the current malpractice problem will be a blend of premium increases and tort reform. Since the financial shortfall compounds itself over time, it is imperative that the solution set be developed as quickly as possible. Without significant relief in fairly short order, the country may find itself facing an accelerating loss of available medical care.

Mr. VOINOVICH. The subject of the article is "Did Investments Affect Medical Malpractice Premiums?" It concluded:

> . . . asset allocation and investment returns have had little, if any, correlation to the development of the current malpractice problem.

The article goes on to say:

> The crisis is rather the result of a generally unconstrained increase in losses and, over several years, inadequate premium income to cover those losses.

The article also goes on to say:

> We see that medical malpractice companies had returns similar to the market as a whole. This indicates that they maintained a diversified equity investment strategy. As medical malpractice companies did not have an unusual amount invested in equities and since they invested these moneys in a reasonable market-like fashion, we conclude the decline in equity valuations is not the cause of rising medical malpractice premiums.

Finally, I will finish up with a summary:

> The magnitude of these changes suggests that the eventual solution to the current malpractice problem will be a blend of premium increases and tort reform. Since the financial shortfall compounds itself over time, it is imperative that the solution set be developed as quickly as possible. Without significant relief in fairly short order, the country may find itself facing an accelerating loss of available medical care.

And I contend that acceleration is well underway not only in OB/GYN but in other aspects of the medical profession.

According to a November 2000 study of the American College of Obstetricians and Gynecologists, 59 percent of responding Ohio OB/GYNs have been forced to make changes to their practice such as quitting obstetrics, retiring, relocating, decreasing gynecological surgical procedures, no longer performing gynecologic surgery, decreasing the number of deliveries, and/or decreasing the amount of high-risk obstetric care because of unaffordable and unavailable medical liability insurance. Of the respondents, 86 percent no longer practice obstetrics, which forces a potential of some 14,000 pregnant Ohio women to find new OB/GYNs to provide their obstetric care.

This is not the statistics. I have received dozens of testimonials from doctors saying they are quitting their practice because of the rising cost of medical liability insurance. A friend of mine shared with me a letter from an OB/GYN in Dublin, OH, who decided to retire from his practice.

He wrote the following to his patients:

> On June 17, 2003, I received my professional liability insurance rate quote for the upcoming year, and it is 64% higher than last year's rate. I have seen my premiums almost triple during the past two years, despite never having had a single penny paid out on my behalf in twenty-seven years as a physician. Even worse, during this time the insurance company has reduced the amount of coverage that I can purchase from $5 million to only $1 million, while jury verdicts have skyrocketed, often exceeding $3–4 million. If I were to purchase this policy, I would be putting all of my family's personal assets at risk every time that I delivered a baby or performed surgery. I refuse to do that.
>
> I have therefore decided to retire from private practice on July 31, 2003, the final day of my current liability insurance policy. This is not a decision that I take lightly, but unfortunately it has become necessary. For many of you, I have been part of your life for years. I have delivered your babies, and helped you through some of life's most difficult challenges. It has truly been an honor.

I received another letter from Dr. Ben Alvarez. He worked for Beachwood OB/GYN. He sent a letter informing his patients he was relocating to Minnesota this March. He says, in part:

> The decision to leave Ohio is the direct result of the medical malpractice crisis: with a clean record, my annual premium will reach well over $100,000 this July. I cannot, and will not, in good conscience play the insurance company's game—it's just that simple. What's not simple is saying good-bye to a town and people that have given me so much. Ob/Gyn is so different from other medical specialties due to the emotional and personal relationships that exist between us. I have been blessed to have experienced with so many of you the joy of a new baby's arrival; prayed about the outcome of surgery; and also shared the painful moments.

I ask unanimous consent to have the complete letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEACHWOOD OB/GYN, INC.,
Lyndhurst, OH, January 4, 2004.

MY DEAREST PATIENTS: It is with a heavy heart that I inform you that I shall be relocating to Minnesota in March. The decision to leave Ohio is the direct result of the medical malpractice crisis: with a clean record, my annual premium will reach well over

$100,000 this July. I cannot and will not, in good conscience play the insurance company's game—it's just that simple.

What is not simple is saying good-bye, to a town and people that have given me so much. Ob/Gyn is so different from the other medical specialities due to the emotional and personal relationships that exist between us. I have been blessed to have experienced with so many of you the joy of a new baby's arrival; prayed about the outcome of a surgery, and also, shared the painful moments. Indeed, it is I who thank God for having met you, for, because of you, I have become a better, more complete, human being.

Do not despair over the continuity of your care. My colleagues in the practice will keep the ball rolling. From a practical standpoint, I would encourage you to set up follow-up appointments with any one of the doctors. Drs. Varyani and Goldshmidt have schedules that allow for more flexibility, but Drs. Bellin, Evans, Klein and Vexler are also available to continue your care. They are all excellent doctors and have my complete confidence.

Farewell, my friends, and the best to you and your families.

With sincere affection and melancholy.

BEN ALVAREZ,
MD.

Mr. VOINOVICH. After speaking at a physicians' rally in Ohio, I received a letter from a young doctor, Geoff Cly. Dr. Cly received a notice from the insurance carrier that the premiums would increase by 20 percent, $30,000, this plus the $20,000 increase from the year before, forcing him to make a difficult decision of uprooting his family and practice to go to another State. Doctor Cly was unable to make the insurance premiums and still take care of his student loan obligations and his family. He moved to Fort Wayne, IN. He said to me: Senator, I am going to Indiana. My liability insurance will be less there. But the practice has gotten so much different than what I anticipated it to be that I am seriously thinking, after I pay off my college loans, I am going to get out of medicine.

It is a tragedy what is happening today in my State and other States throughout this country. For those of my colleagues who think medical liability reform is a State issue, I ask them to read this letter and see how the medical liability crisis transcended State lines, particularly my friends from the neighboring State of West Virginia. Our Ohio physicians who practice along the border are feeling the effects of their proximity to West Virginia and its favorable plaintiffs' verdicts. They are feeling these effects in their increasing insurance premiums.

It is amazing the number of counties along the West Virginia border and eastern Ohio where they have no more OB/GYNs. They just left. These counties go bare, with no OB/GYN to provide services to protect women.

I could go on and give more and more examples of Ohio physicians who had to leave the practice of medicine. Dr. Komorowski of Bellevue stopped delivering babies after 20 years when he found out the day after Christmas last year that his liability insurance was tripling to more than—listen to this—$180,000. Dr. Komorowski, the only obstetrician in Bellevue, figured it would cost him nearly 11 months of his salary to pay the premium increase in addition to taxes and other expenses.

It is out of control. We need to do something now, not just for Ohio but for the rest of the country as well. Obstetrics/gynecology is among the top three specialties in the cost of professional liability insurance premiums. Nationally, insurance premiums for OB/GYNs have increased dramatically. The median premium increased 167 percent between 1982 and 1998. The median rate rose 7 percent in 2000, 12½ in 2001, 15.3 in 2002, with increases as high as 69 percent according to a survey by the Medical Liability Monitor, a newsletter covering the liability insurance industry.

According to the Physicians Insurance Association of America, OB/GYNs were first among 28 specialty groups in the number of claims filed against them in 2000. OB/GYNs were the highest of all the specialty groups in the average cost of defending against a claim in 2000 at a cost of almost $35,000. In the 1990s they were first, along with family physicians, general practitioners, in the percentage of claims against them closed with a payment of 36 percent. They were second after neurologists in the average claim payment made during that same period.

Although the number of claims filed against all physicians climbed in recent decades, the phenomena do not reflect an increased rate of medical negligence. In fact, OB/GYNs win most of the claims filed against them. In 1999, an American College of Obstetricians and Gynecologists survey of its membership found that over one-half, 54 percent of claims against OB/GYNs were dropped by plaintiff attorneys, dismissed or settled without payment; 54 percent of the cases that did proceed, OB/GYNs won 7 of 10 times. Enormous resources are spent to deal with these claims, only 10 percent of which are found to have merit.

The cost to defend these claims can be staggering and often mean that physicians invest less in new technologies that help patients. In 2000, the average cost to defend a claim against the OB/GYN was the highest of all physicians.

According to the American College of Obstetricians and Gynecologists, the typical OB/GYN is 47 years old, has been in practice for 15 years and can expect to be sued 2.53 times over his or her career. Over one-quarter of the residents have been sued for care provided during their residency. And that is another problem we are seeing in this country: Many residencies are going unfulfilled because of the medical malpractice lawsuit abuse growth in this country. Medical school enrollments have been impacted by what young people are seeing happening in the medical profession in this country.

In 1999, 76 percent of the American College of Obstetricians and Gynecologists fellows reported they had been sued at least once so far in their career. The average claim takes over 4 years to resolve. I know from anyone who has been the subject of a lawsuit that 4 years is 4 years of stress as they worry about what is going to happen as a result of the outcome of that litigation.

The legislation we are debating today gets us on our way to turning these statistics and stories around. It provides a commonsense approach to our litigation problems that will help keep consumers from bearing the cost of costly and unnecessary litigation while making sure that those with legitimate grievances have recourse through the courts.

Throughout my career in public service, health care has been one of my top legislative priorities. We all want access to quality, affordable health care. We do have a problem in this country in terms of access to quality health care. In my State, I have conducted eight listening sessions. The result from all those sessions, regardless of who was there, is that the system is broken, and we need to plow new ground.

When the quality is not there, when people die or are truly sick due to negligence or other medical error, they should be compensated. We want that. But when healthy plaintiffs file meaningless lawsuits to shake the money tree to get as much as they can get, there is a snowball effect and all of us pay the price.

The last time I spoke on this subject, I had the front and back cover of the white pages and the yellow pages of the Cleveland phonebook. The front cover and back cover of both of them were advertisements for personal injury lawyers giving specific examples of encouraging people to file suits based on the information they had in their advertisement.

For the system to work, we must strike a delicate balance between the rights of aggrieved parties to bring lawsuits and the rights of society to be protected against frivolous lawsuits and outrageous judgments that are disproportionate to compensating the injured and made at the expense of society as a whole.

I have been concerned about this issue since my days as Governor of Ohio. In 1996, I essentially had to pull teeth in the Ohio Legislature to pass a tort reform bill. I signed it into law in October of 1996. Three years later, the supreme court ruled it unconstitutional. If that law had withstood supreme court scrutiny—and it should have; we now have what I call a balanced supreme court in Ohio—Ohioans would not be facing the medical access problems they face today: Doctors leaving their practice, patients unable to receive the care they need, and the cost of health insurance going through the roof.

During my time in the Senate, I have continued my work to alleviate the medical liability crisis. To this end, I have worked with the American Tort Reform Association to produce a study in August of 2002 that captured the impact of this crisis on Ohio's economy in order to share these findings with my constituents and colleagues. Guess what we found. What we have in this country today, in my opinion, not only in this area but in a lot of areas, is a litigation tornado that is ripping through the economy. We found in Ohio that the litigation crisis costs every Ohioan $636 per year and every Ohio family of four $2,544. These are alarming figures, and the numbers are from 2 years ago. Which family do you know that can pay $2,500 for the lawsuit abuse of a few individuals?

Next to the economy and jobs, the most important issue facing our country today is health care. In fact, it is a major part of what is wrong with the economy. We have too many uninsured, and those who have insurance face soaring premiums every year, making it less likely they can continue to pay them. In addition, employers are facing spiraling costs and in some cases don't even provide insurance.

I have talked to one employer after another. They say: I want to provide health insurance for my workers, but I cannot afford to do it at $10,000 for a family of four. I am asking my employees to pay more of the premiums. In many instances my employees cannot afford to pay the premiums so they are going without health insurance.

We have a real problem. Medical malpractice lawsuit abuse reform is having a dramatic impact on the cost of health insurance, in spite of what some of my colleagues have said. Providing the sort of commonsense approach found in the Healthy Mothers and Healthy Babies Access to Care Act is a win-win situation. The bill will help decrease the rising cost of health care. It will give patients access to care and it will curtail the rising cost of medical liability insurance for those physicians who provide prenatal delivery and postpartum care to mothers and babies.

Patients will not have to give away large portions of their judgments to their attorneys. Truly injured parties can recover 100 percent of their economic damages. Punitive damages are reserved for those cases where they are truly justified. Doctors and hospitals will not be held liable for harms they did not cause and physicians can focus on what they do best—practicing medicine and providing health care.

I urge my colleagues to vote for cloture so we can debate this issue and have an up-or-down vote on this legislation impacting on our most important patients: Pregnant women and their newborn babies.

There was some mention made of the General Accounting Office study of the medical liability crisis and access to care. I ask unanimous consent to have printed in the RECORD the response of the American Medical Association to that General Accounting Office report. It is very important.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEDICAL LIABILITY CRISIS AND ACCESS TO CARE—AMA'S RESPONSE TO THE GENERAL ACCOUNTING OFFICE, SEPTEMBER 2003

The U.S. General Accounting Office (GAO) recently released two reports related to America's medical liability crisis. [U.S. General Accounting Office, Medical Malpractice Insurance: Multiple Factors Have Contributed to Increased Premium Rates, GAO–03–702 (June, 2003); and Medical Malpractice: Implications of Rising Premiums on Access to Health Care, GAO-03-836 (August, 2003)]. The first report (June 2003) confirms that, since 1999, medical liability premiums skyrocketed in some states and specialties—and increasing settlements and jury awards ("paid claims") are the primary drivers for these increases. The second report (August 2003) confirms that America's medical liability crisis is causing access to health care problems in high-risk medical specialties and in select locations throughout America.

The GAO reports also confirm what the American Medical Association (AMA) has long held to be true—tort reform works. Medical liability premiums in states with strong caps on non-economic damages grew at a slower rate than states without caps on non-economic damages.

We appreciate the GAO's efforts and recognize that it is difficult to quantify the medical liability crisis. Among its findings, the GAO confirmed that:

Increased losses on claims are the primary contributor to higher medical liability premium rates (GAO 03–702, p. 15);

Premiums were higher (GAO 03–702, p. 14) and grew more quickly (GAO 03–836, p. 30) in states without non-economic damage caps than in states with non-economic damage caps;

Physician responses to medical liability pressures in the five crisis states have reduced access to services affecting emergency surgery and newborn deliveries (GAO 03–836, p. 5);

Similar examples of access reductions attributed to medical liability pressures were not identified in the four non-crisis states without reported problems (GAO 03–836, p. 5);

Insurers are not charging/profiting from excessively high premium rates (GAO 03–702, p. 32); and

None of the insurance companies studied experienced a net investment loss (GAO 03–702, p. 25).

However, the GAO's August report fails to accurately reflect the severity of the current crisis. Numerous changes to the GAO methodology would strengthen the basic findings of this report. Among the data sources, measures, or analytical methods that could be improved:

Examine all crisis states. To date, the AMA, in conjunction with its federation of state medical associations, has identified 19 states in a medical liability crisis. The GAO investigated access problems in only five of those states. In each of those states it found examples of reduced access to care. The GAO would have found similar access problems if it had examined the other 14 crisis states. In fact, the GAO did not identify any access problems in the four non-crisis states it examined. Therefore, the GAO's conclusion that access problems are not widespread is not substantiated.

Recognize increased impact on rural areas. Health care access problems do not have to affect every part of a state to create crisis conditions. Health care by its nature is local, where a loss of just one or a few physicians or other health care providers in a community can have a traumatic impact on the availability of health care services in that community. Many rural areas suffered from physician shortages prior to the recent escalation in liability premiums. It is precisely in those areas where access is already threatened that one would first notice the impact of physician's relocation or curtailment of certain services.

Appropriately measure physician mobility. Physician counts were based on state licensure data, which do not accurately reflect the number of physicians practicing in a given location. Actual physician practice location information must be used instead.

Relying on the total number of licensed physicians is a state to track physician mobility is inappropriate. According to James Thompson, MD, President and CEO of the Federation of State Medical Boards of the U.S. (FSMB) in September 2003: "The number of licensed physicians in a state is not an accurate measure of whether patients have adequate access to health care. Physicians may reduce their practice, stop treating high-risk patients, or stop practicing altogether and still maintain their license. Also, the number of licensed physicians is not an accurate indicator of the distribution of those physicians in underserved areas. Licensed physicians may work in administrative, academic or other settings where they may not have a clinical practice. Also, many retired physicians maintain a license. Information in the Federation of State Medical Boards' database shows that approximately 60% of physicians are licensed in more than one state which indicates that they are licensed in states where they do not maintain a full-time or part-time practice."

Accurately count physicians by specialties and local markets. The GAO's method of measuring physician supply and potential access to care is not appropriate. Physician population ratios that aggregate physicians across local markets and specialties obscure the significant market-specific or speciality-specific changes in the supply of physicians and availability of critically important medical services. Similarly, the number of high-risk sub-specialists that depart from any locality would likely account for only a small percentage of physicians in the state.

Use multi-payor data to accurately measure access to health care services that Medicare data alone do not capture. Utilization statistics based exclusively on data from a single payor (Medicare) exclude data for obstetric and emergency care, and fail to capture the impairment of access among other vulnerable populations, such as Medicaid patients. Medicare data are inadequate to identify changes in obstetric services because a vast majority of Medicare eligible beneficiaries are beyond reproductive age. Limitations in the data also preclude an assessment of changes in emergency room services.

> Therefore, the report significantly understates the impact of rising liability insurance premiums because it does not examine two clinical areas in which impairment of patient access has been the most severe—obstetric and emergency room services.
>
> The AMA will continue to advocate on behalf of patients and physicians for national reforms similar to those already passed by the U.S. House of Representatives. America's patients are the ones who will suffer if Congress does not act soon. This is a crisis. It is not waning, and without real reforms more patients will be unable to find a doctor to deliver a baby, perform life-saving trauma surgery, or provide other critical care to high-risk patients who need it most.

Mr. VOINOVICH. I will summarize quickly some of the conclusions. It says: The GAO August report fails to accurately reflect the severity of the current crisis. Numerous changes in the GAO methodology would strengthen the basic findings. Among the data sources, measures, analytical methods that could be improved: Examine all crisis States. To date, the AMA, in conjunction with its federation of State medical associations, has identified 19 States that have a medical liability crisis.

They also suggest recognizing the increased impact on rural areas, which GAO did not do; approximately measure physician mobility. Physician accounts were based on State licensure data which do not accurately reflect the number of physicians practicing in a given location. Actual physician practice location information must be used instead.

They should accurately count physicians by specialties and local markets and use multi-payor data to accurately measure access to health care services that Medicare data alone do not capture.

I can tell you I have not completely read the GAO report, but I have read portions of it. Its connection to reality in my State is not there. I have talked to David Walker about it. I have talked to the people who did the report and encouraged them to look at some of the suggestions the AMA made and perhaps do another study that would accurately reflect what is really going on today in this country in terms of medical malpractice increases and what it is doing to access to health care.

I would like to end my remarks with the words of Dr. Evangeline Andarsio. Dr. Andarsio is an OB/GYN from Dayton, OH. I met Dr. Andarsio at a physicians rally in Ohio. I will never forget that day. It was October of 2002. It was very cold. I was freezing. In fact, when I got up, my teeth were chattering. But prior to my getting up, Dr. Andarsio started to speak. I thought to myself, this doctor is just going to go on and on and on. And I was cold. But as she started, as I listened intently to what she was saying, I was moved by her remarks. This was truly a dedicated physician who loved her patients, loved what she was doing, and who was unable to practice medicine the way she wanted to because of this malpractice lawsuit abuse problem she is confronted with in our State.

I would like to close with a quote from her speech:

> Help us to maintain an ability to have a practice that offers patients excellent access to care—to continue one of the most important relationships in our lives—the doctor-patient relationship—thus maintaining individualized and compassionate care.

That is what much of this debate is about. It is about physicians being able to practice medicine and do it in a way they did back when my wife Janet and I were having our four children. There is a special relationship between an OB/GYN and a family. It breaks my heart to see so many of them leaving the practice of medicine because of these malpractice costs with which they are confronted.

We do have a crisis. This Senate is going to have to face up to it. I am hoping that we will have 60 votes today on cloture on the motion to proceed. I think we need to debate this issue. This issue has to be debated and the American people who are not aware of the crisis need to be made aware of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, what is the present situation relative to time?

The PRESIDING OFFICER. The Senator's side has 37 minutes and the other side has 12 and a half minutes.

Mr. GREGG. The Senator from Florida wanted 20 minutes. I ask unanimous consent that he be allowed to proceed after I speak for 20 minutes, but to the extent his time exceeds 12 minutes, it be debited against the time of the Democratic membership after we come back from the policy lunches.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I congratulate the Senator from Ohio for an excellent statement outlining the gravity of the problem we face, which is that women in this country are losing access to OB/GYN doctors, especially if they want to have babies. As a result, we are putting a lot of pressure on a lot of people—women, specifically, in their birthing years—and making it difficult, especially in rural areas, to get the type of health care we want them to get.

We are a society that is built around the concept of babies and children, and that is one of the more exciting things that happens in everybody's lifetime. Yet we are a society making it extraordinarily difficult now for doctors who practice the delivery of children and babies to practice their trade.

As I have said before, lawyers don't deliver children. Doctors deliver children. Unfortunately, the doctors are being driven out of the business by attorneys, and the cost of their malpractice premiums are going up radically. As a result, many doctors in my State are not delivering children anymore. I went through the specifics of that yesterday. I want to read a compelling letter I received from Debbie Risteen. She lives in Derry, NH. She has six children.

She wrote:

> I regret I could not be here with you in person today to tell you my story myself, as it would have been quite an honor for me. Let me tell you a little about myself. I am a mother of 6 whose ages range from 12 to 8 months. I love children and I homeschool. One of my favorite things of our married life has been being pregnant and delivering our babies. What an incredible time all 6 have been!
>
> I would like to describe to you a word picture for a moment. . . . It was a very difficult decision for me to decline coming to speak to you all today. One that took a lot thought. I need to weigh the cost at such a short notice. As much as I wanted to be here today, my family needed me more. If anything happened especially with the baby . . . I would be so far away to be able to meet the need and it would take me awhile to get to NH. In this picture, I now want you to see the importance of a pregnant woman needing the care of her OB. Someone she can depend on, trust in the decisions that lie ahead and most of all close in case of an emergency just like my family is depending on me.
>
> You see, my heart was broken this Christmas when I learned of our dear friend, Dr. Pat Miller, would not be doing what was closest to her heart . . . delivering babies. I could not believe it, you are so wonderful at this, people need you, I would tell her.
>
> 12½ years ago we made one of the biggest decisions of our lives . . . to begin a family. When we got the exciting news, we were busy looking for the best care, a doctor who was up on the latest, one who could handle complications, a hospital close by, and the list went on. We learned of a new OB in the area . . . Pat Miller. We heard she was all the things we were looking for and more. We were thrilled to be in the care of someone as wonderful as her. Through all of our visits we became very close friends and I knew she truly cared about me, the child, and my husband. Being our first and not knowing what to expect, I knew she was right there if anything was to happen and I trusted her wisdom to do what was best for the both of us. As a matter of fact, 3 of our children were born on her day off and she spent the day at the hospital in case we needed her for any emergencies. It was a tremendous comfort not only to me through these 9 months, but also for my husband to know we were in the best care and it was close. We knew that no matter what lied ahead she was there and would make the best choices. As our family began to grow it was a huge help to have her close by, especially when bringing 1 then 2 and so on with me. I have been so fortunate through 6 pregnancies to not have any complications, but as we all know, there are no guarantees to this. Other women are not as fortunate as me, but I would love for them to be able to have the same comfort and trust that I have experienced with our OB. I love our children dearly, and I love babies, and my hearts desire in sharing my story with you, is for legislators to hear 1st hand the importance of people, like Pat Miller, to be

able to continue what she loves and does best. To be able to provide an environment in which OB's can continue to deliver babies. To allow other mothers the same opportunity of trust and friendship that we still have today with our OB. Please listen to my heart . . . we need people like Pat Miller back in OB where she does what she knows best. Thank you for listening.

Sincerely,

DEBBIE RISTEEN.

That is a pretty compelling letter. It is anecdotal, but it is an anecdote happening across this country. Stories are being retold. Women are losing their OBs because these physicians are getting out of the practice of delivering babies because of the cost of their malpractice insurance. This bill will help alleviate that problem, and it is absolutely critical to give women this access and to not do things extremely discriminatory against women, and especially women who wish to become pregnant and have children.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I rise today in support of S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act, the principal sponsors of which were Senator GREGG and Senator ENSIGN.

Much of America cannot access basic medical services because lawsuits are driving insurance premiums through the roof and driving doctors literally out of business. Seven months ago a majority of Senators voted to try to do something about this problem. Unfortunately, not a single Democratic Senator supported our effort and therefore we could not overcome a filibuster and were prevented from even considering S. 11, the Patients First Act of 2003.

In the last 7 months, the crisis has gotten no better. That is the bad news. The good news is our resolve has not waned so again we are before the American people waiting and willing to roll up our sleeves to fix this problem if our friends on the other side of the aisle will let us have a chance.

Like the bill we offered last July, the reforms we are now proposing are tried and true. They are based on California's MICRA legislation, which for a quarter of a century has stabilized insurance premiums and helped ensure access to health care for those in the Golden State. The Healthy Mothers and Healthy Babies Access to Care Act would allow plaintiffs to recover unlimited economic damages, up to a quarter million dollars in noneconomic damages, and punitive damages up to the greater of a quarter million or twice economic damages.

While the reforms in S. 2061 are similar to those in MICRA and S. 11, the scope of S. 2061 is much more narrow. The bill we are asking the Senate to begin considering today pertains only to obstetrics and gynecological services. If our friends across the aisle will not help us protect all medical professionals with MICRA-type reforms, then perhaps they will let us take this important step toward reform by protecting at least one specialty.

OB/GYNs provide some of the most critical medical services in our country. Unfortunately, OB/GYNs also suffer from some of the highest premiums. As a result, women and children across our country are placed in danger as they struggle to find, oftentimes unsuccessfully, basic obstetric care. This is a nationwide problem. Data from the American College of Obstetricians and Gynecologists illustrates the legal and financial jeopardy faced by OB/GYNs across our country today.

Obstetrics and gynecology are among the top three specialties with the highest professional liability insurance premiums. OB/GYNs were No. 1 among 28 specialty groups in the number of claims filed against them. OB/GYNs were also the highest of all specialty groups in the average cost of defending against a claim. OB/GYNs are also facing enormous increases in the average payout of claims brought against them.

For example, back in 1996, the average award against an OB/GYN was $254,495. Between 1996 and 1998, the average award went up to about $350,000—from $250,000 up to $350,000 in 2 years. By 2000, the average award against an OB/GYN had increased to about $400,000. That is an increase of almost 40 percent in 4 short years.

This phenomenon is even more striking when one looks at cases involving alleged brain injuries to newborns. Such cases account for 30 percent of all claims against OB/GYNs but research shows physician error is responsible for fewer than 4 percent of neurologically impaired infants. Despite the rarity of physician error in these cases, the average award in these few cases where obstetricians are at fault has dramatically increased in just a few years. In 1996, the average award in these type cases was about $460,000. Two years later, the average award had doubled to $935,000.

Today, the median award in childbirth cases has risen to over $2 million. This is the highest category of award for all types of medical liability cases. American women should not be misled by these statistics. They should not worry that despite annual advances in medical technology and training there is somehow an increasingly poor level of obstetric care in this country.

No, these troubling statistics do not mean America's medical schools have lowered their standards and a rash of incompetent obstetricians has begun to practice medicine. In fact, according to the Society of Obstetricians and Gynecologists, over 80 percent of all cases that went to verdict against an OB/GYN resulted in judgments for the physician. In other words, on average eight out of 10 cases that went to trial against OB/GYNs were not meritorious.

It is the dramatic increase in awards noted above and the specter of such awards in settlement negotiations that is driving malpractice premiums through the roof, not a lowering of medical standards for practice.

Looking at my own State, the immediate result of skyrocketing liability premiums is the doctors pack up and move to a State such as California with liability reform or they just simply close their doors altogether. When this happens, the ultimate victims, of course, are the patients, the mothers and their children.

Let's take a look at the Commonwealth of Kentucky. Kentucky does not have a medical liability reform system. Not surprisingly, liability insurance rates for OBs in my State increased 64 percent in one year from 2002 to 2003. Also not surprisingly in the last 3 years, Kentucky has lost one-fourth of its obstetricians.

Moreover, Kentucky has lost nearly half its potential obstetric services during this time when one factors in those who have limited their practices.

As this chart I have shows, roughly 60 percent of the counties in the Commonwealth of Kentucky have no obstetrician at all—none. These are counties in red on this map. It is a majority of the counties in my State that have no obstetricians at all.

Other counties, such as Perry County, down in southeast Kentucky, down this way, technically have a practicing OB/GYN, but that one doctor has stopped delivering babies within the last year, so if you are in Perry County, that doesn't do you much good. Still other counties, such as Greenup, Lawrence, and Johnson Counties, in northeast Kentucky, have just one OB/GYN in each county, so if you are a woman in those counties you better hope there is not another woman having a baby when you are, or the doctor isn't out of town or busy with another patient. If that happens, you are going to have to drive through the hills on the backroads of eastern Kentucky to try to find a doctor to deliver your baby. All told, 82 of Kentucky's 120 counties have no OBs, or just have one OB.

According to Dr. Doug Milligan of Lexington, who specializes in caring for women with high-risk pregnancies, 11 OBs in eastern Kentucky have recently quit delivering babies or left the State, forcing women to drive for hours.

According to Dr. Milligan, apart from problems with delivering babies, some women are developing complications because they are not getting prenatal care.

So what should we conclude from all of this? The situation I have just described is not, unfortunately, unique to Kentucky. As you will hear from my colleagues, States across the country are in similar straits. So I commend

Senator GREGG and Senator ENSIGN for trying to address this important problem.

As I have said earlier, their legislation is modeled on reforms that have stood the test of time in California, and it has been endorsed by the American Medical Association, the American College of Obstetricians and Gynecologists, and a host of other medical organizations.

I hope a dozen brave souls on the other side of the aisle will give the Senate a chance to consider this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand there was an agreement for the allocation of time evenly divided between the two parties this morning, and that there has also been an agreement to divide the time during the afternoon.

I have talked with our leadership. They have indicated I could use 10 minutes of our time this afternoon, for the Democratic side, and use it at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. What adjustment has to be made in the afternoon will be made.

Mr. President, I intend to speak to the issue before us, medical malpractice, in a moment. I will yield myself 6 minutes now and then I will speak on the medical malpractice in just a moment.

THE FEDERAL MARRIAGE AMENDMENT

Earlier today the President announced his endorsement of the Federal marriage amendment. By endorsing this shameful effort to write discrimination back into the Constitution, President Bush has betrayed his campaign promise to be "a uniter, not a divider."

The Constitution is the foundation of our democracy and it reflects the enduring principles of our country. We have amended the Constitution only 17 times in the two centuries since the adoption of the Bill of Rights. Aside from the amendment on prohibition, which was quickly recognized as a mistake and repealed 13 years later, the Constitution has often been amended to expand and protect people's rights, never to take away or restrict their rights.

By endorsing this shameful proposal, President Bush will go down in history as the first President to try to write bias back into the Constitution.

Advocates of the Federal marriage amendment claim it will not prevent States from granting some legal benefits to same-sex couples, but that is not what the proposed amendment says. By forbidding same-sex couples from receiving "the legal incidents of marriage," the amendment would prohibit State courts from enforcing many existing State and local laws, including laws that deal with civil unions and domestic partnerships and other laws that have nothing to do with such relationships.

Just as it is wrong for a State's criminal laws to discriminate against gays and lesbians, it is wrong for a State's civil laws to discriminate against gays and lesbians by denying them the many benefits and protections provided for married couples.

The proposed amendment would prohibit States from deciding these important issues for themselves. This Nation has made too much progress in the ongoing battle for civil rights to take such an unjustified step backwards now.

We all know what this is about. It is not about how to protect the sanctity of marriage, or how to deal with activist judges. It is about politics, an attempt to drive a wedge between one group of citizens and the rest of the country, solely for partisan advantage. We have rejected that tactic before and I hope we will do so again.

The timing of today's statement is also a sign of the desperation of the President's campaign for reelection. When the war in Iraq, jobs and the economy, health care, education, and many other issues are going badly for the President and his reelection campaign is in dire straits, the President appeals to prejudice in a desperate tactic to salvage his campaign.

I am optimistic the Congress will refuse to pass this shameful amendment. Many of us on both sides of the aisle have worked together to expand and defend the civil rights of gays and lesbians. Together, on a bipartisan basis, we have fought for a comprehensive Federal prohibition on job discrimination on the basis of sexual orientation. We have fought together to expand the existing Federal hate crimes law to include hate crimes based upon this flagrant form of bigotry.

I hope we can all agree that Congress has more pressing challenges to consider than a divisive, discriminatory constitutional amendment that responds to a nonexistent problem. Let's focus on the real issues of war and peace, jobs and the economy, and the many other priorities that demand our attention so urgently in these troubled times.

Mr. President, as to the issue that we will be voting on this afternoon, on the medical malpractice legislation, I spoke on this issue yesterday but there are a few additional points that I wish to make today.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

MEDICAL MALPRACTICE LEGISLATION

Mr. KENNEDY. Mr. President, today's vote of S. 2061 is a test of the Senate's character. In the past, this body has had the courage to reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in the Patients' Bill of Rights debate, the Bush administration and congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme "tort reforms" are not only unfair to the victims of malpractice, the do not result in a reduction of malpractice insurance premiums.

Once more, we must stand resolute.

We must not sacrifice the fundamental legal rights of seriously injured patients on the altar of insurance company profits. We must not surrender our most vulnerable citizens—seriously injured women and newborn babies—to the avarice of these companies.

This bill contains most of the same arbitrary and unreasonable provisions which were decisively rejected by a bipartisan majority of the Senate last year. The only difference is that last year's bill took basic rights away from all patients, while this bill takes those rights away only from women and newborn babies who are the victims of negligent obstetric and gynecological care. That change does not make the legislation more acceptable. On the contrary, it adds a new element of unfairness.

This legislation would deprive seriously injured patients of the right to recover fair compensation for their injuries by placing arbitrary caps on compensation for non-economic loss in all obstetrical and gynecological cases. These caps only serve to hurt those patients who have suffered the most severe, life-altering injuries and who have proven their cases in court.

They are the children who suffered serious brain injuries at birth and will never be able to lead normal lives. They are the women who last organs, reproductive capacity, and in some cases even years of life. These are life-altering conditions. It would be terribly wrong to take their rights away. The Republicans talk about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

A person with a severe injury is not made whole merely by receiving reimbursement for medical bills and lost wages. Noneconomic damages compensate victims for the very real, though not easily quantifiable, loss in quality of life that results from a serious, permanent injury. It is absurd to suggest that $250,000 is fair compensation for a child who is severely brain injured at birth and, as a result, can never participate in the normal activities of day-to-day living; or for a woman who lost her reproductive capacity because of an OB/GYN's malpractice.

This is not a better bill because it applies only to patients injured by obstetrical and gynecological malpractice. That just makes it even more arbitrary.

The entire premise of this bill is both false and offensive. Our Republican colleagues claim that women and their babies must sacrifice their fundamental legal rights in order to preserve access to OB/GYN care. The very idea is outrageous.

For those locales—mostly in sparsely populated areas—where the availability of specialists is a problem. there are far less drastic ways to solve it. It is based on the false premise that the availability of OB/GYN physicians depends on the enactment of draconian tort reforms. If that were accurate. States that have already enacted damage caps would have a higher number of OB/GYNs providing care. However. there is in fact no correlation. States without caps actually have 28.4 OB/GYNs per 100,000 women. while States with caps have 25.2 OB/GYNs per 100.000 women.

And that is only one of many fallacies in this bill. If the issue is truly access to obstetric and gynecological care. why has this bill been written to shield from accountability HMOs that deny needed medical care to a woman suffering serious complications with her pregnancy. a pharmaceutical company that fails to warn of dangerous side effects caused by its new fertility drug. and a manufacturer that markets a contraceptive device which can seriously injure the user? Who are the authors of this legislation really trying to protect?

In reality, this legislation is designed to shield the entire health care industry from basic accountability for the care it provides to women and their infant children. It is a stalking horse for broader legislation which would shield them from accountability in all health care decisions involving all patients. While those across the aisle like to talk about doctors. the real beneficiaries will be insurance companies and large health care corporations. This legislation would enrich them at the expense of the most seriously injured patients; women and children whose entire lives have been devastated by medical neglect and corporate abuse.

When will the Republican party start worrying about injured patients and stop trying to shield big business from the consequences of its wrongdoing?

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose. what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less than two-thirds of 1 percent—0.66 percent—of the Nation's health care expenditures each year. Malpractice premiums are not the cause of the high rate of medical inflation.

In this era of managed care and cost controls. it is ludicrous to suggest that the major problem facing American health care is "defensive medicine." The problem is not "too much health care," it is "too little" quality health care.

A CBO report released in January of this year rejected claims being made about the high cost of "defensive medicine". Their analysis "found no evidence that restrictions or tort liability reduce medical spending." There was "no statistically significant difference in per capita health care spending between States with and without limits on malpractice torts."

The White House and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But. there is scant evidence to support their claim. In fact. there is substantial evidence to refute it. In the past year. there have been dramatic increases in the cost of medical malpractice insurance in States that already have damage caps and other restrictive tort reforms on the statute books. as well as the States that do not. No substantial increase in the number or size of malpractice judgments has suddenly occurred which would justify the enormous increase in premiums which many doctors are being forced to pay.

The reason for sky-high premiums cannot be found in the courtroom.

Caps are not only unfair to patients, they are also an ineffective way to control medical malpractice premiums. Comprehensive national studies show that medical malpractice premiums are not significantly lower on average in States that have enacted damage caps and other restrictions on patient rights than in States without these restrictions. Insurance companies are merely pocketing the dollars which patients no longer receive when "tort reform" is enacted.

Focusing on premiums paid by OB/GYN physicians, the evidence is the same. Data from the Medical Liability Monitor shows that the average liability premium for OB/GYNs in 2003 was actually slightly higher in States with caps of damages—$63.278—than in States without caps—$59.224. It also showed that the rate of increase last year was higher in States with caps—17.1 percent—than it was in States without caps—16.6 percent.

This evidence clearly demonstrates that capping malpractice damages does not benefit the doctors it purports to help. Their rates remain virtually the same. It only helps the insurance companies earn even bigger profits. As Business Week Magazine concluded after reviewing the data. "the statistical case for caps is flimsy." That was in the March 3. 2003 issue.

If a Federal cap on non-economic compensatory damages were to pass. it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies. which created the recent market instability, will benefit.

Insurance industry practices are responsible for the sudden dramatic premium increases which have occurred in some States in the past 2 years. The explanation for these premium spikes can be found not in legislative halls or in courtrooms. but in the boardrooms of the insurance companies themselves.

Insurers make much of their money from investment income. Interest earned on premium dollars is particularly important in medical malpractice insurance because there is a much longer period of time between receipt of the premium and payment of the claim than in most lines of casualty insurance. The industry creates a "malpractice crisis" whenever its investments do poorly. The combination of a sharp decline in the equity markets and record low interest rates in recent years is the reason for the sharp increase in medical malpractice insurance premiums. What we are witnessing is not new. The industry has engaged in this pattern of behavior repeatedly over the last 30 years.

Last year, Weiss Ratings, Inc., a nationally recognized financial analyst conducted an in-depth examination of the impact of capping damages in medical malpractice cases. Their conclusions sharply contradict the assumptions on which this legislation is based. Weiss found that capping damages does reduce the amount of money that malpractice insurance companies pay out to injured patients. However, those savings are not passed on to doctors in lower premiums.

Between 1991 and 2002. the Weiss analysis shows that premiums rose by substantially more in the States with damage caps than in the States without caps. The 12-year increase in the annual malpractice premium was 48.2 percent in the States that had caps. and only 35.9 percent in the States that had no caps. In the words of the report:

> On average, doctors in States with caps actually suffered a significantly larger increase than doctors in States without caps . . . . In short, the results clearly invalidate the expectations of cap proponents.

Doctors, especially those in high-risk specialties, whose malpractice premiums have increased dramatically over the past few years, do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

Doctors and patients are both victims of the insurance industry. Excess profits from the boom years should be used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

There are specific changes in the law which should be made to address the abusive manner in which medical malpractice insurers operate. The first and most important would be to subject the insurance industry to the Nation's anti-trust laws. It is the only major industry in America where corporations are free to conspire to fix prices, withhold and restrict coverage, and engage in a myriad of other anticompetitive actions. A medical malpractice "crisis" does not just happen. It is the result of insurance industry schemes to raise premiums and to increase profits by forcing anti-patient changes in the tort law. I have introduced with Senator LEAHY, legislation which will at long last require the insurance industry to abide by the same rules of fair competition as other businesses. Secondly, we need stronger insurance regulations which will require malpractice insurers to set aside a portion of the windfall profits they earn from their investment of premium dollars in the boom years to cover part of the cost of paying claims in lean years. This would smooth out the extremes in the insurance cycle which have been so brutal for doctors. Thirdly, to address the immediate crisis that some doctors in high risk specialties are currently facing, we should provide temporary premium relief. This is particularly important for doctors who are providing care to underserved populations in rural and inner city areas.

Unlike the harsh and ineffective proposals in S. 2061, these are real solutions which will help physicians without further harming seriously injured patients. Unfortunately, the Republican leadership continues to protect their allies in the insurance industry and refuses to consider real solutions to the malpractice premium crisis.

This legislation—S. 2061—is not a serious attempt to address a significant problem being faced by physicians in some States. It is the product of a party caucus rather than the bipartisan deliberations of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation. For that reason, it does not deserve to be taken seriously by the Senate.

I withhold whatever time I have and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold on suggesting the absence of a quorum?

Mr. KENNEDY. I withhold suggesting the absence of the quorum.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, what is the state of business?

The PRESIDING OFFICER. The time until 4:50 is evenly divided.

Mr. HATCH. Thank you, Mr. President.

I rise to speak in support of S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act.

This bill addresses the medical liability and litigation crisis in our country, a crisis that is preventing patients from receiving high quality health care—or, in some cases, any care at all because doctors are being driven out of practice. This crisis is limiting or denying access to vital medical care and needlessly increasing the cost of care for every American.

As you will recall, we have previously tried to remedy this crisis in access to care. Most recently, we debated S. 11 which failed to receive the 60 votes necessary to invoke cloture last July. You have to have a supermajority now on these types of issues because of the opponents of this bill—and some others.

The time to act is now. The health care crisis is jeopardizing access to health care for many Americans. The medical liability crisis is also inhibiting efforts to improve patient safety and is stifling medical innovation. Excessive litigation is adding billions of dollars in increased costs and reduced access to high quality health care.

Defensive medicine is way out of whack. We are spending billions of dollars on unnecessary defensive medicine because doctors are terrified they are going to be sued in these frivolous lawsuits—called medical liability suits—by personal injury lawyers.

I am deeply concerned that we are needlessly compromising patient safety and quality health care. We know about 4 percent of hospitalizations involve an adverse event, and 1 percent of hospitalizations involve an injury that would be considered negligent in court.

These numbers have been consistent in large studies done in New York, California, Colorado, and in my home State of Utah. However, the equally troubling statistic is only 2 percent of cases with actual negligent injuries result in claims, and less than one-fifth—17 percent—of claims filed actually involve a negligent injury.

This situation has been likened to a traffic cop who regularly gives out more tickets to drivers who go through green lights than those who run red lights. Clearly, nobody would defend that method of ensuring traffic safety, and we should not accept such an insufficient and inequitable method of ensuring patient safety. Numbers are a searing indictment of the current medical liability system. I personally believe we can do better for the American people, and the Healthy Mothers and Babies Act is an important step in that path.

The problem is particularly acute for women who need obstetrical and gynecologic care because OB/GYN is among the top three specialties with the highest professional liability insurance premiums. This has led to many doctors leaving practice and to a shortage of doctors in many States, including my home State of Utah.

Studies by both the Utah Medical Association and the Utah Chapter of the American College of Obstetricians and Gynecologists underscore the problem in my State. Over half—50.5 percent—of family practitioners in Utah have already given up obstetrical services or never practice obstetrics. Of the remaining 49.5 percent who still deliver babies, 32.7 percent say they plan to stop providing OB services within the next decade. Most plan to stop within the next 5 years.

An ACOG survey from August 2002 revealed that over half—53.16 percent—of OB/GYNs in Utah have changed their practice, such as retiring, relocating, or dropping obstetrics because of the medical liability reform crisis. This change in practice leaves 1,458 pregnant Utahns without OB/GYN care.

The medical liability crisis, while affecting all medical specialties and practices, hits OB/GYN practices especially hard, and I suspect this is true of every State in the Union. Astonishingly, over three-fourths, 76.5 percent, of obstetricians/gynecologists report being sued at least once in their career. Indeed, over one-fourth of OB/GYN doctors will be sued for care given during their residency. These numbers have discouraged Americans finishing medical school from choosing this vital specialty. Currently, one-third of OB/GYN residency slots are filled by foreign medical graduates compared to only 14 percent one decade ago. OB/GYN doctors are particularly vulnerable to unjustified lawsuits because of the tendency to blame the doctor for brain-injured infants, although research has proven that physician error is responsible for less than 4 percent of all neurologically impaired babies.

Ensuring the availability of high-quality prenatal and delivery care for pregnant women and their babies, the most vulnerable members of our society, is imperative. We simply must pass this bill.

In August 2003, a GAO report concluded that actions taken by health providers as a result of skyrocketing malpractice premiums have contributed to health care access problems. These problems include reduced access to hospital-based services for deliveries, especially in rural areas. In addition, the report indicated that States that have enacted tort reform laws with caps on noneconomic damages have slower growth rates in medical malpractice premiums and claims payments. From 2001 to 2002, the average premiums for medical malpractice insurance increased about 10 percent in States with caps on noneconomic damages. In comparison, States with more limited reforms experienced an increase of 29 percent in medical malpractice premiums.

Medical liability litigation directly and dramatically increases health care costs for all Americans. Unfortunately, a high percentage of those cases are brought in order to get the defense costs by, in many respects, lawyers who are not true to their profession, who are personal injury lawyers seeking to make a buck.

In addition, skyrocketing medical litigation costs indirectly increase health care costs by changing the way doctors practice medicine. Defensive medicine is defined as medical care that is primarily or solely motivated by fear of malpractice claims and not by the patient's medical condition. According to a survey of 1,800 doctors published in the Journal of Medical Economics, more than three-fourths of doctors believed they must practice defensive medicine. A 1998 study of defensive medicine by Mark McClellan, our current head of the FDA who has been nominated now to be head of CMS, used national health expenditure data that showed medical liability reform has the potential to reduce defensive medicine expenditures by $69 billion to $124 billion in 2001, an amount that is between 3.2 and 5.8 times the amount of malpractice premiums.

The financial toll of defensive medicine is great and especially significant for reform purposes as it does not produce any positive health results nor benefits. Not only does defensive medicine increase health care costs, it also puts Americans at avoidable risk. Nearly every test and every treatment has possible side effects. Thus every unnecessary test, procedure, and treatment potentially puts a patient in harm's way.

Seventy-six percent of physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients. What can we do to address this crisis? The answer is plenty. There are excellent examples of what works.

Last March, the Department of Health and Human Services released a report describing how reasonable reforms in some States have reduced health care costs and improved access to quality health care. More specifically, over the last 2 years in States with limits of $250,000 to $350,000 on noneconomic damages, premiums have increased an average of just 18 percent, compared to 45 percent in States without such limits.

California enacted the Medical Injury Compensation Reform Act, also known as MICRA, more than a quarter century ago. MICRA slowed the rate of increase in medical liability premiums dramatically without affecting negatively the quality of health care received by the State's residents. As a result, doctors are not leaving California. Furthermore, between 1976 and 2000, premiums increased by 167 percent in California, while they increased three times as much, 505 percent, in the rest of the country. Consequently, Californians were saved billions of dollars in health care costs, and Federal taxpayers were saved billions of dollars in the Medicare and Medicaid programs.

No one in this body, perhaps with the exception of our colleague from Tennessee, Dr. Bill Frist, our majority leader, is more keenly aware of the defects in this system than I. Before coming to Congress, I litigated several medical liability cases. I defended health care providers. I have seen the heart-wrenching cases in which mistakes were made and where judgments should have been brought. But more often I have seen heart-wrenching cases in which mistakes were not made and doctors were forced to expend valuable time and resources defending themselves against frivolous lawsuits.

I have seen a lot of cases where there was no injury at all that were brought by unscrupulous personal injury lawyers, running up the cost to all the doctors, to the whole system. A high percentage of these cases are brought merely for defense costs because it cost so much to defend these cases that even the defense costs mean a pretty good fee if you are charging 30 to 40 percent.

The recent Institute of Medicine report, "To Err is Human," concluded that "the majority of medical errors do not result from individual recklessness or the actions of a particular group. This is not a bad apple problem. More commonly, errors are caused by faulty systems, processes, and conditions that lead people to make mistakes or fail to prevent them". We need reform to improve the health care systems and processes that allow errors to occur and to identify better when malpractice has not occurred.

The reform I envision would address litigation abuses in order to provide swift and appropriate compensation for malpractice victims, redress for serious problems, and ensure that medical liability costs do not prevent patients from accessing the care they need. We need to move ahead with legislation to improve patient safety and reduce medical errors, and we need urgently to address the medical liability crisis so that more women are not denied access to quality medical care because it has become too expensive for their OB GYN doctors to continue their practice.

The Healthy Mothers and Healthy Babies Access to Care Act will allow us to begin ensuring women and babies get the medical care they need and deserve. Without tort reform, juries are awarding astounding and unreasonable sums for pain and suffering. A sizable portion of those awards goes to the attorney rather than to the patient. The result is that doctors cannot get insurance and patients cannot get the care they need and deserve.

All Americans deserve the access to care, the cost savings, and the legal protections that States such as California provide their residents. Today's bill will allow us to begin to address this crisis in our health care system, gives women and their babies access to their OB/GYN doctors, and enables doctors to provide high-quality, cost-effective medical care.

I strongly support this legislation and urge my colleagues to support cloture.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that during the debate this afternoon with respect to the cloture vote, any Democratic speakers be limited to 10 minutes each. The reason I propound this request is that we have less than an hour left on our side. We have a number of speakers who have a desire to speak. If we have a limited time, they will not be able to do that. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I do not object to that. I appreciate the time consideration. The Senator from California is kind enough to allow me to proceed. I ask unanimous consent that she immediately follow me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, first, I am here to speak on S. 2061 and ask our colleagues to support it. Many of my colleagues have already spoken of the pressing need for this legislation, so I will not repeat their words now. What I will speak about is how the medical liability crisis has played out in my region of the country, the Pacific Northwest. I believe the situation as it exists there provides clear evidence of the need for national reform.

My story is the tale of two States, my home State of Idaho and our neighbor to the west, Oregon. Idaho enacted its original tort reform legislation in 1987. This legislation limited the award of noneconomic damages in personal injury cases to $400,000. This limit was indexed to inflation. Oregon also enacted tort reform legislation in 1987. Like the Idaho law, the Oregon law limited the award of noneconomic damages in personal injury cases. Oregon's law placed this limit at $500,000.

Unlike Idaho however, where the tort reform measure withstood judicial scrutiny, and has since been strengthened by the Idaho State Legislature in 2003, Oregon's law was struck down by the State supreme court in 1999. Since the cap was removed, there have been 20 settlements and jury awards of more than $1 million.

As expected, the costs of these awards have been passed on to medical professionals in the form of higher medical malpractice insurance premiums. The Eugene Oregon Register Guard reported on March 19, 2003, that obstetricians who have base coverage ($1 million per claim, $3 million aggregate per year) through Northwest Physicians Mutual, a doctor-owned insurance company, have seen their premiums increase nearly threefold, from $21,895 in 1999 to $61,203 in 2003. The same article referred to a statewide survey conducted by researchers at Oregon Health and Science University which found that since 1999, 125 doctors have quit delivering babies in Oregon—representing about 25 percent of doctors providing obstetric care. Nearly half of these physicians, 48 percent, cited insurance costs and 41 percent said they feared lawsuits.

The article goes on to tell the story of an Oregon physician who is abandoning his practice in Eugene, in order to establish a new practice in Coeur d'Alene, ID. The physician stated that he was attracted to Idaho because the State has safeguards in place for doctors. These safeguards have helped keep malpractice premiums down in Idaho. Indeed, the Idaho Medical association reports that physicians in Idaho for some high-risk specialities, such as obstetrics and gynecology, pay about half of what their counterparts in Oregon pay.

While I welcome any healthcare providers who wish to practice in Idaho, I do not wish to see women of a neighboring State, or any State, suffer from lack of available health care because medical providers cannot afford to purchase malpractice insurance in their home State.

Now as a firm proponent of our Federal system, I have always believed that it is preferable to solve problems at the level of government closest to the people. And my preference here would have been for State governments to address this issue, as indeed many have. However, many other States have either not enacted reform legislation, or as in the case of Oregon, have found their efforts at reform sidetracked by overzealous judges. And, as the medical liability crisis in the 19 States identified by the AMA now threatens to overwhelm the entire Nation's medical liability system, I feel that now is the time to address this issue at the national level.

A Federal law is required to ensure that reforms will be effected in all States. Furthermore, the language of S. 2061 will protect States with existing caps. At the same time it will protect health care providers by establishing a Federal standard for noneconomic damages limits, even if such caps are barred by a State constitution, such as in Oregon. By allowing State autonomy in the setting of liability limits, this bill respects our tradition of federalism.

Since this body refused to vote for cloture on a related bill last July, the general accounting Office has issued a report assessing the effects that rising malpractice insurance premiums have had on the public's access to health care. This report, released in August of last year, confirmed instances in the five "crisis" States studied where actions taken by physicians in response to malpractice pressures have reduced access to services affecting emergency surgery and newborn deliveries. No instances of reduced access to heath care were identified in the four "non-crisis" States studied.

The August report follows an earlier GAO report that examined the causes of the dramatic increase in malpractice insurance rates. That earlier report found that "losses on medical malpractice claims—which make up the largest part of insurer's costs—appear to be the primary driver of rate increased in the long run."

Together these two studies provide strong evidence that: (1) Rising claims costs are driving up the cost of malpractice insurance; (2) the rising cost of insurance is causing medical service providers to take actions which have limited access to health care; and (3) the imposition of noneconomic damages caps, as well as the other reform measures included in this bill, are effective in constraining the rise of insurance premiums.

From the Pacific Northwest to the Florida Keys, the problem is clear and the solution is clear. The only question awaiting clarification is whether this body possesses the resolve to pass this much-needed legislation.

Mr. President, to reiterate, I want to tell the story of two States as it relates to this issue and the bill, Healthy Mothers and Healthy Babies Access to Care Act, addressing that problem. The States are Idaho and Oregon. In 1987, Idaho and Oregon passed identical laws—or relatively identical laws. In the State of Idaho, we capped our personal injury cases at $400,000. Oregon capped them at $500,000. Unlike Idaho, the Oregon Supreme Court, in a period of time immediately following that, struck down the Oregon action. Idaho did not.

Idaho not only held its law but then strengthened that law in 2003. Here is the rest of the story. Idaho strengthened its law in 2003. Oregon struck down its law in 1999. But they both started in the same place. Since the cap was removed in Oregon, there have been 20 settlements for injury awards of well over a million dollars.

As expected, the cost of these awards has been passed on to the medical professional in the form of higher medical malpractice insurance premiums. The Eugene, Oregon Register Guard reported on March 19, 2003, that obstetricians who have base coverage—that is, $1 million per claim, $3 million per aggregate per year—through Northwest Physician Mutual, a doctor-owned insurance company, have seen their premiums increase nearly threefold, from $21,895 in 1999, to 61,203 in 2003. The same article referred to a statewide survey conducted by researchers at Oregon Health and Science University, which found that since 1999, 125 doctors have quit delivering babies in Oregon—representing about 25 percent of the doctors providing obstetric care. Nearly half of these physicians, 48 percent, cited insurance costs, and 41 percent said they feared lawsuits.

The article went on to talk about one Eugene, OR, physician who moved to Coeur d'Alene, ID. The reason he moved to Idaho is because in our State of Idaho, their insurance premiums are substantially less because the cap we placed in the law has held the test of the courts.

The reality is that we are trying to set the stage nationwide. We are all aware—and many colleagues have come to the floor of the Senate to talk about it—of the studies done, the GAO report, the high-cost States, and the OB/GYN doctors fleeing from those States, and as a result making it very difficult in some instances for pregnant women to receive the kind of health services they need and, in fact, upon time of delivery, to know they have a doctor waiting at their side to help them.

As medical liability crises in these 19 identified States loom, it is time we speak with uniformity across the Nation. That is exactly what this bill does. I hope that our colleagues can support cloture and we can move to a final vote on this bill. Clearly, the American people are now expecting us to speak out.

Last week, I held a health care conference in Boise. One of the primary concerns was the rapidly rising cost of health care. One of the components of that escalation in cost is the very thing we are attempting to address today. So I hope the Senate can stand with reasonable unity. Myself and others understand the politics of the trial bar. When is enough enough?

If we don't, by this action, deny access to the courts by those who are truly injured—and we don't—then why are we allowing a certain segment of our society, in the litigious manner they have chosen, to line their pockets. Who is the beneficiary? The patient? In many instances, they are not. Yet costs go up simply because of the risk involved.

We ought to be protecting the patient and, in this case, the average citizen of this country on both sides of that equation by making sure they can gain true access to the courts when true injury results and, at the same time, making sure we are wise enough to hold down the increasing costs of health care, assisted by the dramatic increase in premium costs to our physician. This is a step toward that kind of a solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from Idaho for his courtesy. I cannot support this bill. I don't believe it reflects compromise. I don't think it is materially changed from the bill that failed to get 50 votes last July. The major difference, as I see it, in this bill is that the liability restrictions apply to only one medical specialty group, obstetricians and gynecologists.

This bill sets a national cap of $250,000 for noneconomic damages. The cap applies not only to suits against doctors but to suits against HMOs and to manufacturers of gynecological or obstetric products as well.

So, under this bill, the Dalkon Shield contraceptive device would be shielded by this $250,000 cap regardless of the harm caused.

Moreover, this bill severely limits the availability of punitive damages against OB/GYNs and manufacturers of related products. The bill would also immunize manufacturers or sellers of gynecological products approved by the FDA from punitive damages.

The FDA exemption sets, in a way, a downward course. If a company has an FDA-approved product on the market and then learns of dangerous complications, the company must remove the product from the marketplace immediately. To provide an exemption for products with FDA approval may well be a disincentive to prompt removal from the shelf.

I am one who believes there needs to be a solution to rising malpractice insurance premiums. I want to talk to that solution in just a moment. But, it is correct that obstetricians and gynecologists are reeling under exorbitant medical malpractice premiums.

Obstetricians and gynecologists had more claims against them and paid out more money to plaintiffs than any other medical specialty between 1985 and 2000.

Prior to the State of Florida passing medical liability caps last year, OB/GYNs in Florida paid over $200,000 annually for malpractice insurance.

OB/GYNS in California, a State with liability caps, pay an average in malpractice insurance of $57,000, which is about a quarter of what it is in Florida.

According to the American College of Obstetricians and Gynecologists, 20 percent of obstetricians and gynecologists in Nevada are leaving their practice due to rising malpractice insurance costs. Twenty percent of OB/GYNs in West Virginia and Georgia have been forced out of their practice. I could go on and on and on.

I want to talk for a moment about California, and then I want to talk about what I think is a logical solution to this. But up to this point, the AMA and my own medical association, the California Medical Association, won't buy it. Congress can and should provide some legislative relief.

MICRA, the Medical Injury Compensation Reform Act, took place 29 years ago in California. MICRA set a precedent in the ensuing years for reform measures in several States. The MICRA law provides a model.

Last year, I spent several months reviewing MICRA to see what could be transferred to the national level.

I have come to believe it is possible that reasonable caps on liability can lead to affordable premiums.

When MICRA was enacted in 1975, the cost of health insurance in California was higher than in any market except New York City. In the 6 years before 1975, the number of malpractice suits filed per hundred physicians in California had more than doubled.

MICRA has kept costs down. In 1975, California's doctors paid 20 percent of the gross costs of all malpractice insurance premiums in the country. Today, it is 11 percent.

California's premiums grew 167 percent over the past 25 years compared to 505 percent in other States. So the growth in California is just about less than a third of what it is in the rest of the United States.

In California, patients get their money faster. Cases in California settle 23 percent faster than in States without caps on noneconomic damages.

MICRA allows patients to obtain health care costs, recover for loss of income, and receive the funds they need to be rehabilitated. And California's malpractice premiums are now one-third to one-half lower on average than those in Florida and New York.

The proposal I would put out for people to study today takes those parts of MICRA which I thought could serve as a national model. For example, a schedule of attorney's fees; a strict statute of limitations requiring that medical negligence claims be brought within 1 year from the discovery of an injury or within 3 years of the injury's occurrence; the requirement that a claimant give a defendant 90 days' notice of his or her intent to file a lawsuit before a claim can actually be filed; allowing defendants to pay damage awards in periodic installments; and allowing defendants to introduce evidence at trial to show that claimants have already been compensated for their injuries through workers' compensation benefits, disability benefits, health insurance, or other payments; and permitting the recovery of unlimited economic damages. All of these points are now in play in California. I believe they are applicable nationally.

The differences from the California MICRA that I would propose would be in two key areas. The first is noneconomic damages, and the second would be punitive damages. The California MICRA law has a $250,000 cap on noneconomic damages. That is what is proposed in the pending bill. In contrast, I would propose a national $500,000 flex cap, a general cap on noneconomic damages. This cap would allow a State to impose a lower or a higher limit, but it would be pivotal for those States where the State laws do not currently allow a State to set a cap. This would allow in those States for the cap to be $500,000.

In catastrophic cases where a victim of malpractice was subject to severe disfigurement, severe disability, or death, the cap would be the greater of $2 million or $50,000 times the number of years of life expectancy of the victim. This handles the situation of a very young victim who was really the victim of egregious malpractice.

In addition, my proposal would have less onerous punitive damages standards than California law. California law would require a plaintiff to prove punitive damages under the very high standard of fraud, oppression, or malice. Under this standard, I am not aware of a single case where a plaintiff has obtained punitive damages in California over the past 10 years. However, if the State wanted to keep that any State—they could under my proposal. But I would offer a four-part test where a plaintiff would have to show by clear and convincing evidence that the defendant (1) intended to injure the claimant unrelated to the provision of health care; (2) understood the claimant was substantially certain to suffer unnecessary injury, and in providing or failing to provide health care services, the defendant deliberately failed to avoid such injury; (3), acted with a conscious, flagrant disregard of a substantial and unjustifiable risk of unnecessary injury which the defendant failed to avoid; or, (4), acted with a conscious, flagrant disregard of acceptable medical practices in such circumstances.

I firmly believe a variant of this type could lead to a compromise in the Senate, but the AMA and my own medical association, the California Medical Association, both flatly rejected this proposal last year. They refused any cap for noneconomic damages above $250,000 even in catastrophic cases. To me this makes little sense because a $250,000 cap in 1975, which was when the cap was put in play in California, adjusted for inflation, was worth $839,000 in 2002. If $250,000 was adequate in 1975, why wouldn't a figure of a half a million dollars—$500,000—which is lower than the cap adjusted for inflation, be acceptable in 2004? If a victim receives $250,000 today, it is the equivalent of $40,000 in 1975 dollars.

There are many specific instances of why a $250,000 noneconomic damage, especially today, remains too low. Let me just give you one case. I happened to meet this woman, and it is a case that I think makes my argument irrevocably. It is the case of Linda McDougal. She is 46. She is a Navy veteran, an accountant, and a mother. She was diagnosed with an aggressive form of cancer and underwent a double mastectomy. Two days later, she was told that a mistake was made. She didn't have cancer, and the amputation of her breasts was not necessary. A pathologist had mistakenly switched her test results with another woman who had cancer.

A cap on noneconomic damages must take into account severe morbidity produced by a physician's mistake, such as amputating the wrong limb or transfusing a patient with the wrong type of blood.

I remain a supporter of malpractice insurance reform. If at any time there would be physician support, I believe then the necessary 60 votes in this body could be generated for a plan such as I have just enumerated.

In conclusion, I will vote against this bill but stand ready to participate in a solution along the lines I have mentioned.

I thank the Chair, and I thank the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, before Senator FEINSTEIN leaves the Chamber, she has laid out what may well be a very reasonable alternative for this body and our colleagues in the House to consider with respect to medical malpractice. She has played a vital role as we have worked over the last several years to craft a compromise on class action reform and offered maybe the critical amendment to the bill.

What I would like to do in the 10 minutes I am going to speak is compare and contrast, if I can, the approach in bringing this medical malpractice bill to the Senate today with the approach that has been followed as we have tried to bring class action reform legislation to the Senate floor.

Let me step back for a moment. For those who may be listening to this discussion, class action reform seeks to address the issue of when a class of people are harmed what kind of redress do they have to seek compensation? I think most of us would agree that if a person were harmed by a product, good, or service that they had come in contact with or acquired that that person should be made whole. I think we would also agree if a whole class of people were somehow damaged by a product, good, or service that they came in contact with that the class of people should be made whole.

The question is, In what forum should those damaged persons, the damaged class, the plaintiff class—where do they turn to for redress to gain compensation for their injury or for their harm?

In my view, and I think it is a view probably shared by a majority of my colleagues, we believe that if the plaintiff class happens to be in a State different from the State that the defendant is from, our Constitution would suggest that maybe in those cases that rather than the case being litigated in the State where all of the plaintiffs are located, if the defendant is from another State, that the fair thing to do to both the defendant and the plaintiff is to litigate that matter in Federal court. That has been a subject of some debate.

It is not an issue that involves limits on punitive damages, economic, noneconomic damages, pain and suffering. The debate does not lie there. Rather, the debate lies in the area of in what court, in what jurisdiction should those kinds of questions be resolved.

I have been in the Senate for a bit more than 3 years. During that course of time, there have been any number of hearings in the Senate Judiciary Committee and in the House Judiciary Committee to bring before the respective panels in both bodies those who believe that we need to change the status quo with respect to class action litigation and those who think that what we have is just fine.

Proponents and advocates have had the opportunity to speak their points of view and to testify repeatedly in the Senate and in the House. In fact, over the last couple of years, this is what has happened in the Senate: Legislation has been developed in committee, it has been debated in committee, it has been amended in committee, and it has been brought to the floor in an effort to try to have it debated, amended, and voted on.

Last fall, we were able to get 59 votes to proceed to the bill, to take it up and offer amendments on the floor, but on class action we fell just short of the 60 that we needed to invoke cloture. So we went back and we did some more work. Those of us who think changes are necessary worked with some of our Democrat colleagues, three of them especially, and others as well, to come up with changes that would make the bill better, fairer, and more defensible. Hopefully, within the next several weeks we will have the opportunity to debate that on the floor and to offer further amendments to class action reform legislation.

It has been a long process, some would say too long. What happens is we start off with a reasonable proposal, debate it in committee, improve it in committee, report it out of committee, and then we are going to have the opportunity to bring the bill to the floor and it will be altered, I think improved, when that same bill comes to the floor.

Once the bill is on the floor, we will have the opportunity for full and open debate to consider what people like about it and do not like about it. They can offer their changes and we will have an up-or-down vote at the end of the day when we have amended the bill. That is what we call regular order. That is the way an issue of this nature should be decided.

To my knowledge, maybe in the last 3 years there has been one hearing in one committee in the Senate on the issue of medical malpractice. If there have been others, I am not aware of them. A year ago, there was one hearing in one committee on this issue. I do not believe the bill has been marked up in that committee.

They did not vote on that bill in that committee. They did not seek to amend this medical malpractice bill in that committee. Instead, we simply find a related bill appearing on the Senate agenda with no opportunity to offer amendments, to improve it as maybe Senator FEINSTEIN, Senator DURBIN, or others would like to do but, rather, to have to kind of take it or leave it. That is not regular order and that is not the way to build consensus, particularly on an issue as difficult and as contentious as this one.

Another issue we have been dealing with, which involves litigation reform, is the subject of asbestosis. We all know that for many years people used asbestos. It was used in all kinds of projects, construction, automobiles, brakes, ship construction. Asbestos was commonly used. We later found out that it kills people. It causes asbestosis, mesothelioma, and other diseases. We now have been working for years to try to figure out how do we compensate the victims of asbestos exposure to make them whole. That process is one that has gone on for any number of years, too. The process we followed there is the opportunity to fully debate the issue in committees, to hold hearings in committees, where people who are for and against it have a chance to express their views. There are a lot of interested parties such as insurance companies, manufacturers, labor unions, the trial bar, and others that have had the opportunity to add their input. I hope what we now have coming to the Senate floor sometime later this spring is legislation that says maybe the way we handle asbestos litigation in this country can be improved on so we make sure people who are sick and dying of asbestos exposure get the help they need, and make sure people who are not sick will not ever be sick and do not siphon off money from those who truly need it. We need to come up with a fair system and one, frankly, that will stem the loss of companies, corporations, and businesses that are going bankrupt by the scores of asbestos exposure.

If we compare the way this body has approached class action reform legislation, in a very deliberate and thoughtful fashion, with plenty of opportunity for debate and changes, and compare that with what is before us today, it is night and day. There is really very little similarity.

I suggest to our friends on the other side of the aisle that on this particular issue if they are interested in finding a fair and reasonable solution, there are a number of us on this side of the aisle who would be willing to engage with them to find that. In the meantime, I would suggest they take a look at what States are doing.

Senator FEINSTEIN talked about her own State. In Delaware, the Governor put together a group, not a partisan group but a group that includes the trial bar, health providers, hospital representatives, folks within government and outside of government, to try to figure out if we needed to make any changes in our own State with respect to medical malpractice.

In the end, they said: We do not think we have a problem in Delaware with physicians being unable to get the coverage at a reasonable price. We do not have out of control jury awards. This is not a huge Delaware problem. Rather, they did suggest one change which I think is instructive. What they did was said why do we not provide for the certification of medical malpractice litigation to certify that it is not a frivolous lawsuit. If someone wants to bring a suit before it ends up in court, there will be a panel of knowledgeable people within that area of health care who will look at the assertion of the plaintiff and decide whether or not this is a frivolous lawsuit. If it is, the litigation does not go forward. That is what one State is doing, as a temporary measure.

I close by saying this: Unlike asbestos litigation reform, which needs a national solution, unlike class action litigation reform, which I believe needs a national solution, for the most part States can deal with on a case-by-case, State-by-State basis issues revolving around medical malpractice. I think for the most part we are better off pursuing that. Not everybody will agree with me on that point, but I think most people in this body will agree on this point, and that is the right way to legislate on these contentious issues is the approach we have taken with respect to class action reform and the approach we are taking with respect to asbestos litigation reform, where all sides have the opportunity to be heard, Members get to offer their amendments in committee and on the floor and then we go forward. That is the way to do business, and if we do business on those bases and in that accord, on a more consistent basis, we will be able to not only talk about doing something that needs to be done but actually accomplish it.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from New Jersey.

CHICKEN HAWKS

Mr. LAUTENBERG. Mr. President, I rise to discuss a troubling issue that has plagued our political debate for many years and now has come to a head. I cannot stay silent any longer.

We so much admire the eagle, the bird of strength, the bird that portrays the courage of America, the willingness to support our country no matter what the cost. That is what the eagle says to me. At times it has been an endangered species. But there is another bird I want to talk about today. That bird is called, in my view, the chicken hawk. There is such a bird, but usually it is the hawk chasing the chicken. But now I want to talk about the chicken that really chases the hawk.

Those of us who answered our Nation's call for military service at wartime have not grandstanded on that issue. We served our country and, frankly, many of my colleagues who answered the call are not always willing to talk about their experiences.

But now I see a disturbing trend from the other side of the political aisle. More and more, Senators in this body are tagged as lax on national security or homeland security or support for the military because of votes they took against problematic defense bills over the years. For years the charge coming from across the aisle is that Democrats are somehow or other less patriotic, less supportive of defense, and it is a shameful and grotesque charge. In my view these charges typically come from people I would simply call chicken hawks.

My definition of a chicken hawk is someone who talks tough on national defense and military issues, casts aspersions on others who might disagree on the vote, but when they had a chance to serve, they were not there. Now they are attacking the Senator from Massachusetts for opposing bloated or poorly designed defense bills. Is it known how much courage it takes to vote against a bad Defense authorization or appropriations bill? We all know it takes a lot of political courage, because even if the bill contains wasteful and damaging provisions, the vote can be twisted by your opponents. But when faced with a bad defense bill, what do the chicken hawks do? They take the easy road. They fly the easy route. They always vote for it, no matter what it says. How much courage does it take to vote for a bad defense bill? None. Zero. It is the easy thing to do.

Our colleague, the distinguished junior Senator from Massachusetts, is being attacked this week by the other side of the aisle as being weak on support for the military and compromising the defense of our country. I say shame on those who impugn the patriotism of those who supported their country's call for duty and paid for it with injuries resulting from their obedience to that call.

In my view, that is the cry of the chicken hawk who has no idea what it means to have the courage to put your life at risk to defend your country and its ideals. But the Senator from Massachusetts knows it all too well. When our country went to war in southeast Asia, the Senator from Massachusetts enlisted in the Navy. He requested to be sent to Vietnam to fight for his country, and he did that. For his heroic service in Vietnam, the Senator from Massachusetts won the Silver Star, the Bronze Star, three Purple Hearts—that means he was wounded three times; it is a miracle he is still alive—the Combat Action Ribbon, the Navy Presidential Unit Citation, the Navy Unit Commendation Ribbon, the National Defense Service Medal, the Vietnam Service Medal, and the Vietnam Campaign Medal. How dare they challenge his commitment to our defense? His patriotism?

The Senator's action took courage. It is the same courage the Senator showed when he refused to vote for defense bills merely because they were defense bills. As a man who has seen a battlefield, he has a keen understanding of military needs and military policy and he voted accordingly. He actually did what his constituents sent him here to do: evaluate legislation on its merits and vote with your conscience and your obligation to our citizens.

Did it take courage? Of course. Integrity? Of course. Was it an easy thing to do? Absolutely not. The easy thing to do would be to simply vote for all the defense bills, no matter what they say, and pretend these votes are the real measure of patriotism. That is what the chicken hawks do. That is the easy road.

It is the same easy road we see when someone files for five student deferments and then claims an old football injury should prevent him from fighting for his country. Only a chicken hawk would attack a political rival who lost three limbs in Vietnam as being soft on defense.

So I say to my colleagues on the other side of the aisle, we are not going to put up with these insinuations that attack our patriotism, our support for our troops, anymore. Because real patriotism and real support for our Nation's defense should not be judged on whether we ignore our constitutional duty and rubberstamp legislation. Real patriotism and support for the defense of this country has to do with answering the call. In my view, as a fellow veteran, the Senator from Massachusetts not only answered the call to fight for his country, but also to perform his duty and judge legislation on its merits.

I served in the Army. It doesn't mean I should approve $1,500 toilet seats or poorly designed military equipment that is being procured simply because of political influence. In fact, I believe because I served, I have the duty to the men and women who are now in the military to make sure our military is strong and is as free from waste and corruption as possible, and our military men and women are protected to the fullest extent possible during their service and, when they are veterans, to provide for their health care needs and other services without question.

Our job is to think as Senators and not to bow to everything defense contractors or Pentagon officials want. The Senator from Massachusetts has voted for plenty of defense spending increases, but he has also voted to prevent bad programs from moving forward. He does his duty to his country and to his constituents.

The way I see it, the President and his proxies are attempting to bring American politics back to the days of dirty tricks. We saw it in 2000, not against just Al Gore but also against the most serious Republican challenger, the Senator from Arizona. The Bush campaign coordinated attacks on the Senator from Arizona that questioned his commitment to our troops. Outrageous. An attack on a man who not only fought for this Nation but spent years as a prisoner of war. They didn't stop there. They even attacked the Senator's family. It was a new low in modern American campaigning.

I want the administration and its allies in Congress to know we are not going to put up with these despicable insinuations and dirty campaigning. From now on, they question our commitment to our troops and the defense of this Nation at their own peril.

We saw it just the other day, I think it was yesterday. In a speech that was publicly televised, those members of the NEA, the National Education Association, who stick up for the quality of our teachers, for their ability to earn a living, for the ability to take the courses they need—to talk about them as terrorists? That is no different than the chicken hawk line I just talked about.

With that, I will yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding we are considering S. 2061, with 10-minute allocations of time for each Senator who is recognized?

The PRESIDING OFFICER. The Senate is debating the motion to proceed to that measure. An order has been entered limiting Democratic Senators to 10 minutes each.

Mr. DURBIN. Mr. President, I rise pursuant to that order to speak for 10 minutes about S. 2061. This bill which is pending before the Senate addresses a very serious national issue of medical malpractice. Medical malpractice insurance premiums have increased in my State of Illinois and across the Nation. Because of those increases, a lot of good doctors have been forced to a position where they have to retire or relocate their practices. I have met with those doctors. I understand the problems and dilemmas they face. I think we need to address that here in the Congress. This point is dramatized by the fact that the bill before us is unfortunately not a bill which has been the product of any effort to find compromise or common ground or bipartisan answer to this national challenge.

This bill without referral to committee was sent to the floor of the Senate. It is a bill which, frankly, was introduced by Senator GREGG of New Hampshire, a bill which ordinarily would have been referred to the Senate Judiciary Committee. The bill did not go to that committee. Senator GREGG does not serve on that committee. The bill was sent to the floor. I am afraid what this bill is all about is trying to make certain we make a record rollcall on this issue so that those who are supporting this bill will go back to some members of the medical committee and say all Senators who voted against it don't want to help you with increasing medical practice premiums. That couldn't be further from the truth for this Senator.

I have strong feelings about what we need to do. I believe we need to be doing something. We need to address the issue in a comprehensive way. We shouldn't be afraid to look at all aspects of this challenge.

The first aspect of this challenge is that there are too many medical errors today in hospitals and doctors' offices across America. Don't take my word for it. The Journal of the American Medical Association reached that conclusion and said medical errors are of epidemic proportions across America. The Institute of Medicine estimated that in any given year, 24,000 to 98,000 Americans lose their lives because of medical negligence. This bill doesn't even address that issue. It addresses medical malpractice in a courtroom. It doesn't address it in a doctor's office or in a hospital.

The first thing we should do is see how can we work with the medical community and the hospitals to reduce errors, reduce negligence, and reduce the incidence of these grievous injuries and death that occur as a result.

Currently, when you look at the universe of possible medical negligence and the lawsuits filed as a result of it, a tiny fraction—some 2 percent or less—end up in court. It means that 98 percent or more of the medical negligence that is committed in America does not result in a lawsuit.

If we want to make certain we have fewer cases going to court, let us start at the beginning. Let us make the practice of medicine safer. This bill does not even address that issue.

Second, if you are worried about the cost of medical malpractice premiums, isn't it reasonable to ask whether the insurance companies are treating doctors and hospitals fairly? This bill doesn't have a word in it about insurance companies and their responsibilities. Why are we afraid to even ask? Why wouldn't we have all the books open to find out whether what is happening to doctors' medical malpractice insurance is a result of some insurance practices which should be changed?

The third element is tort reform. I used to practice law. I was a trial lawyer. I defended doctors for many years and hospitals—and I sued them. I have been on both sides of the table. I understand those lawsuits, or at least how they were conducted in Illinois 20 years ago. So I have at least a passing experience with this issue. I think in my practice I would never have considered taking a so-called frivolous lawsuit forward. It costs too much money. It takes too much time. You wouldn't want to put your plaintiff client through it, you wouldn't want to waste your time and money, and you would not want to run the risk at the end of the day that you would lose—or worse, be sanctioned by the court for raising a frivolous lawsuit. I think there are ways to stop it. A small percentage of lawsuits shouldn't be filed against doctors. This bill doesn't deal with frivolous lawsuits, and it should.

The last element it should address in tort reform is one that I think is essential; that is, to make certain, while we try to reduce the likelihood of frivolous lawsuits, we don't close the courthouse door for those innocent patients who are the victims of medical negligence. That is what this bill does. This bill says that instead of a jury in your hometown deciding what your injury is worth, instead of your peers in the community, your neighbors sitting in the jury box considering the evidence and the law and deciding what the value of your child's life is, or your child's health, we instead will make that decision here on the floor of the Senate. We will say that no matter what lawsuit you have filed for medical malpractice relating to OB/GYN, you cannot recover under any circumstances, regardless of what happened to you or the baby, any more than $250,000—$250,000 for pain, suffering, and disfigurement.

Two-hundred and fifty-thousand dollars may sound to some like a lot of money. Let me give you a few specific examples of cases I know of, and you decide whether $250,000 is a lot of money.

A settlement was reached last Friday in Chicago—a city I am honored to represent—in the case of Evelyn Arkebauer who gave girth to a quadriplegic son, Andrew "A.J." Arkebauer, on October 4, 1998. Evelyn went into labor at 5:30 in the morning with her second child. She had her first child by Cesarean section, so there was a risk for uterine rupture. Early in the afternoon, the doctor began to administer Pitocin to speed up labor.

At 6:15 p.m.—more than 12 hours later—the doctor cut off the Pitocin and told Evelyn to start pushing. Evelyn pushed for more than an hour and a half and was rolled from her back to her side as the baby's heart rate fluctuated during this labor.

At 7:53 p.m.—more than 12 hours into labor—the doctor decided an emergency C section was necessary and paged the anesthesiologist to come to the delivery room. The anesthesiologist failed to return the page and numerous pages after that.

Finally, an hour after the doctor had decided on an emergency C section, the anesthesiologist showed up and the procedure began. The doctor discovered that the uterus had already ruptured. The baby had been without oxygen for 10 to 15 minutes. This baby is quadriplegic and spastic. He cannot walk, talk, or feed himself and will require full-time care for the rest of his life on Earth. This baby had no injury to his cerebrum, so he has normal cognitive thought, meaning he thinks like a normal child but is trapped in a body he cannot use.

During the trial, a nurse working the night of Andrew's birth testified that the anesthesiologist was with her in a private room on the hospital's fourth floor and that he ignored three different pages to respond to this emergency C section before going to the fifth floor delivery room where Evelyn was. This baby—quadriplegic and spastic for the rest of his life with a mind that is functioning—has a body that cannot be used.

This bill, S. 2061, says the jury of the Senate will decide the cases exactly like this—that that baby and that baby's family can recover no more than $250,000 for a lifetime of pain and suffering. That is not fair. It is not just. It is not reasonable. It may reduce medical practice premiums but at the cost of justice.

Gina Santoro-Cotton was 29 years old and pregnant with her first child. Her prenatal course was normal. She was admitted to the hospital 1 week after her due date to induce labor. The drug Pitocin was used. Within a few hours of starting Pitocin, deceleration of the baby's heart rate was noted. The Pitocin was not stopped, which is normally done when there are signs that the baby is in distress.

By early afternoon, the fetal monitor strips showed signs of oxygen deprivation to the baby—a clear warning sign. The Pitocin was still not stopped. At 2:45 p.m., the baby had a prolonged drop in his heart rate. The Pitocin was finally stopped and the baby was resuscitated in its mother's womb.

Within hours, the Pitocin was restarted, and decelerations and other signs of poor oxygenation to the baby appeared. Rather than stopping the Pitocin, the dose was increased.

At 7:30 p.m., there were still severe decelerations on the fetal monitor strips. Pitocin was increased.

At approximately 9:45 p.m., Pitocin was finally stopped and the baby was delivered. The baby was near death at the time of delivery.

Today, that baby is 6 years old and permanently disabled. He has severe cognitive dysfunction and is partially paralyzed in all four of his extremities. He has motor problems, and he can't walk. His speech is not understandable. He is fed through a tube in his stomach because he cannot feed himself. He has paralysis of the vocal cords. He requires care 24 hours a day and extensive therapy.

There are Senators who come to the floor and talk about cases just like this and call it jackpot justice, arguing, I guess, that the parents of that little baby, who will be functionally impaired for his entire life, will never be able to express himself, will never be able to feed himself or walk—that the parents of that baby, if they recover a verdict in court, have somehow won a jackpot. How many of us would want to buy a ticket for that jackpot? How many of us would sacrifice the health of any child, let alone our own children, with the prospect of recovering a verdict?

This bill before the Senate has said that in cases just like this, no matter how serious, no matter how long that baby lives, no matter what conditions that baby faces, the rest of its natural life, the sum total and value of the pain and suffering of that baby and its family can never, ever, be worth more than $250,000. And if that baby, who is now 6, lives 20 years, is it worth $10,000, $12,000, $1,000 a month for what that family will go through? I don't think so.

Let me discuss one last case. Terri Sadowski was pregnant with her second child. At 34 weeks, she went into preterm labor and had a rupture of her membranes. Medication was not successful in stopping her labor so she was transferred from a community hospital to a high-risk referral center, to the care of a perinatologist, a specialist in high-risk pregnancies.

The perinatologist decided to let Terri proceed with labor and deliver normally even though the baby was in a breech position. The doctor also decided to administer Pitocin, a medication to bring on contractions. Within 3 hours of starting the Pitocin, the fetal heart rate began to show signs that the baby was in distress. A normal heart rate for a baby in the mother's womb is 120 to 160 beats per minute. This baby's heart rate was dropping in the 70s. By the time Terri was ready to start pushing, the fetal monitor strips showed significant fetal heart rate decelerations with a consistent heart rate in the 60s and 70s. Despite the overwhelming evidence that the baby was in severe distress, a decision to perform a C section was not made for 40 minutes.

An emergency C section was done but the baby had no movement and was unresponsive. She developed seizures shortly after birth. She sustained severe brain damage due to lack of oxygen in labor in delivery. Had the perinatologist performed a C section, the baby could have been a normal, healthy baby.

The baby lived for 1 year in a vegetative state. During her short life, she had multiple hospital admissions for pneumonia, bowel obstructions, unable to suck, and she required tube feedings and constant suctioning to keep her airways clear. At the time of death, she had frequent seizures.

Think about this for a moment. Think about the happiness each of us has been lucky enough to experience in life from a family and children. And think about something going wrong in that delivery room, something that results in a baby facing a lifetime—long or short—in a terrible situation.

The parents were not at fault. They were not at fault in any of these cases. Eventually they went to court and asked for compensation for what they would face for medical bills, what they would face for pain and suffering, and a jury from their community decided what it was worth.

This bill says it really should not be a decision of a jury, it should be a decision of the Senate, a one-size-fits-all, one solution for every problem, $250,000, take it or leave it. That is not right.

I say to my friends in the medical profession, I know you are not perfect.

you are humans; you do make mistakes. Quite honestly, those who have dealt with doctors and have great respect for them know that the overwhelming majority of doctors are good men and women, well trained, dedicated to their profession, who make sacrifices every single day way beyond those called on by Members of the Senate.

Having said that, doctors I have spoken to understand that even giving it their best, occasionally they make a mistake in judgment—they do not know enough, they did not do the right thing—and terrible things occur. And most of them, under those circumstances, say yes, in those cases, people who are the victims of that kind of a circumstance should be compensated. I certainly believe that. It is not fair to establish an artificial limit and say that no matter what happens to that baby or that mother, there will never be another nickel beyond $250,000: a lifetime of pain and suffering limited to $250,000 in recovery.

To my friends in the medical profession who have a genuine concern, as they should, about the increase in medical malpractice premium rates, let me say you are not going to get any favor with this bill. This bill is being offered for reasons I cannot explain. It is being offered in the name of OB/GYNs across America who certainly do need help and need it now. But it is a bill that also includes immunity and relief from liability for pharmaceutical companies and medical device companies. I am sorry, but I have not heard anyone with a hue and cry about a crisis when it comes to these companies dealing with medical malpractice claims. But, naturally, they are included here because most bills that come through have to have a provision to help drug companies. They are the poster kids when it comes to this Congress. We are always going to find ways to help them.

For once, why don't we try to help the families who are the victims? And why don't we try to help the good doctors who need a helping hand?

I will make this statement in closing before I yield the floor: I want to work with those Members of the Senate on both sides of the aisle who in good faith want to address this issue. We can do things to deal with this. We must do them. We should do them now. This bill is not the way. This bill is a bad start. It is better to come together, off the Senate floor, try to find common ground and compromises on a bipartisan basis to protect the medical profession, on whom we all rely so much. We want to give the men and women in that profession, who have given their lives to serving us, a chance to practice medicine without skyrocketing premiums, but to also say to the families and patients who come to these doctors and these hospitals, we will not abandon you in the process.

There is reason to believe we can find this common ground. This bill is a bad start. It is likely to be defeated today. Once defeated, I hope Senators who believe, as I do, that we should address this issue will come together to try to find that common ground.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate goes into a quorum call, the time for the quorum call be equally divided between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BIRTH OF SENATOR BYRD'S FOURTH AND FIFTH GREAT-GRANDCHILDREN

Mr. DASCHLE. Mr. President, later this afternoon, many of us will have an opportunity to see one another after the recess. I will make a prediction that we will notice a special twinkle in Senator BYRD's eye as we visit with him this afternoon. There is good reason. Actually, there are two very good reasons.

In the last month, Senator BYRD became a great-grandfather for the fourth and fifth times. Hannah Byrd Clarkson was born 4 weeks ago today, on January 27, weighing 10 pounds 3 ounces.

Hannah is the second child of another member of our Senate family, Mary Anne Clarkson, of the Bill Clerk's Office, and her husband James Clarkson. She joins her older sister Emma.

Hannah's cousin, Michael Yew Fatemi, was born on February 11. Michael is Senator BYRD's fifth great-grandchild, and his first great-grandson. He is named in honor of his uncle John Michael Moore, Senator BYRD's beloved grandson, who died in a car accident. Michael is the first child of Senator BYRD's grandson Fredrik Fatemi, and his wife Jinny.

Few people live long enough to see and hold even one of their great-grandchildren. To be able to welcome five of them into the world is a rare blessing, indeed.

I was deeply touched by Senator BYRD's kind words to me and my family on the births of my grandchildren, Henry and Ava.

I am sure I speak for the entire Senate family—and people throughout America—in wishing Senator BYRD and his wife Erma many happy hours with Hannah, Michael, and all of their family members.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, going to the doctor for a checkup is hard enough these days between juggling family and work schedules. Few of us get all the checkups and screenings we need. Making matters worse, more and more doctors are closing their practices or limiting the services they offer.

They are doing so because they cannot afford the increasing costs of medical malpractice insurance which they are required to carry.

According to the American Medical Association, 19 States are in a full-blown medical liability crisis, including the home State of the occupant of the chair and mine.

In Missouri, physicians' average premium increases for 2002 was 61 percent on top of increases the previous year of 22 percent. What happens? Well, 31 percent of the physicians surveyed by the Missouri State Medical Association said they were thinking about leaving their practice altogether.

Almost one in three physicians in Missouri considered leaving their practice because they cannot afford the exorbitant medical malpractice insurance cost caused by the lawsuits brought—some frivolously, and many of them, I assume, against doctors. Doctors who have practiced for years in Missouri are closing their doors.

But this is not just a problem for doctors. They are well educated. They can move elsewhere and resume their practice, as difficult and unfair as that is. The real damage and pain is being felt by the patients.

Last summer we considered a comprehensive bill, S. 11, the Patients First Act. Unfortunately, the motion to proceed was not successful. Because this issue is so critical to the health care of all Americans and because the crisis continues to grow, inaction should not be an option because the outcome of considering the same comprehensive reform bill again is clear.

Today we have narrowed our focus on the health care needs of women and babies.

The American College of Obstetricians and Gynecologists last year said:

> An ailing civil justice system is severely jeopardizing patient care for women and their newborns. Across the country, liability insurance for OB/GYNs has become prohibitively expensive. Premiums have tripled and quadrupled practically overnight. In some areas, OB/GYNs can no longer obtain liability insurance at all, as insurance companies fold or abruptly stop ensuring doctors. When OB/GYNs cannot find or afford liability insurance, they are forced to stop delivering babies, curtail surgical services or close their doors. The shortage of care affects hospitals, public health clinics, and medical facilities in rural areas, inner cities and communities across the country.

It is a real problem in Missouri. A survey conducted by the American College of Obstetricians and Gynecologists in August of 2002 said 55 percent of their members from Missouri have been forced to change their practice, retire, relocate, decrease surgery, stop practicing obstetrics, decrease the number of deliveries, and decrease the number of high-risk obstetric care.

Last year, Missouri lost a total of 33 obstetricians. I want to share with you a few examples.

A St. Joseph, MO, practice, the only practice in Northeast Missouri to accept Medicaid, lost one-third of its doctors after the insurance company would no longer offer insurance to OB/GYNs. St. Joseph now has only seven OB/GYNs serving its population.

A Missouri doctor who has been in private practice for 3 years experienced a 400 percent increase in his liability premiums over the past 3 years and received a quote for $108,000 in 2004. This OB/GYN is considering quitting obstetrics in order to find affordable insurance.

A gynecological oncologist in Missouri left a group practice and eliminated a rural outreach clinic because of rising professional medical liability premiums. "Women with gynecologic cancers in Ste. Genevieve, Carbondale, and Chester now have to drive over 100 miles to see a gynecologic oncologist and receive the care they deserve," said the doctor.

An OB/GYN in St. Ann, MO, was forced to close his practice last year because of medical liability costs that rose 100 percent. The practice had delivered about 400 babies a year.

Twelve doctors at the Kansas City Women's Clinic used to serve women in both Missouri and Kansas. But, because of rising medical liability insurance rates, the clinic could not find a single company that would offer them a medical malpractice insurance policy they need for their office in Missouri.

I should say parenthetically, I have been approached by some lawyers who practice medical malpractice plaintiff cases, and they said: The problem is the insurance companies are making too much money. It is not the lawyers. That is strange when the insurance companies can't even stay in business. They can't stay in business because of the lawyers.

As a result at the end of 2002 they closed their doors to their Missouri patients. There were over 6,600 visits a year in their Missouri office. Now, these women must either travel to Kansas to see their OB/GYN or find a new doctor elsewhere in Missouri.

Two Kansas City, inner city OB/GYNs who serve low-income, high-risk patients had to sell their practices to their hospital in order to continue to see patients in Missouri. Excessive litigation has created an environment that forced two doctors—committed to serving some of the most vulnerable women in Kansas City—out of business. They are no longer in independent practice.

One OB/GYN practice in Missouri had to take a $1.5 million loan to pay the malpractice insurance for this year. That does not even include the cost of the tail coverage.

Other doctors in Missouri are considering going without insurance for their tail coverage because they simply can't afford the premiums.

Women are having a hard time getting the care they need and communities are losing their trusted doctors. We have a health care system that is in crisis in Missouri.

The bill before us today, the Healthy Mothers and Healthy Babies Access to Care Act is narrowly crafted to protect access to prenatal, delivery, and postnatal care for women and babies by reducing the excessive burden the liability system places on the delivery of OB/GYN services.

This bill will protect the right of an injured patient to recover fair compensation while at the same time prevent clear lawsuit abuse.

The bill protects the right of injured patients to receive full economic damages that cover the out-of-pocket expenses that a victim might incur due to a doctor's negligence, such as hospital costs, doctor bills, long-term care, other medical expenses, and lost wages. This bill also includes a $250,000 cap on noneconomic damages, with deference to existing and future State caps.

This bill maximizes the amount of awards received by injured patients by limiting attorney's contingency fee to a reasonable, sliding scale.

Too often large percentages of an injured patient's award go to attorneys, leaving the patient with less money for their medical care and other needs. Injured patients are entitled to an overwhelming amount of their award after settling or winning a lawsuit.

Currently, lawyers in many States can take up to 40 percent of all awards and settlements, robbing the injured patients of their award. We think by protecting injured patients by limiting lawyers to 15 percent of any payment over $600,000 makes good sense.

These are just a few of the many vital reforms contained in this bill.

I urge my colleagues to protect access to quality health care for women and babies and support the Healthy Babies, Healthy Mothers Access to Care Act.

We cannot afford to have OB/GYNs to continue closing their practices, reducing the number of babies they deliver or eliminating care for high-risk patients, the uninsured, and the underinsured because of excessive frivolous lawsuits brought by plaintiff attorneys.

Ms. MIKULSKI. Mr. President, I oppose S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act. It should be called the "Insurance Companies First Act." This is extreme legislation that puts the interests of the insurance industry ahead of the interests of women, their families and their doctors. It applies only to women seeking obstetrics and gynecological services—that's it. Every other patient can recover full damages. But under this bill only women will be limited in what they can recover for a doctor's medical error. This bill penalizes patients, while doing nothing to prevent doctors from being gouged by insurance companies.

This bill is legislative malpractice. First of all, the procedure for considering this bill is seriously flawed. The bill was brought to the full Senate without hearings, without consideration by the Judiciary Committee. There was no chance for patients, doctors or others affected by this bill to testify. There was no Committee Report to analyze the effects of the extremely complex and controversial legislation.

The result is a bill that targets some of the most serious cases of medical error, restricts the rights of women and infants, while doing too little to protect doctors from the high cost of insurance. It is the same broad brush legislation that we defeated in July, only this time they limit it to obstetrical and gynecological services and by design only restrict the rights of women patients. Proponents of the bill say they wanted to streamline the bill, to address the area of medicine with one of the highest premium rates and they claim that the beneficiaries will be women who will have improved access to health care. But since when has limiting one's rights improved anything? And how does restricting a woman's right to full recovery and only her rights provide her a benefit?

The real beneficiaries of this bill are the insurance companies. They get to see their profits soar while mothers who take care of infants who suffer because of medical error will face unfair caps in the remedies they receive. These are often stay at home mothers who need resources to care for their families and their infants who may need constant care, but the cap on noneconomic damages will prevent them from getting those resources. It's unfair to penalize these women because they can't recover economic damages. I think the Senate can do better.

I oppose this legislation for three reasons:

As a Senator from Maryland, I cannot support legislation that gives Marylanders a worse deal. This legislation would override the Maryland law and place a $250,000 cap on non-economic damages. Maryland law strikes an important balance, providing a much higher cap on non-economic damages. The cap increases each year to offset inflation. It started at $500,000 and is now $635,000. It also has no caps on punitive damages. The Maryland law is supported by both physicians and patient advocates.

Yet the Republican bill would preempt Maryland law. It would put women and infants in Maryland at a disadvantage. It would severely limit their ability to get relief for the death, physical impairment or disfigurement that they suffer as a result of serious medical error.

This legislation shuts the court house door. It denies justice to women and women only. It denies justice to those who must care for a mentally disabled child for his or her whole life because of a doctor's mistake during prenatal or post-natal care. It denies justice to women who needlessly lost a child during delivery because of a serious medical error. It does this by imposing arbitrary caps instead of enabling juries to determine damages. I have faith in juries made up of members of the community to reach a fair verdict.

Who would be hurt by this legislation?

Someone like the mother from Baltimore whose newborn baby suffered brain damage because an emergency c-section was not performed in time. His mother had gone to the hospital reporting that there was decreased fetal movement. She knew something was wrong. Tests were performed. Yet the doctor misdiagnosed the problem. After several days, an emergency c-section was performed. It was too late. The baby suffered severe brain damage. He died 13 months later.

It is impossible to put a price on the loss of a child. Imagine if that death is the result of carelessness. Parents who suffer the unbearable pain of losing a child deserve the right to use the courts to seek full accountability.

Instead of penalizing patients, we need legislation to help doctors who are facing skyrocketing insurance costs. A doctor's number one priority is the care of his or her patients. We should make sure that it is easy for them to do so, knocking down the roadblocks to practice that excessive insurance premiums create. S. 2061 won't do that. It won't provide doctors with real relief today.

That's why the Senate should consider alternatives such as that proposed by Senator DURBIN, which focuses on solving the problems where they start. Senator DURBIN addresses the root of the problem, creating greater accountability for doctors through a voluntary error reporting database, economic help for those who face growing premiums, punishment for frivolous lawsuits, grants to provide physicians in areas where malpractice insurance has led to a shortage of doctors, and critically, an end to the immunity that insurance companies face from anti-trust regulations.

Yet instead of helping patients and doctors, the Senate is again caught up in a political game. It doesn't have to be this way. We have worked together in the past to pass legislation that helps victims and lowers insurance costs. The terrorism insurance legislation is a prime example. We passed it because there was a national will and the urgency to do something that provided real solutions.

Today, we are faced with the same national will. And I urge my colleagues to work toward a sensible compromise. One that does not unfairly target women and their infants. One that addresses all forms of medical error, not just those affecting women and puts the rights of all patients first. The public is demanding that we do something, as more Americans are suffering from serious medical mistakes and more doctors are unable to treat patients because of rising premiums. We now need the political will to help doctors without harming patients.

I urge my colleagues to vote no on cloture. We need to send this bill back to the Judiciary Committee for full consideration of the issue of medical liability as well as the impact of limiting women's rights to recovery on their health and well-being and that of their new born infants.

Mr. LAUTENBERG. Mr. President, I rise to talk about the bill that is the subject of today's cloture vote on the motion to proceed.

We must not be fooled by the seemingly friendly title of this bill. The Healthy Mothers and Healthy Babies Access to Care Act of 2003 does nothing to promote the health of mothers or babies. This bill will devastate the rights of parents and children, but it will help neither patients nor doctors. The real beneficiaries will be insurance companies, HMOs and large medical corporations. Sponsors of this bill insult us by calling it a Healthy Mothers and Healthy Babies Act. How can shielding from accountability an entire medical specialty area result in healthy babies? Less accountability will never lead to better health care.

This bill discriminates against women and infants by restricting their right to hold physicians, hospitals, insurance companies, HMOs, and even drug and medical device manufacturers fully accountable for injuries resulting from the provision of obstetrical and gynecological care. Although proponents of the legislation say the bill is necessary to increase access to women's health care, nowhere does the bill make liability insurance for doctors more available or affordable. And nowhere does it provide access to health care for women who are uninsured. What it does do is greatly limit the ability of women and children with the most devastating injuries to hold the wrongdoer accountable.

It is another example of what I call the "maleogarchy" that prevails around here placing a higher value on a man's worth than a woman's. The bill cynically devalues the worth of pregnant women injured by medical negligence. Men's injuries are given full value. For example, if a woman is inappropriately prescribed blood pressure medication during pregnancy that causes blood clots, her recovery is limited under the bill's provisions. If a man is prescribed the same defective blood pressure medication by his internist, he may recover against the drug manufacturer in accordance with available State law remedies.

The legislation unfairly reduces the amount of time that an injured woman has to file a lawsuit. Under the bill, a suit would have to be filed no later than 1 year from the date the injury was discovered or should have been discovered, but not later than 3 years after the "manifestation" of injury. Thus, a pregnant woman who contracted HIV through a transfusion but only learned of the disease 4 years after the transfusion would be barred from filing a claim. In addition, the bill limits the rights of injured newborns by requiring that actions on their behalf be brought within three years from the date of the manifestation of injury. This is in direct contradiction to the laws of many States, which preserve the rights of minors to seek legal redress upon the age of majority.

The bill limits non-economic damages to $250,000 in the aggregate, regardless of the number of parties against whom an action is brought. Noneconomic damages compensate patients for very real injuries such as the loss of fertility, excruciating pain, and permanent and severe disfigurement. They also compensate for the loss of a child or a spouse. These are very real damages, and juries are able to calculate them fairly. How do you calculate the economic damages to infants who sustain life-long injuries during childbirth or stay-at-home mothers who lose their fertility due to a defective drug taken during the course of pregnancy? Their injuries may be almost completely non-economic and this bill would have a devastating impact.

This bill is an appallingly cynical attack on the rights of mothers and their babies. In many ways, it is even more insidious than the bill that failed in the Senate last July. It is almost as if the proponents of that bill, having failed to eliminate the rights of all patients injured by negligence, decided they would simply target the rights of the most vulnerable: pregnant mothers and their babies.

Mrs. MURRAY. Mr. President, today the Senate is voting on a political gimmick that will punish women and children and do nothing to address the real medical malpractice crisis that is crippling healthcare throughout our State.

Doctors are facing escalating costs that are unsustainable, but instead of addressing this problem with a common-sense and immediate fix, the majority is engaging in a blame game. We don't have time for the blame game. Instead, we should be debating the bipartisan bill I support to provide immediate relief to doctors, stop frivolous lawsuits, and fix the broken insurance market.

But this bill doesn't just fail to address the real crisis in malpractice insurance; it actually undermines the rights of women and children in the name of helping them.

As a woman, a mother, and a Senator who has fought for the safety and welfare of mothers and infants, I am disturbed that the U.S. Senate would single out women and babies for different treatment than everyone else in America if they are injured through no fault of their own. This bill tells women that if we are injured, we don't deserve the same legal protections as men.

The sponsors of this bill have spoken about the health and well-being of women and babies in hypothetical terms. But I have to tell you, the injuries and crimes that continue to plague female patients are all too real.

Currently, in my State of Washington, we are following a high-profile case in which an OB/GYN has been accused of raping or molesting dozens of female patients under his care. This doctor is also accused of providing substandard care, ranging from performing unnecessary medical procedures to failing to prescribe prenatal vitamins to a pregnant patient with low iron levels.

In one case, this doctor even performed a surgery despite the fact that his office was not licensed for surgery and did not have a supply of blood available in case of complications.

I ask my colleagues to consider this case. If your wife or daughter or sister had been hurt, molested or worse by this doctor, would a $250,000 cap seem like a reasonable solution?

These cases are not hypothetical. They are not frivolous. And this bill will not protect the health or increase the wellbeing of any of these patients.

I find some sad irony in being told by this bill's sponsors that if I want to help women and babies, I should strip away their rights. I take a backseat to no one when it comes to standing up for women and children.

I wish that the people who are pushing this bill today had shown the same interest when I was fighting to ensure women could get direct access to an OB/GYN during the Patients Bill of Rights debate, but instead, they killed that effort. I wish they had shown the same interest in 1999 when I offered an amendment to end drive-through mastectomies, but they killed that effort as well. I wish this bill's sponsors had showed the same concern when I was fighting to improve drug labeling for pregnant women, but instead, they killed that proposal as well. They weren't on the side of women during all those fights, but here they are today, using the real shortage of OB/GYNs and the real malpractice crisis as an excuse for punishing women and babies without giving doctors or patients the help they desperately need.

If the sponsors of this bill are now serious about helping ensure healthy women and babies, I say "Come on over!" I've got a long list of legislation that they can sign onto today to really help women—like extending Family and Medical Leave, boosting the federal Medicaid match for OB/GYNs, and expanding Medicaid and the Children's Health Insurance Program, CHIP, for low-income pregnant women. The single most important step to ensure a healthy pregnancy and a healthy baby is prenatal care. Fully-funding and expanding CHIP would provide this care to low-income women who would otherwise go without.

The saddest part of this exercise is that we should be spending this time discussing a real solution, like the bipartisan bill I am cosponsoring with Senators GRAHAM and DURBIN, the Better HEALTH Act, S. 1374. If the Senate leadership really wants to help doctors and patients, they will bring up the widely-supported Graham-Durbin bill for a vote and stop playing games at the expense of women and babies. Every day they deny a vote on this bipartisan bill speaks volumes about their interest in a real solution.

The Graham-Durbin bill would give doctors an immediate 20 percent tax rebate on their malpractice premiums, provide federal help for a broken insurance market, and block frivolous lawsuits. That's the type of comprehensive, immediate and effective solution our doctors, patients and communities deserve.

My action plan to fix the malpractice crisis has four steps. The first thing we have to do is get doctors and hospitals some immediate relief—because the clock is ticking. Even if proposals to cap non-economic and punitive damages were passed this year, it is impossible to predict when—if ever—doctors and hospitals would see relief. That is not good enough for me, and it is not good enough for the doctors in my community. I want doctors and hospitals to get immediate relief.

Under the Graham-Durbin bill, doctors in high-risk specialties would be eligible for a tax credit that's 20 percent of their malpractice premium. Doctors in lower-risk specialties would get a 10 percent tax-credit. For-profit hospitals would get a 15 percent tax credit, and non-profit hospitals would get new grants. Immediate financial relief directly to doctors and hospitals must be part of any solution to the malpractice crisis.

Second, we have to cut down on frivolous lawsuits. Under the Graham-Durbin bill, every plaintiff attorney that files a medical malpractice case would be required to include an affidavit by a qualified health care professional verifying that malpractice has occurred. No more launching lawsuits that don't have merit. And anyone who violates this affidavit is going to be punished with strict, and increasingly harsh, civil penalties. We are not going to tolerate frivolous lawsuits, and that's the second part of the Graham-Durbin bill.

Third, we need to provide additional protections for doctors who are doing the right thing and serving patients through Medicare, Medicaid and S CHIP. Doctors with a 25 percent caseload of Medicare, Medicaid, and State Children's Health Insurance Program, SCHIP, patients would be protected from punitive damages under the Graham-Durbin bill. Exemptions would only be allowed for cases involving sexual abuse, assault and battery, and falsification of records. Other than that there will be no punitive damages for doctors who are doing the right thing and serving Medicare, Medicaid and SCHIP patients.

Finally, the Graham-Durbin bill says the Federal Government should underwrite some of the risk in malpractice insurance—just as we have with terrorism and flood insurance. Doctors and hospitals should not have to shoulder the burden of a broken insurance market.

If the Senate leadership is serious about helping doctors and patients, it will bring up the bipartisan Graham-Durbin bill. It provides immediate and direct financial relief to doctors and hospitals. It cuts down on frivolous lawsuits. It limits liability for doctors with high Medicaid caseloads, and it provides Federal help for a broken insurance system.

As I have done for the past 10 years, I will continue to advocate for the policies that truly help women and infants and I will continue to stand up for my doctors, patients and communities who deserve an immediate, comprehensive solution to the malpractice insurance crisis. I welcome the support of any Senator who wishes to sign onto the legislation I have outlined today.

Mr. ALEXANDER. Mr. President, I express my concern once again with the rising cost of medical liability insurance. Last July we debated this issue in the Senate, and unfortunately did not reach cloture on this important issue. Today we are limiting our debate on the issue to care for mothers and babies. We must protect a woman's access to obstetric and gynecological care to ensure healthy mothers and babies. The increasing cost of medical liability insurance is creating a patient access crisis because doctors are leaving the practice of medicine.

At Hardin County General Hospital in Savannah, TN, the OB/GYN left the hospital to go practice in another state because the insurance premium was too high. High medical liability insurance is one more reason it is difficult to recruit specialists to rural areas.

In 2002, the average net medical liability premium for an OB/GYN in Tennessee was $33,600. In 2003, the premium increased to $41,980, and in 2004, it increased again to $49,408. This is a 47 percent increase over the past 3 years. This sort of increased cost is not sustainable. I continue to be worried about who will deliver babies in my state.

I believe that S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act of 2004, will help protect access to care for mothers and babies in Tennessee. This bill will still allow unlimited economic damages, but it places a sensible cap on non-economic damages. I hope we reach cloture on the motion to proceed so that we can consider this very important legislation.

Mr. BYRD. Mr. President, I am concerned about the increasing costs of malpractice insurance and a lack of access to medical providers in West Virginia and other States. The current challenges facing the medical malpractice system are complex and require a multifaceted solution.

Unfortunately, this issue has become highly politicized with powerful interests pitted against each other. Patients and their doctors are being squeezed in the middle. It is long past time to give some peace of mind to patients and doctors alike who are caught in this political tug of war. We ought to have a wide-ranging debate in the Senate on how to best reform the medical liability and insurance system and also prevent medical errors.

I am disappointed that the administration and the Senate leadership have adopted a take-it-or-leave-it and one-size-fits-all approach to this issue.

Especially in more rural areas of this country, there is a serious shortage of doctors and a lack of access to quality medical care close to home. Too often, families must travel long distances to see a physician, and even farther if specialized care is required. I hope that, by proceeding to the medical malpractice bill, the Senate can have a constructive debate and reach a commonsense concensus on this important issue.

Mr. CHAFEE. Mr. President, today I will vote in favor of invoking cloture on the motion to proceed to S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act. My vote is not an endorsement of S. 2061 as it was introduced in the Senate. In fact, I have concerns about various aspects of the bill including the $250,000 cap on noneconomic damages and I anticipate supporting amendments to S. 2061 if the Senate has an opportunity to fully debate this legislation.

However, I do believe that reform of the medical liability system should be considered as part of a comprehensive response to surging medical malpractice premiums that endanger Americans' access to quality medical care by causing doctors to leave certain communities or cease offering critical services, such as obstetrical care. For this reason, I will vote for cloture on S. 2061 in an effort to move the debate forward.

Mr. FEINGOLD. Mr. President, once again we are faced with an ill-advised medical malpractice bill coming to the Senate floor without any committee consideration. Some argue that we have a malpractice insurance "crisis" that is driving doctors from the practice of medicine, particularly in the field of obstetrics and gynecology, or OB/GYN. But we have not yet explored that issue in the Senate at all. No committee has held hearings or marked up a bill on this topic. Instead, an extreme proposal has been brought directly to the floor and Senators are expected to vote for it because there is a crisis. That is not how the legislative process should work on an issue of importance to so many people.

I would like very much for Congress to address the problem of malpractice insurance premiums once we understand the seriousness of the problem and the effectiveness of the proposed solutions. But by bringing this bill directly to the floor, the majority shows that it is not serious about addressing the problem. It just wants to play a political card. To the extent that there really is a malpractice insurance problem, what is going on here is a cynical exercise, designed only to fail and to provide fodder for political attacks. I will vote "no" on cloture.

Ms. CANTWELL. Mr. President, I will not be voting for S. 2061, a bill that imposes very low damage caps on noneconomic damages in cases involving obstetrical services. I cannot support the bill before us today because I do not believe it would be effective in reducing the very serious problem that we have with rising medical malpractice premiums for doctors and hospitals in my State of Washington.

The fundamental premise of the bill is that by placing a very low cap on the amount persons injured in obstetrics cases could receive for noneconomic damages, insurers would respond by reducing premiums for physicians and hospitals. However, multiple studies have now shown that premiums for physicians in States that have already imposed limits on damages continue to increase. According to the Medical Liability Monitor, overall, premiums are 6.8 percent higher for OB/GYNs in States with caps than States without caps, and premium increases last year were slightly higher in States with caps on damages, than in States without them. That is why the Seattle Times, the Seattle Post Intelligencer, The Tacoma News Tribune, The Everett Herald and the Bellingham Herald have all come out in opposition to $250,000 caps in the last 2 weeks. As the editorial board of the Spokane Spokesman wrote last June 4 about proposals to cap damages, "No doctor would prescribe radical surgery based on anecdotes or conflicting data."

In the process of educating myself about this issue over the past year, including meeting with hundreds of Washington State physicians and hospital administrators, touring 29 rural hospitals, and reviewing the claims history of Physicians Insurance, Washington State's leading provider of malpractice insurance, I have asked many of these individuals what they believed the cap on damages should be. The fact that I have received answers ranging from zero to $5 million illustrates the difficulty in determining what a damage limit should be without reference to specific facts. I believe that juries made up of Washington State residents are better positioned to make a determination of appropriate compensation after hearing the facts of an individual case, than are Senators trying to find a one-size-fits-all solution. Washington State has the third best tort system in the country according to the Chamber of Commerce. Our State has long banned punitive damages, and as a result, capping noneconomic damages, without the knowledge of the jury, could lead to very unfair results for Washington State residents.

Imposing a $250,000 cap on noneconomic damages is radical. The $250,000 cap is based on a California law that was enacted in 1975 and has never been adjusted for inflation. While I wish that it were not true, Washington residents are sometimes harmed by negligent care in the course of obstetrics cases, and they suffer genuine damages. Despite efforts to create an exception for the most serious and egregious cases, there is no exception in the bill before the Senate for even the worst cases. Noneconomic damages compensate patients for real injuries including the loss of fertility, loss of a child, or loss of a spouse, as well as for excruciating pain and permanent and severe disfigurement. Caps on noneconomic damages disproportionately affect women and children because they lack the work history to make economic damages very meaningful.

That is not to say that we do not have a very serious problem in our State. Individual physicians have experienced premium increases of up to 75 percent and hospitals have suffered even greater increases. Increases have hit specialists, including obstetricians, particularly hard. This adds to pressure already being felt by physicians and hospitals in our State as a result of our abysmal Medicare reimbursement rate. Washington currently ranks 41st in the Nation and receives only $4.303 per beneficiary. Physician practices are small businesses, and many of our hospitals are nonprofit entities. They cannot be expected to absorb these huge increases without help.

That is why I support many measures that would actually help deal with the problem of rising insurance costs. I believe that we should be exploring the creation of best practices for physicians, which, if followed, would protect physicians from law suits. I also believe that specialized malpractice courts could be a useful tool in curbing abuses of the system.

I also support legislation introduced by Senators LINDSEY GRAHAM and DICK DURBIN. Unlike S. 2061, which relies on damage caps to reduce future premiums, the Graham-Durbin bill provides tax credits to physicians and hospitals to help offset the increases in malpractice insurance. It would also create a medical mistake database, repeal the current law that prevents Federal regulators from examining whether the insurance industry is engaging in anticompetitive behavior and price manipulation to artificially inflate premiums, and impose stricter standards to demonstrate that a malpractice case has merit before it proceeds.

I am committed to finding solutions to these problems to ensure that Washingtonians continue to have access to quality affordable care throughout every city and county in our State. The bill on the floor unfortunately is not part of that solution. Hopefully, the debate doesn't stop today and these other alternatives will be considered.

Mr. FRIST. Mr. President, today we will be voting on a cloture motion to allow the Senate to proceed to debate S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act. I strongly urge my colleagues to vote for the cloture motion on the motion to proceed.

We have had a good discussion over the last few days, and it is clear that our medical litigation system is failing the American people. It is failing our communities, our hospitals, our doctors, our families and, most importantly, our patients. OB/GYNs and the women and babies they serve have been uniquely affected. Reform of this broken system is desperately needed, and we must act.

The upcoming vote will allow us to fully debate this critical issue. If action is delayed, we know what will happen: patients will suffer, women will suffer, and babies will suffer. OB/GYNs will continue to flee their practices and drop obstetrical services, and more States will be added to the AMA crisis list, a list that already has 19 States.

I have received letters from doctors all over America, including from my home State of Tennessee, demonstrating the devastating effect of the crisis. Premiums in Tennessee have gone up 68 percent over the last 4 years, and Tennessee is not even considered a crisis State by the AMA—yet.

One doctor from Paris, TN, writes:

> As a reproductive health physician I have provided a wide range of obstetrical and gynecologic services to west Tennessee for 13 years. I am one of only two physicians practicing in this area and do a significant amount of high risk procedures. My malpractice insurance premiums have increased from $30,000 to $60,000 in just two years. This is without a claim being filed against me. . . . I am strongly considering terminating my obstetrical practice to leave this area markedly undeserved.

Another doctor from Athens, TN, writes:

> As an obstetrician in East Tennessee whose liability insurance premiums increased 23 percent in the year 2003, it is becoming progressively difficult and risky for me to continue to deliver babies. Many of my colleagues have either retired or quit doing obstetrics. This is going to severely limit what is already excellent care in this country for the obstetrical patients especially in this part of the State.

As these real life stories show, this health care crisis is real, spreading and uniquely affects OB/GYNs. The current medical liability system is costly, inefficient and hurts all Americans. In addition to damaging access to medical services, the current medical litigation system creates problems throughout the entire health care system:

It indirectly costs the country billions of dollars every year in defensive medicine. The fear of lawsuits forces doctors to practice defensive medicine by ordering extra tests and procedures. Though the numbers are hard to calculate, well researched reports predict savings from reform at tens of billions of dollars per year.

It directly costs the tax payers billions. The CBO has estimated that reasonable broad reform will save the Federal Government $14.9 billion over 10 years through savings in Medicare and Medicaid.

It impedes efforts to improve patient safety. The threat of excessive litigation discourages doctors from discussing medical errors in ways that could dramatically improve health care and save hundreds or thousands of lives. I am a strong supporter of patient safety legislation which I hope we will pass this year. But in addition to patient safety legislation, we need to address the underlying problem—our liability system.

We must reform this broken liability system. That is why I strongly support the Health Mothers and Healthy Babies Access to Care Act. I thank my colleague, Senator GREGG, who skillfully led this debate, and I thank Senator ENSIGN, a leading proponent of reform, who has seen the current crisis close up in his own State of Nevada.

This legislation will protect women's access to care and ensure that those who are negligently injured are fairly compensated. Again, I encourage my colleagues to move this legislation forward. We cannot afford further delay.

Mr. President, I ask unanimous consent that a list of groups that support S. 2061 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS THAT SUPPORT S. 2061 HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT

American Medical Association
American College of Obstetricians and Gynecologists
American College of Emergency Physicians
American College of Cardiology
American Association of Neurological Surgeons
American Academy of Dermatology Association
American Association of Orthopaedic Surgeons
American College of Cardiology
American College of Surgeons
American College of Radiology
American Gastroenterological Association
American Society of Cataract and Refractive Surgery
American Urological Association
Congress of Neurological Surgeons
National Association of Spine Specialists
Society of Thoracic Surgeons
American Academy of Family Physicians
American Society of Anesthesiologists

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant bill clerk (Ms. Stacy Sullivan) proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOND). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I support legislation which would address the serious problems faced today by doctors, hospitals and other medical professionals who provide obstetrical and gynecological services and at the same time provide balance to treat fairly people who are injured in the course of medical treatment.

While most of the attention has been directed to OB/GYN malpractice verdicts, the issues are much broader, involving medical errors, insurance company investments and administrative practices.

I support caps on noneconomic damages so long as they do not apply to situations such as the paperwork mix-up leading to the double mastectomy of a woman or the death of a 17-year-old woman on a North Carolina transplant case where there was a faulty blood type match or comparable cases in the OB/GYN services area.

An appropriate standard for cases not covered could be analogous provisions in Pennsylvania law which limit actions against governmental entities or in the limited tort context which exclude death, serious impairment of bodily function, and permanent disfigurement or dismemberment.

Beyond the issue of caps, I believe there could be savings on the cost of OB/GYN malpractice insurance by eliminating frivolous cases by requiring plaintiffs to file with the court a certification by a doctor in the field that it is an appropriate case to bring to court. This proposal, which is now part of Pennsylvania State procedure, would be expanded federally, thus reducing claims and saving costs. While most malpractice cases are won by defendants, the high cost of litigation drives up OB/GYN malpractice premiums. The proposed certification would reduce plaintiff's joinder of peripheral defendants and cut defense costs.

Further savings could be accomplished through patient safety initiatives identified in the report of the Institute of Medicine.

On November 29, 1999, the Institute of Medicine, IOM, issued a report entitled: To Err is Human: Building a Safer Health System. The IOM report estimated that anywhere between 44,000 and 98,000 hospitalized Americans die each year due to avoidable medical mistakes. However, only a fraction of these deaths and injuries are due to negligence; most errors are caused by system failures. The IOM issued a comprehensive set of recommendations, including the establishment of a nationwide mandatory reporting system; incorporation of patient safety standards in regulatory and accreditation programs; and the development of a nonpunitive culture of safety in health care organizations. The report called for a 50 percent reduction in medical errors over 5 years.

The Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, held three hearings to discuss the IOM's findings and explore ways to implement the recommendations outlined in the IOM report. The fiscal year 2001 Labor-HHS appropriations bill contained $50 million for a patient safety initiative and directed the Agency for Healthcare Research and Quality, AHRQ, to develop guidelines on the collection of uniform error data; establish a competitive demonstration program to test best practices; and research ways to improve provider training. In fiscal year 2002 and fiscal year 2003, $55 million was included to continue these initiatives; $79.5 million is being provided in fiscal year 2004. We are awaiting a report, which has been delayed after being scheduled for issuance in September, 2003, by the Department of Health and Human Services, which will detail the results of the patient safety initiative.

There is evidence that increases in OB/GYN insurance premiums have been caused, at least in part, by insurance company losses, the declining stock market of the past several years, and the general rate-setting practices of the industry. As a matter of insurance company calculations, premiums are collected and invested to build up an insurance reserve where there is considerable lag time between the payment of the premium and litigation which results in a verdict or settlement. When the stock market has gone down, for example, that has resulted in insufficient funding to pay claims and the attendant increase in OB/GYN insurance premiums. A similar result occurred in Texas on homeowners insurance where cost and availability of insurance became an issue because companies lost money in the market and could not cover the insured losses on hurricanes.

In structuring legislation to put caps on jury verdicts in OB/GYN cases, due regard should be given to the history and development of trial by jury under the common law where reliance is placed on average men and women who comprise a jury to reach a just result reflecting the values and views of the community.

Jury trials in modern tort cases descend from the common law jury in trespass, which was drawn from and intended to be representative of the average members of the community in which the alleged trespass occurred. This coincides with the incorporation of negligence standards of liability into trespass actions.

This "representative" jury right in civil actions was protected by consensus among the state drafters of the U.S. Constitution's Bill of Rights. The explicit trial by jury safeguards in the seventh amendment to the Constitution were adaptations of these common law concepts harmonized with the sixth amendment's clause that local juries be used in criminal trials. Thus, from its inception at common law through its inclusion in the Bill of Rights and today, the jury in tort/negligence cases is meant to be representative of the judgment of average members of the community, not of elected representatives.

The right to have a jury decide one's damages has been greatly circumscribed in recent decisions of the United States Supreme Court. An example is the analysis that the court has recently applied to limit punitive damage awards.

In recent cases, the Court has shifted its Seventh Amendment focus away from two centuries of precedent in deciding that federal appellate review of punitive damage awards will be decided on a de novo basis and that a jury's determination of punitive damages is not a finding of fact for purposes of the reexamination clause of the Seventh Amendment—"no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law". Then, in 2003, the Court reasoned that any ratio of punitive damages to compensatory damages greater than 9:1 will likely be considered unreasonable and disproportionate, and thus constitute an unconstitutional deprivation of property in non-personal injury cases. Plaintiffs will inevitably face a vastly increased burden to justify a greater ratio, and appellate courts have far greater latitude to disallow or reduce such an award.

These decisions may have already, in effect, placed caps on some jury verdicts in malpractice cases which may involve punitive damages.

Consideration of the many complex issues on the Senate floor on the pending legislation will obviously be very difficult in the absence of a markup in committee or the submission of a committee report and a committee bill.

The pending bill is the starting point for analysis, discussion, debate and amendment. I am prepared to proceed with the caveat that there is much work to be done before the Senate would be ready, in my opinion, for consideration of final passage.

Mr. President, I yield the floor.

Mr. ENSIGN. Mr. President, we had a debate today—sort of a debate, because we are only debating whether to proceed to a debate on the issue of whether we are going to continue to allow obstetricians and gynecologists and nurse-midwives to be able to practice in this country because of the runaway cost of medical liability insurance. The Democrats are not even allowing us to proceed to the bill, just like last year, when we tried to pass a more comprehensive reform. If they don't like the bill, let's amend the bill. But to have no debate on the bill, it seems to me, they are completely turning their backs on the women and children of this country, and those babies yet to be born.

I had a discussion this afternoon with the President of the American College of Obstetricians and Gynecologists. I was talking to her about the numbers of students going into the field of obstetrics and gynecology. At the Nevada School of Medicine, the lowest number ever of students have applied to go into obstetrics and gynecology. She pointed out a statistic in the State right next door, Utah. That number actually was zero. Zero have decided to go into obstetrics and gynecology. Let me repeat—in Utah, there are no new physicians this year who decided to go into obstetrics and gynecology. That is an alarming figure for the future.

For those people who are saying it is a problem but it is not that bad—the problem is bad today and it is going to get much worse in the future.

There have been statistics bantered about as to why this happened and why that happened. However, the bottom line is shown pretty well in this picture. This building is located in a very busy thoroughfare in Las Vegas. This is a picture taken last week . The sign says, "OB/GYN—For Lease." The represents what is going on in many places in Nevada and other parts of the country—OB/GYN practices are shutting down.

There are obstetricians and gynecologists leaving my State. It is the fastest growing State in the country by far, yet we have OB/GYNs leaving. They are stopping their practices. Some of them are retiring early. Some of them are limiting their practices to only the practice of gynecology. For others to get coverage from the insurance companies, they have to limit the number of babies that they deliver each month.

My wife and I have had three wonderful children. Three of the most remarkable experiences of my life were the births of our three children. I know a husband and wife team, Joe and Kirsten Rojas, both of them OB/GYNs. They are passionate about what they do. They love to deliver babies. We have been out to dinner with them and often they get interrupted, and they have to go off and deliver a baby. Some of the hardest working people are OB/GYNs. Yet now they cannot afford to keep practicing. They have to limit the number of deliveries.

The Rojases are our friends. We talk with them, and they have actually talked about leaving Nevada to go to California to practice their passion of delivering babies. They love Las Vegas. As a matter of fact, Dr. Joe Rojas, his father, was my mom's gynecologist. Actually, he did surgery on my wife when she had a medical condition. I graduated high school with Dr. Joe Rojas. He was born and raised in southern Nevada, and his wife now is in practice in Nevada, and they may have to leave their beloved home because they cannot afford the high costs of medical liability insurance.

I want to put up another chart that shows the comparison of the rates in States around the country compared with California. Some people are saying the insurance rates are rising or falling because of the stock market, or insurance companies are just raising the rates arbitrarily or because of some kind of actuarial tables. The bottom line is on this chart. This puts it into context.

The one State where we have had medical liability reform for any length of time, and it has been since the mid 1980s after surviving multiple court challenges, is the State of California. They enacted what is called MICRA. It is a strong medical liability reform law that, frankly, you could not get passed in the State of California today because the trial lawyers are so powerful. Over the years the trial lawyers have made so much money off of lawsuits that they are, I would argue, the most powerful political lobby in the United States today.

But in California they were able to enact a medical liability reform bill. Their rates are down here shown by the blue line. You see very little increase over the years all the way through 1999. The rest of the country is shown by this red dashed line. You can see the rates going up. This only goes through about 1999. If we took it out to the year 2004, to today, you would see another spike going up right now.

Actually the biggest increases in medical liability insurance we have seen have been in the last few years. This crisis is growing and getting worse year by year.

Let us just compare a few cities in two States that have enacted good medical liability reform versus cities in four States that have not.

Los Angeles in California: They have their MICRA law which is an effective medical liability reform law. Denver, CO: Once again, they have had a law on the books for about 10 years. They have an excellent law there.

Let us look here at OB/GYNs. There are some other specialties and the comparison is very fair, but us stay with OB/GYNs:

Los Angeles, a little over $54,000 a year; Denver, their premiums are about $31,000 a year; New York City, $89,000; Los Angeles, $108,000. By the way, this number, because this is 2002 data, is very low. In Las Vegas, it is somewhere between $140,000 and $200,000 a year, depending on how many babies they are delivering and whether they are dealing with difficult pregnancies. Looking on: Chicago, $102,000; and Miami, $201,000 per year in medical liability premiums.

Some people say these are rich doctors. Has anybody talked to an OB/GYN and asked them how much money they make these days? In Maryland, they get paid $1,400 for a delivery—not just a delivery but all the precare, the delivery, and the aftercare—$1,400 for all of those visits, including the hospital time. In the State of Nevada, Medicaid pays $1,200. That is about what managed care pays in the State of Nevada as well. These are not rich doctors.

By the way, we are not just talking about doctors; we are talking about nurse-midwives as well. When was the last time you talked to a rich nurse-midwife? They are in a crisis as well. A lot of them are having to leave their practices. In 2 States, legislators they have enacted excellent reforms, in too few states, nothing has been done.

That is the simplest evidence we can give as to why it is so desperately needed to enact the bill we have on the floor today. It will protect people involved in the delivery of babies and those involved in the practice of gynecology.

We have heard anecdotal stories about women delivering babies literally on the side of the road because they had to drive too far because their obstetrician left town. This is happening in my State, in Arizona, in Mississippi, in West Virginia—there are 19 States currently in crisis. Of the States that are left, all but five are showing signs of heading into crisis. The one thing we know, unless this problem is fixed, is that all of those States showing signs of crisis will head into the crisis as well.

How bad does the situation have to get before this body and those who defend the trial lawyers finally say enough is enough? How bad does it have to get? How many women have to be denied the care they need?

In the State of Nevada, sometimes politics drives this argument. Sometimes it drives many pieces of legislation around here. In the State of Nevada, our level I trauma center closed a few years ago. Just prior to its closing, the Democrat leaders in our State said there was no way they would pass medical liability reform—no way—it would never see the light of day. Our level I trauma center closed. What happened? Because of that closing, 3 weeks later a medical liability reform bill was passed in the State of Nevada. That medical liability reform bill is not a good one—it does have some good components, but it certainly does not go far enough. In the State of Nevada, we are trying to close the loopholes that were left open by that bill.

The politics that can be generated out of debating the bill and going forward can be a positive thing for actually getting this bill passed. The level I trauma center that closed in my State is the same level I trauma center where Roy Horn—the famous entertainer from Siegfried and Roy who was attacked by the tiger this last year—was treated. Had that level I trauma center not been reopened, Roy Horn would probably not be with us today.

The reason it is so apparent that this legislation would work is because we have the numbers here to show that in the States who have strong medical liability laws, much of the costs have been constrained. Case in point, the reason our level 1 trauma center was allowed to reopen was that our Governor stepped in and said: We will cover the level I trauma center under the State's liability protection.

What does the State of Nevada have for liability protection? It has a $50,000 cap for total damages, which is much more severe than we have in this bill. We have only a $250,000 cap on non-economic damages. You can get as much as you want out of economic damages, and you can get as much as a jury says. Whatever your medical costs, you can get all of those. But on pain and suffering, with some of the most outrageous runaway jury awards, we limit it to $250,000.

Some say you are limiting the access to courts when you do that. In the State of California, once again, there have been tens of millions of dollars awarded in loss of income. For instance, a child was injured, and in one case $84 million was awarded by a jury. We are not limiting the access. We are trying to get rid of the frivolous lawsuits that are plaguing this Nation and leading to this crisis. There is a direct correlation.

Senator DASCHLE stood on the floor earlier today and said this bill would not help doctors. I question that statement because the doctors are supporting this bill. Virtually every medical association in this country is supporting this bill today. If it is not providing relief to the doctors, why are they supporting this bill? The answer is obvious. The answer is, it will help. It will help our entire system, and it will help those women and children who are being denied access to care right now. Unfortunately, if we don't do something, this situation in the future is only going to get worse and worse and worse.

The bill we have before us today, Senator GREGG and I introduced. I appreciate all of the great work he has done on this bill, which is a narrowed down version of what we tried to pass last year. What we tried to pass last year was a comprehensive bill. If we are not able to move to this bill today, we are going to try to do emergency room and trauma care and a good samaritan bill packaged together. If we can't get that done, we are going to do inner-city and rural health care areas—underserved areas.

We are trying to drive this issue home to the American people. They realize where their representatives stand.

Some have said you are trying to get a rollcall vote. You are darned right we are. We are trying to let people know who stands with patients and who stands with women and children with this bill and who stands with the trial lawyers.

Mr. ENSIGN. Another friend of mine in southern Nevada, whom I was talking to about 6 months ago, is one of the best OB/GYNs we have in southern Nevada. He focused his practice on difficult pregnancies, on the high-risk pregnancies, pregnancies with complicating factors. Maybe there is diabetes involved. That is a very common problem. One of my goddaughters who babysits our children has gestational diabetes. It is not an uncommon problem among women. During that time, there can be complications develop because of diabetes. It can be a very serious problem, but if handled by highly trained physicians, usually you do not end up with any problems.

Because my friend is in the high-risk category—by the way, he has never had a lawsuit against him—his insurance company this past year said he had to severely limit the number of babies he could deliver. This is his passion, and now he has to limit the number of high-risk deliveries. That means some other OB/GYN who is not as highly trained is going to have to deliver those babies.

If you are getting ready to deliver and you have a high-risk pregnancy, you would want the best possible medical care you could get. You would want the most highly trained physician. If you were told that because of our medical liability crisis in this country—I am sorry, you cannot go see your doctor—the one you have come to trust, because they had to limit the number of babies they could deliver in this month, imagine how that whole family would feel—the father, the mother, the grandparents. It puts an unnecessary risk on that delivery we should not be facing.

While no one wants to have medical malpractice cases, there are mistakes that occur in medicine. I am a veterinarian by profession. There are human mistakes. There is gross negligence. Those people should have the right to access a courtroom. They should have the ability of a remedy. I argue that our legislation actually gets them the remedy faster. It limits the attorney's fees so more of the money goes to the victim. It also gets the money to the victim faster. Right now it can take 6, 7, 8, 9, 10 years. A lot of times the patient may have already died. Our bill gets them the compensation they need much more quickly and in a fair manner.

I have heard it described that this bill discriminates against women. That would be like saying the whole State of California and the whole State of Colorado discriminates against women. That is ridiculous. California and Colorado are the two best examples of medical liability reform having been enacted and have been enacted for enough time to see it work. The patients who are injured actually get the compensation they deserve and we do not have the proliferation of frivolous lawsuits we see in the rest of the country in the healthcare field. There are many areas of tort reform we need to address. This happens to be one of them.

Anyone who has delivered or seen their child's birth knows the anxiety that builds up; it is a tense time. Every time one of our babies comes out of the birth canal, we are hoping and praying everything is going to be all right. The biggest fear of any parent is for something to go wrong. We want to know the best possible health care and the best possible health care provider is going to be there. That is not happening in too many cases. That is not happening because, I believe, the trial lawyers have been too powerful in the United States. We have to break that power base if we really want to care about the mothers who are expecting or about the level of gynecological care they have come to expect and deserve in this country.

This legislation is critical to the future quality of life in the United States. It is critical that we put special interests aside and the interests of patients at the forefront. That is what we are debating today. Are we going to put expectant mothers, midwives, OB/GYNs first? Or are we going to put the trial bar first?

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. With the attention of my friend from Nevada, I ask unanimous consent I be allowed to speak as in morning business for 6 or 7 minutes. I think there are a couple of other speakers on the majority side who want to be here. When they come over, I will wrap up my remarks to give them time to be heard on the matter.

Mr. ENSIGN. I agree to the unanimous consent request with the caveat that if a Member of the majority comes over and seeks recognition, they will be recognized.

Mr. DODD. I am happy to do that and I thank my friend from Nevada.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

GROWING ANARCHY IN HAITI

Mr. DODD. Madam President, I come this afternoon to express my deep concern over the growing anarchy and lawlessness in Haiti. This ominous situation, only miles off our own shores, threatens to overwhelm the elected government of Haiti in a number of days, and unless our country, the United States, along with other members of the international community, acts to stop it, it will get worse and pose far many more serious problems for us.

In my view, 3 years of neglected, mixed signals and inertia by the present administration—and the international community, for that matter—have brought a country already steeped in misery and poverty to the brink of uncontrollable violence and chaos. With respect to our own administration, which has sought to remake the political landscape of the Middle East, it is profoundly disturbing and unsettling that it seems incapable or unwilling to act to fortify a struggling democracy in our hemisphere.

I will not defend every action of the Aristide government in Haiti. There have been major problems there. I accept that and understand that. But no one denies this government was duly elected by the people of Haiti and it is being threatened today by a group of thugs and rebels, many of them who come from the previous death squads and ousted armed forces members which ruled that country with a brutal hand, who make up the majority of the people holding the second and fourth largest cities in Haiti today.

I am not standing here as some political defense of a specific administration, but I do stand here as someone who believes that if we are going to defend democracy, we have to be willing to stand up when fragile democracies, such as this desperately poor country, are being threatened by a group of people who do not have the interests of democracy at heart and have no right to be threatening this democratically elected government.

While I cannot discuss the administration's classified briefing of this morning, I can say that I was stunned by the lack of any coherent administration strategy for addressing the violence that may unseat the elected government. It is no secret that Haiti's long history of authoritarian governments as well as political and social upheaval have made it ripe to destabilize. The Haitian people continue to be the principal victims of this instability. The statistics are devastating.

Eighty percent of Haitians live in abject poverty; that is, 8 out of 10 people. By 1998, the World Bank reported that the per capita income in Haiti was $250 a year, less than one-tenth of the average in all of Latin America. In addition, only half of Haitian children attend school. Only 45 percent of the Haitian population can read or write and only marginally so. That is less than the people of Iraq.

The scarcity of resources have contributed to a public health crisis in that nation. Fifteen percent of children don't live past the age of 5. The average life expectancy is under 50 years of age. Haitians suffer from the highest rate of HIV/AIDS in the Western Hemisphere, roughly 6 percent of the population.

I note the presence of the Presiding Officer who, in a former life and occupation, knew these numbers and statistics as well as anybody. I appreciate her listening to this because she understands better than many what goes on in these impoverished nations.

Equally important are the intangible effects of this instability in this little country. Chief among them is the growing chaos in civil society. Indeed, the very fabric of Haitian society is at risk as pro and antigovernment factions armed with every imaginable weapon are increasingly clashing in the streets. Just in the last 2 weeks, more than 50 people have been killed in politically charged street protests. This violence took a new and disturbing turn when a group of armed gangs seized the towns of Cap Haitien and Gonaives, Haiti's second and fourth largest cities. They burned police stations and homes of supporters of Haitian President Jean Bertrand Aristide.

The year 2004 was to be a year of rejoicing and celebration for the people of Haiti as they were expected to proudly celebrate 200 years of independence. Instead they are forced to flee from their communities to escape seemingly indiscriminate violence. There is no mystery, in my view, who is behind these armed attacks. They have audaciously identified themselves to local and international journalists. They are former members of the Haitian armed forces and former members of the so-called FRAPH, the paramilitary organizations that terrorized Haitians in the early 1990s. They were responsible for the deaths of thousands of Haitians and the flight of tens of thousands more who were prepared to risk their lives at sea coming to this country rather than bear the repression and violence that was a daily occurrence in that country. They are back in Haiti, and they are within an eyelash of taking control of Haiti again. We are going to see the effects of it here in a matter of days.

These armed thugs have publicly announced that they intend to march on Port-au-Prince within hours. In fact, within 15 minutes of my address today, a decision will be made by the so-called political opposition in Haiti on whether to accept the recommended political solution that would bring about a new Prime Minister, sort of a copresidency with the present elected government. That is the offer to be made. It has been rejected in the last several days by these gangs and the opposition.

At 5 o'clock they are going to announce whether they are willing to try it again. I hope they will try. I hope they will accept what has been offered to them by CARICOM, our Government, and others. If they don't, I am fearful that we will see a continued rise in this violence, the cost of human life, of innocent life unnecessarily.

The administration up to now has offered only words. I commend Colin Powell. He has said that we respect this elected government and we don't believe it ought to be overthrown, that we will not support any removal of this democratically elected government. But those are words. They are important words coming from an important individual, but it doesn't diffuse the growing crisis. A rejection of the political solution does not portend well for the people of this country. A violent coup that unseats the duly elected government is not an auspicious foundation for further stability in that country as the painful aftermath of the 1991 coups should remind us.

It is too late for diplomacy alone to turn the tide. The political opposition's rebuff of last weekend's diplomatic mission makes that painfully clear. The international community must act with strength and resolve to thwart these criminal elements and prevent the impending humanitarian refugee crisis that is about to explode before our very eyes. It is time for the administration to take the lead in this matter.

I am not suggesting that we send some massive force. We are talking about 200, 300, 400 gang members, thugs. It is not a large operation. It wouldn't take much of an international force to send a message that we are not going to allow this government, this crowd to overthrow the elected government.

Our position as of right now is that we won't do anything. We are not going to step up until there is some political context in which to operate.

There will be a political context when we let these thugs know that we are not going to tolerate the overthrow of this government by asking others to join us. I hope the administration would be prepared to act, particularly in light of what I anticipate to be the rejection of the offer of a political solution.

While I commend CARICOM, the Caribbean community's organization, for ongoing efforts to find a temporary solution to the political crisis, these efforts have so far been fruitless because the political opposition hopes they will be able to watch an overthrow of this elected government and then count on the U.S. Government to come in and sanction them, as if somehow they have arrived in power legitimately.

Let me say to them today: If you think for a single second you are going to get any support out of this Congress by overthrowing an elected government, you are fooling yourselves. It is not going to happen.

This government of ours needs to speak loudly and clearly to these people that this is not what the United States stands for. This is not an endorsement of every action by the Aristide government any more than we endorse every action of other governments around this hemisphere or elsewhere. But to sit back and sort of wink, in a sense, that it is OK for these gangs and thugs and literally drug dealers, some of the worst elements that that country has ever seen, come back into power and be able to overthrow this government is a huge mistake.

It is occurring on this administration's watch. To allow it to happen will be tragic. Let there be no doubt the United States will suffer, along with the Haitian people, if we permit this to go on. Haiti is located only miles from our doorstep. Lawlessness in Haiti only ripens conditions for narcotrafficking and illegal migration.

Haiti is already a major transition site for drugs coming into this country. We know that already. If we think we are going to get a better deal from these gangs that are about to overthrow this country, we are making a mistake. Engagement with the Haitian people is clearly in the best interests of both our peoples.

Not only is the lack of real leadership on the part of our own country disgraceful and disappointing, it is dangerous. Without that leadership, there will be worse violence and greater chaos.

Once security has been restored, the administration has at its disposal the tools to move both sides toward a political compromise, should it choose to utilize them. With respect to the Government of Haiti, that includes providing direct assistance to the Haitian police, assistance in the form of training and equipment in return for compliance with the CARICOM initiative.

With respect to political parties and civil society, the United States should revoke U.S. visas to any of these organization members who are unwilling to participate wholeheartedly with the diplomatic efforts to find compromise or who support or condone violence. If it takes legislation banning these people from getting visas, I will do it. These people travel to the United States all the time and then turn around and provide support to these thugs and then anticipate coming here when it gets a little dangerous. They have no right to come to America, if they participate in this action going on in Haiti as we speak.

The Dominican Republic and other Caribbean countries must take action to stop these territories from being used as a transit point for illegal arms shipments to Haiti or as staging areas for armed Haitian opposition groups. Equally important, the United States and the international community must stop ignoring the negative impact that our economic policy of withholding assistance to the Haitian people is having on Haiti's stability.

Corruption aside, the Haitian government's lack of resources would preclude anybody from effectively ruling that country. It is disingenuous of the Bush administration and the international community to cut off hundreds of millions of dollars in aid to these desperately poor people, some of the poorest people in the world. They needed just a small amount of help, and we were unwilling to give them any over the last 3 or 4 years. It is no wonder that chaos is running wild in that country today.

I hope the administration will take far more concrete steps to respond to this crisis than they have presently. My hope is that within a matter of minutes the political opposition and others will agree to the political solution offered to them. If not, the United States and the international community need to step up and offer to send in armed forces, if necessary, to protect the overthrow of this legitimately elected government.

Mr. ENSIGN. Madam President, what is the situation regarding time?

The PRESIDING OFFICER. The time has expired.

Mr. ENSIGN. Of the 10 minutes remaining, 5 minutes is for the minority and 5 is for the majority leader, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ENSIGN. The majority leader has the last 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. ENSIGN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, the distinguished Senator from Nevada, my colleague, Senator ENSIGN, has been waiting for the minority leader to come. The time is here for the majority to use. If the minority leader decides to use 5 minutes, I ask unanimous consent that the majority be given the final 5 minutes to speak on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The junior Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, I want to sum up this debate telling one story and making a few other points. Some on the other side of the aisle claim "they want to make health care a birthright for every single child born in this country." Yet they are driving the very doctors who bring America's babies into the world out of their medical practices.

Let me remind you of Melinda Sellard's story. She is the unfortunate woman who went through a horrifying experience of delivering a baby on the side of the road in the middle of the night because her doctor had quit obstetrics altogether due to exorbitant insurance premiums. En route, she and her husband had to drive right past the Copper Queen Community Hospital, which closed its maternity ward 2 months earlier because of the medical liability crisis. Instead, the Sellards were forced out onto the highway to try to get to the only hospital within 6,000 square miles with obstetricians who could afford malpractice insurance.

After enduring the excruciating pains of labor without anesthesia, Melinda was forced to give her newborn infant CPR, since the baby was not breathing immediately after delivery. She finally got her newborn breathing, wrapped him in a sweater she was wearing, and drove the rest of the way to the hospital where the emergency staff cut the umbilical cord in the parking lot.

I urge my colleagues to think of Melinda and the other mothers in this country who have lost their doctors and to stand up to the trial lawyers and support cloture on this bill. The "objects in your rear view mirror that are closer than you think" should never be a woman and her newborn child on the side of the road.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, I know that time is close to having the vote. I will use my leader time. I want to make a couple of additional remarks about the bill.

We have had a great deal of discussion today and comments made by some of our Republican colleagues about the hardships malpractice insurance premiums place on doctors. There is no difference of opinion in that regard. Both Republicans and Democrats agree this is a real challenge and it certainly demands our attention. But I think we have to reject cloture this afternoon for the simple reason this bill does nothing to solve it. As we have heard most of the day, every piece of available evidence shows capping damages has no impact on the cost of malpractice insurance.

Reports from the General Accounting Office, the Congressional Budget Office, Weiss Ratings, and the Medical Liability Monitor all confirm malpractice awards are not the primary factor driving the cost of malpractice insurance higher. Even the insurance industry admits caps won't protect doctors from higher insurance premiums. Just last year, Bob White, president of the largest medical malpractice insurer in Florida, stated, "No responsible insurer can cut its rates after a [medical malpractice tort reform] bill passes."

Doctors deserve our help. They need our help. They certainly want it. But no doctor should expect lower insurance rates as a result of this bill. It is wrong to take away the women's right in the courtroom merely to protect the profits of the insurance companies.

This bill would create, for the first time, an unjust two-tiered legal system, actually restricting the rights of women and infants who are hurt by the negligence of a doctor, HMO, drug company, or even a medical device manufacturer.

If a man is prescribed defective blood pressure medication by an internist, he can recover full damages under the bill. If a woman is prescribed blood pressure medication during pregnancy that causes blood clots, her damages will be arbitrarily capped. There may even be a constitutional question involved in this disparity between men and women.

The idea that men and women should have unequal access to the legal system offends, if not the Constitution, certainly our sense of justice. But the real problem with this bill isn't merely that it values the injuries of men and women differently, as troubling as that is. The real problem is that it presumes that somehow those of us in this Chamber are better able to determine how to compensate injured patients in a preemptive way, knowing ahead of time all of the circumstances. Knowing exactly how these people are going to be affected by the decisions we make today is something I don't think anyone could acknowledge they have the ability to do.

This morning, I spoke with Colin Gourely of Valley, NE. At his birth, he suffered complications due to his doctor's negligence. Today he has cerebral palsy and is confined to a wheelchair. He has had five surgeries to correct his bone problems that have occurred as a result of this serious misjudgment in medical care.

Politicians in Washington can't decide what is just compensation for Colin's pain or the pain of any injured patient. We shouldn't apply the one-size-fits-all remedy for the tens of thousands of women and infants who are injured each year.

The fact is, no amount of money can ever compensate a parent for their child's pain, but malpractice awards are not simply about money. They are about offering victims a sense of justice, a way of holding accountable those responsible for their injuries or the death of their loved ones.

Malpractice awards are decided by juries and approved by judges. This is the same system we rely on to decide life or death issues in capital cases. Why wouldn't we trust our citizens to fairly evaluate how to deliver justice for the victims of medical malpractice?

There are real solutions that can bring down the cost of malpractice insurance, and Democrats are eager to work with our Republican colleagues to implement them. We have talked about tax credits to offset the high cost of premiums, prohibitions against commercial insurers engaging in activities that violate Federal antitrust laws, sensible ways to reduce medical errors, direct assistance to geographic areas that have a shortage of health care providers, due especially to malpractice insurance premiums.

So if our colleagues are as concerned about the plight of doctors as they have indicated again today, I hope they will work with us to devise a real solution. Let's drop the maneuvers that protect only the profits of insurers and HMOs and pharmaceutical companies, and let's have a serious discussion about how we solve the problem for our Nation. I think we have an obligation to have that conversation and ultimately come to some solution. Doctors and patients deserve it. They deserve an answer. This bill is not it.

As a result, once again I urge my colleagues to reject cloture. I yield the floor.

CLOTURE MOTION

The **PRESIDING OFFICER**. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 429, S. 2061, a bill to improve women's access to health care services and provides improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services:

Bill Frist, Judd Gregg, Kay Bailey Hutchison, Lisa Murkowski, Susan Collins, Elizabeth Dole, Michael B. Enzi, James M. Inhofe, John Ensign, Craig Thomas, John Cornyn, Pat Roberts, Sam Brownback, Orrin G. Hatch, Charles Grassley, Mitch McConnell, Jon Kyl.

The **PRESIDING OFFICER**. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2061, a bill to improve women's access to health care services and provides improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. **McCONNELL**. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. **REID**. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) would each vote "nay".

The yeas and nays resulted—yeas 48, nays 45, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—48

Alexander
Allard
Allen
Bond
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—45

Akaka
Baucus
Bayh
Biden
Bingaman
Breaux
Cantwell
Carper
Clinton
Conrad
Crapo
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Graham (SC)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Stabenow
Wyden

NOT VOTING—7

Bennett
Boxer
Corzine
Edwards
Johnson
Kerry
Miller

The **PRESIDING OFFICER** (Mr. ALEXANDER). On this vote, the yeas are 48, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

MORNING BUSINESS

Mr. **FRIST**. Mr. President, I now withdraw my motion and ask that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The Senator from Texas is recognized.

TRADITIONAL MARRIAGE

Mr. **CORNYN**. Mr. President, in 1996, the Congress voted overwhelmingly to pass the Defense of Marriage Act. This is a bipartisan bill, where Members of both parties in both Houses voted overwhelmingly to define marriage as an institution in traditional terms, between a man and a woman. This, as you may recall, was in part a response at the time to the Vermont decision implementing civil unions. This body, just like approximately 38 States, has now passed defense of marriage acts defining marriage in traditional terms.

Last September, the Senate Judiciary Committee's subcommittee on the Constitution held a hearing at which we elicited testimony on this issue: Is the Defense of Marriage Act in jeopardy?

The reason we had that hearing is because the U.S. Supreme Court, last year, made some pretty significant decisions, one of which was Lawrence v. Texas, which, if the rationale was going to be followed through, would seem to place the Defense of Marriage Act in jeopardy, saying that that somehow violated the Constitution, thus opening the way to marriage between same-sex couples.

At the time we had people, as you might imagine, as in every hearing, some of whom said, oh, no, the Defense of Marriage Act will stand as long as it is the will of Congress and the will of the American people. Others said more presciently, as it turns out, that if there are judges who want to use the decision of the U.S. Supreme Court in Lawrence v. Texas, and to extend that, indeed, yes, the Defense of Marriage Act could be in jeopardy—indeed, the very definition of marriage between a man and a woman that is part of the Federal law and, as I said, I believe some 38 States.

Well, of course, the day that many thought would come only remotely in the future came much more quickly, when the Massachusetts Supreme Court decided that, indeed, traditional marriage violated the Massachusetts Constitution. Now, some might say, well, since it was a matter of State constitution law, it is limited only to the State of Massachusetts. But a closer reading of that decision reveals that one of the bases upon which the Massachusetts Supreme Court decided that traditional marriage violated the Massachusetts Constitution was a U.S. Supreme Court decision in Lawrence v. Texas, interpreting the U.S. Constitution.

So as it turns out, there is a much closer relationship between the State court constitutional decision and a decision under the Federal Constitution.

Well, once the Massachusetts Supreme Court did, indeed, hold that marriage was no longer limited to men and women in Massachusetts, some said this was just a State matter and there was no reason for the Federal Government to get involved, and there was no reason for other States to be concerned. Yet over the last week or so, we have seen that individuals have moved—I saw one report in the Washington Post of people leaving Maryland and going to San Francisco and getting married—in defiance of State law, I might add—where the city of San Francisco, the mayor, and others, would issue marriage licenses, and then people would return to places such as Maryland. Or people would show up in San Francisco and, because of an act of civil disobedience by the mayor and municipal officials there, seek to get married, even though California law is consistent with Federal law and the law of other States defining marriage in traditional terms.

Indeed, we see in New Mexico and in Chicago, where the mayor said if same-sex couples sought to get married, he saw no reason not to issue them marriage licenses. Indeed, in Nebraska, a lawsuit in Federal Court is being defended by the attorney general of Nebraska under the Federal Constitution seeking to define marriage in not untraditional terms, to allow it not to be limited to just traditional marriage.

So this is not an issue that has been raised by Members of Congress initially. This is a matter that has been injected into the public arena by activist judges who have decided to radically redefine the institution of marriage in Massachusetts but the reverberations of which have resounded all across this Nation.

It is in that light I believe we in this body have a responsibility to ask what are the implications of the Massachusetts decision in this brush fire across the country where local officials and others are in acts of civil disobedience defying State law to issue marriage licenses and what are the ramifications of the Massachusetts decision in terms of the continued viability of the Defense of Marriage Act at the Federal level.

Next Wednesday morning, March 3, under the auspices of the Senate Judiciary Committee, Chairman HATCH has graciously agreed to allow the holding of a subcommittee hearing of the Constitution Subcommittee, which I chair, to have witnesses talk about what the implications are in terms of national policy, in terms of the institution of marriage, which I believe is important. Indeed, if Congress is to be believed, on a bipartisan, overwhelming basis Congress has said it is important and, indeed, that bill itself was signed by President Clinton.

We cannot simply stand idly by, in my opinion, and let activist judges radically redefine the institution of marriage when it stands in stark relief and defiance of the will of the American people and certainly of the decision this body has made in terms of passing the Defense of Marriage Act. So we are going to have a hearing next Wednesday on that issue.

I suspect others will come to the same conclusion I have, and that is the Constitution of the United States will be amended eventually; that this decision in Massachusetts will spread to Federal courts where others will cite this Massachusetts decision as precedent for an interpretation of the Federal Constitution that will strike down the definition of traditional marriage.

I think that is important for a couple of reasons. I know there are people who are reluctant to even talk about this issue because they don't want to be painted or cast as intolerant or haters or bashers or any other term one might think of. Indeed, I think it is important to point out you can believe in the essential dignity and worth of every human being and still believe the institution of marriage is important to our civilization, to families, to providing the most stable means of establishing family life, but also to the benefit of children.

The best interest of children requires us to do everything we can to encourage stable family life and, indeed, in the course of history, not just in this Nation's history, but throughout human history, I believe it is irrefutable that traditional marriage between a man and a woman is the firmest and most stable basis to establish family life. Indeed, that is the relationship, that is the basic social unit under which children thrive and are at reduced risk.

When I was attorney general of Texas for 4 years, I had the responsibility to collect child support for some 1.2 million children. These were children who were from single-parent families. They were either born without their parents ever marrying or their parents married and then divorced and they, of course, were in the custody of one parent and the other parent would typically be ordered to pay child support. I became very much convinced, not just because of the social science, but because of what I saw as a person responsible for collecting that child support for these 1.2 million children, that children are at less risk when they have two loving parents who care about them and support them emotionally and financially; that certainly traditional families are the optimal situation in terms of children doing well and becoming productive citizens.

At that time, of course, it had nothing to do with this new and revolutionary constitutional theory that has been thrust upon us by the Massachusetts Supreme Court that seems to be picking up around the country which I think we need to address, but really we need to, as a nation, reaffirm our commitment to doing what is in the best interest of our children.

Indeed, it is irrefutable that intact families, traditional families—mom and dad providing role models for children they can then use when they grow up to then become not only productive citizens but moms and dads themselves and raise their own children—is something the Federal Government ought to be encouraging. We shouldn't be agnostic about something that is so fundamentally important to the well-being of this country and to our future. We should not stand idly by and see the constitution of one State then spread to another State and, indeed, then to the courts where the Federal Constitution is called into question that would radically redefine this basic social institution.

While I know there are those who are hesitant to talk about this issue because, as I say, no one wants to be cast as intolerant of other relationships—indeed, I think you can say and recognize there are people in loving relationships outside of marriage. But when they want to say marriage is what we redefine it to be, and there is no difference between a man and a woman and a same-sex marriage, I think, first of all, that tends to trivialize what we all have come to recognize as an institution that is a basic social good in this country. But it also is game playing.

There are others who say we want to have all the legal benefits of marriage, but maybe we won't call it marriage, which to me is game playing.

I am a little skeptical of that, especially when, as a lawyer, I know if two people of the same sex want to make contractual or other arrangements between themselves so one can inherit from the other, so one can act on the other's behalf by use of a power of attorney, either to make medical decisions, if one is disabled, or financial decisions if the circumstances arise, there is virtually an unlimited opportunity for same-sex partners to order their relationship from a legal standpoint in a way that satisfies virtually all the reasons I have heard articulated for same-sex marriage.

It is important we have a hearing. It is important for this body to defend, if necessary, its prerogative under the Defense of Marriage Act to do what we believe and I believe the overwhelming number of American people believe is in the best interest of families and children and not leave this to activist judges who consider themselves to be superlegislators, who consider their prerogative to take a social or political or some other agenda and essentially dictate that to the American people from the bench.

We know Federal judges and many State judges serve for a lifetime. There is no way for the American people, short of impeachment, to remove a Federal judge or a judge who is appointed for a lifetime who acts in such a radical fashion, so inconsistent with our norms and traditions, with our traditional understanding of the separation of powers. And yet in a way that would so radically transform this fundamental social unit that is so important to who we are as people and as families, and one that is the best and most optimal arrangement found yet in the history of mankind to have and raise children so that they will be productive citizens.

I have come to the same reluctant position as I know the President announced he has today and believe that indeed the Constitution will be amended. The question is whether we the people are going to amend it by using article V of the Constitution, which creates an admittedly difficult process but one which is important to make sure that it is not done flippantly, too fast or without adequate deliberation. It is time to consider whether we ought to invoke that provision the Framers provided in article V of the Constitution to say: Not so fast, judge. We the people ultimately have the power within our hands to decide how this institution will be defined and we think there is a positive social good to define marriage in traditional terms.

So I believe it is important, as the President has concluded in his announcement today, that we consider a constitutional amendment.

There are some who say our Constitution is a sacred document. Indeed, I think our Constitution is very important and even an inspired document, but I disagree with those who say the Constitution is sacrosanct to the extent that they say the Constitution should never be amended. Indeed, if the Founding Fathers believed the Constitution should never be amended because it was a sacred document, then they would not have provided a means within that document itself for deliberation, hearings, decisions, and ultimately a vote of this body and of the other body by two-thirds and then three-quarters of the States voting for ratification, which is the process by which that Constitution can be amended.

In my lifetime, I never imagined I would be standing on the Senate floor having to say I believe in the traditional institution of marriage between a man and a woman. I just thought, of all the other issues we would be debating in this body, whether they are matters of war and peace, job creation, access to health care, education, all of the important issues that affect the people in this country, the last issue I ever thought we would have to address would be a redefinition of marriage, but I submit that is where we are.

Reluctantly, as many of us come to this discussion—and I think if one looks at the polls we have all followed in the news media in the last few weeks since this issue has been splashed across our TV screens, our newspapers, the Internet, and elsewhere, one sees that the American people are getting the sense that something has gone terribly wrong, that somehow their values and their traditions are being disrespected in a way that needs correction.

As more and more people find out about the way this came about, through a sort of—well, I would call it judicial lawlessness; in other words, judges who are not interpreting the law but who are taking it upon themselves to redefine what the Constitution means and indeed redefine this basic social unit in our civilization, I think they are going to be pretty upset and they are going to expect us to take up a discussion of this constitutional amendment in a reasonable, deliberate, civil sort of fashion.

I hope we can rise to that challenge. Indeed, if one looks at the vote in the Defense of Marriage Act, one sees there is an overwhelming bipartisan group in this body and in the other body who believe that the institution of marriage is a positive social good and worthy of preservation. I hope we will not be afraid to talk about it in a frank and open way, to listen to the concerns of those who maybe are not yet convinced, to take those into account and then, as a Senate, we can discharge our responsibility under article V of the Constitution to begin the process of allowing the American people to vote on the definition of marriage.

We know who is voting now and it is a handful of judges and municipal officials who are encouraging civil disobedience. They are issuing marriage licenses in violation of State law, for example, in California and elsewhere. Ultimately, if we are going to preserve something that I think is infinitely worthy of preservation—and that is government of the people, by the people and for the people—this is something we are going to have to do. This is a responsibility we are going to have to accept and we are going to have to risk the possibility that some may mischaracterize what we are trying to do as being disrespectful of other people. That is not what this is about.

I would condemn rhetoric or language which would appear to be disrespectful of other people, but that does not mean at the same time that I do not believe the institution of marriage is worthy of protection.

I look forward to the hearing we are going to have in the Constitution Subcommittee on March 3, I believe at 10 in the morning. I anticipate that perhaps later in the month, maybe the week after we come back from the March recess, we will have another hearing. Senator HATCH, the chairman of the Judiciary Committee, of course, reserves the right to make that final decision. At that time, we will begin to take up language, which we might then consider first in committee but then on this floor, that would preserve the definition of marriage for the American people and not allow ourselves to be dictated to by judges who are pursuing some other agenda, one that the overwhelming number of American people disagree with strenuously.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING BLACK HISTORY MONTH: SUPPORTING THE SICKLE CELL TREATMENT ACT

Mr. TALENT. Mr. President, I rise today to honor Black History Month by supporting the Sickle Cell Treatment Act, which is S. 874, and inviting my colleagues to join me and my chief cosponsor, Senator SCHUMER, in doing the same. I am very pleased we now have over 40 bipartisan cosponsors in the Senate for this bill. We certainly would welcome more. I invite our colleagues to look carefully at this act and to support it. It is an important measure. It deals with a disease that afflicts many hundreds of thousands of Americans and a disease that really has not received enough attention and enough visibility in the last few years.

This bipartisan, bicameral legislation is designed to treat and find a comprehensive cure for sickle cell disease which is a genetic disease which primarily affects but not exclusively African Americans. About 1 in 300 newborn African-American infants is born with this disease, but the disease also affects people of Hispanic, Mediterranean, and Middle Eastern ancestry, as well as Caucasians.

More than 2.5 million Americans, mostly but again not exclusively African Americans, have the sickle cell trait, which is not the same as having the disease.

Why focus on sickle cell disease? Because it is the most common genetic disease that is screened in American newborns. People with the disease have red blood cells that contain an abnormal type of hemoglobin. These cells have a sickle shape, hence the name of the disease, that makes it difficult for the cells to pass through small blood vessels or carry the appropriate amount of oxygen or nutrients or antibiotics, if that has been prescribed. The tissue that does not receive normal blood flow because of the disease eventually becomes damaged and can and often does cause potentially life-threatening complications.

Stroke in particular is the most feared complication for children with sickle cell disease. It may affect infants as young as 18 months. I have personally talked with a number of parents whose children have had strokes as toddlers. One of the difficulties with this disease is recognizing it—and I will talk about that in just a minute—recognizing its symptoms. Young children can have strokes without the parents even realizing it for some time.

While some patients live without symptoms for years, many others do not survive infancy or early childhood.

I became involved with this effort because of an African-American doctor from St. Louis, Dr. Michael DeBaun, who treats children with sickle cell disease. When you meet the practitioners who specialize in treating people who have this disease, you meet a series of American heroes. Dr. DeBaun is one of them. After meeting and visiting with him about a year ago, I realized the hardship this disease puts on families and especially on the children, who often have to receive blood transfusion after blood transfusion in order to avoid strokes. And, yes, in order to stay alive.

About one-third of children with sickle cell disease suffer a stroke before age 18. These children require frequent blood transfusions, sometimes 15 to 25 units of blood a year, to prevent subsequent strokes.

If you study the disease, you will also learn firsthand how it can affect the daily lives of children. I will just use one example, 9-year-old Isaac Cornell, whom I also had the privilege of meeting. He is one of Dr. DeBaun's patients and attends fourth grade at Gateway Elementary School in St. Louis. About four times a year, Isaac misses school because of severe episodes of pain, with each episode lasting about 5 to 7 days. Every 4 weeks Isaac has to go for a blood transfusion at St. Louis Children's Hospital where he's treated by Dr. DeBaun. Isaac has a permanent port installed in his upper chest to allow for the transfusions. That is one of the reasons he cannot play contact sports or join the wrestling team.

Sickle cell disease affects Isaac's decisions every day. He has to drink plenty of water to lubricate his cells, he has to be careful not to overexert himself—and that is certainly difficult for a 9-year-old boy—and he has to be careful to get plenty of rest. Because so many patients like Isaac are struggling with this disease, in April of 2003, Senator SCHUMER and I introduced the Sickle Cell Treatment Act. Our friends, Representatives DANNY DAVIS and RICHARD BURR, introduced a companion bill, H.R. 1736, in the House, which now has 39 bipartisan cosponsors.

S. 874, which is the bill Senator SCHUMER and I introduced, has 41 bipartisan cosponsors as well as the support of dozens of prominent African-American children's and health advocates, as well as union and church groups including—I am going to read the list. This is not a complete list, but it includes the Congressional Black Caucus, the Sickle Cell Disease Association of America, the American Medical Association, the National Association of Children's Hospitals, the National Association of Community Health Centers, the NAACP, the Children's Defense Fund, the Health Care Leadership Council, United Food & Commercial Workers Union—Minority Coalition, the UFCW Faces of Our Children, United Church of Christ, and National Baptist U.S.A. These advocates, as well as the others who support this legislation, know the bill will make a difference in the lives of kids and families who are struggling with sickle cell disease.

I want to outline four key ways in which the bill makes a difference. First, it increases access to affordable, quality health care. The provision provides funding to currently eligible Medicaid recipients for physician and laboratory services targeted to sickle cell disease that are not currently reimbursed or are underreimbursed by Medicaid. Importantly, however, the bill does not increase the number of Medicaid eligibles and the Federal Medicaid match will stay the same. We have structured this bill so it is very affordable.

The bill also enhances services available to sickle cell disease patients. This is a crucial aspect of the bill. When you have this disease, you have to stay on top of it. You have to manage this disease. I mentioned Isaac Cornell before, how he drinks water and gets adequate rest and is careful not to overexert himself. You also have to know the various respects in which the symptoms of the disease can show up. This is a tricky, sneaky disease.

I was talking with another parent whose son was having considerable dental problems. This is something people with this disease struggle with, because when they get periodontal disease and some form of antibiotic is prescribed by their dentist, they can't be certain the red blood cells will carry the antibiotic to the infected point, so indeed any infections they have are particularly dangerous.

Obviously there is a whole medical side to this we have to be aware of, but in addition, people need to know about the disease. They need to receive counseling and education as well as screening, genetic counseling, community outreach. Education and other services are crucial. Currently, those kinds of services are not reimbursed under Medicaid unless they are performed by the physicians such as Dr. DeBaun. Dr. DeBaun simply does not have the time, certainly not as much as he would want to spend, the hours and hours he would need to spend with each set of parents, with each patient, in order to go over all the various ways in which this disease can affect their lives.

So it is important that Medicaid reimburse these services, even if they are done by counselors or outreach personnel who are not physicians. They are perfectly appropriate and able to do it. The bill would allow nonmedical personnel such as counselors to spend time with sickle cell disease families to discuss how they can manage the disease. That, by the way, will end up saving the Government money because it will prevent strokes and other serious episodes that then Medicaid does appropriately reimburse.

The bill creates 40 sickle cell disease treatment centers. This provision of the bill authorizes the Department of Health and Human Services to distribute grants to up to 40 eligible community health centers nationwide for $10 million for the next 5 fiscal years for a total of $50 million. That is subject to appropriation. That could mean a health center grant in almost every State. Grant money may be used for purposes including the education, treatment, and continuity of care for sickle cell disease patients and for training health professionals.

Finally, the bill establishes a sickle cell disease research headquarters. This provision of the bill creates a national coordinating center, which also would be operated by the Department of Health and Human Services, to coordinate and oversee sickle cell disease funding and research conducted at hospitals, universities, and community-based organizations. This will help ensure efficiency so we can share information about the disease, accountability to make sure the taxpayers' dollars are being used well, and also help us get best practices and monitor outcomes for the disease so we can improve services to people who have it around the country.

I cannot overemphasize the outpouring of support Senator SCHUMER and I have received for this bill. I am sure if he were here he would relate the stories he has had. I have myself received personal handwritten letters from sickle cell disease patients who expressed their gratitude for this legislation and who asked what they can do to help pass the bill since they know how many families it will help.

For example, Allyce Renee Ford of Blue Springs, MO, wrote, and I will paraphrase: I was pleased to read of your bill to increase funding for treatment of sickle cell disease. My twin sons were born with sickle sell in 1973 and suffered from this debilitating disease all their lives. They both lost the battle to painful complications in 2002. Please believe me, it is a painful life-constricting disease both for the victims and their families. Even though I do not have any other children to lose to the disease, I mourn for all the other parents who will lose their children in the future—today, tomorrow, someday they will lose them. Thank God there will be help for sickle cell disease victims—help not just in the form of additional funding—and the bill is very affordable—but help in the form of greater visibility, community support. This bill is lifting the profile of this disease which has remained in the corner for too long. The business exclusively in the past has been the business of those struggling and the small community helping them. We need to show these people that the country is with them.

In conclusion, it is critical to help this historically underserved population. Many of these people do not even know they carry the trait or they have the disease until consequences have been visited upon them that they could have lessened or mitigated in some respect had they had prior knowledge.

I ask my colleagues to join me and Senator SCHUMER to honor Black History Month by cosponsoring this Sickle Cell Disease Treatment Act. I cannot think of a better way to honor this month than to help all of the families, most of whom are African-American families, who are living and struggling with this disease.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

FAILURE TO PROCEED TO S. 2061

Mr. FRIST. Mr. President, I will be closing in a very few moments, but I want to express my disappointment in not being able to proceed to the bill. We have been on the motion to proceed the last 2 days to a bill that reflects a pressing problem, a crisis in many States. It has to do with a medical liability system that is having an impact now, not just on physicians paying for their insurance, but on the quality of care, access to care throughout the United States of America.

I do not believe the full impact of the medical malpractice malignancy is truly understood by the average American. Like a cancer, this malady is eating away at the experience of our medical system in critical areas such as obstetrics.

Dr. Sean White of Kingsport is a perfect example of what is happening. Dr. White moved to Tennessee in 2002 due to the outrageous increases in medical malpractice premiums in Pennsylvania. A staggering 7-physician group increase of $210,000 forced a 30-year-old practice to utterly dissolve. Alone, Dr. White's medical malpractice premiums were estimated to increase by $30,000 to $110,000.

And this wasn't just any practice, but an OB–GYN group focusing principally on one of the most precious of all practices, the delivery of babies. Medical malpractice malignancy ultimately claimed the two senior physicians in the practice, as they retired early, while Dr. White was forced to leave town.

"They really had to scramble," Dr. White said of his fellow colleagues who didn't have the option to retire early. "They went to two local hospitals and asked them to just employ them because they couldn't afford to pay their bills anymore. And no, I don't know how hospitals afford it." Dr. White left the Bethlehem practice in 2002 because the bank requested a lien on his home and the co-signature of his wife, Tracy, to finance his malpractice premiums for that year.

"I could see the hand-writing on the wall," Dr. White said. "But I have delivered so many babies in that community. You invest so much time and energy into the practice and develop such a rapport with people. I delivered half of my daughters' friends, the children of my own friends. It was very difficult to just pack up and leave."

Collectively, Bethlehem's 72,000 residents lost the better part of a century of combined experience when Dr. White left for Tennessee and his two senior partners took early retirement. Let me underscore here, a better part of a century of experience claimed by exorbitant medical malpractice premium hikes.

In addition to taking a loss in order to buyout his partnership in Bethlehem, Tennessee has hardly been a refuge for Dr. White and his family. Yes, malpractice malignancy is also eating away in my own home state, where Dr. White's personal medical malpractice premiums jumped to $65,000 this year, up $20,000 from just last year in Tennessee.

Statistics indicate that as many as nine in 10 obstetric physicians have been sued in Tennessee if they're in the practice of delivering babies for more than 10 years, Dr. White said. This despite the fact that maternal death rates have plummeted to all time lows in this country.

"The trial lawyers will tell you they are trying to weed out the bad apples," Dr. White said. "Obviously, with 90 percent being sued, they're not all bad apples."

And that is the crux of the issue here.

Mr. REID. Will the Senator yield?

Mr. FRIST. I would be delighted to yield.

Mr. REID. Mr. President, through you to the distinguished majority leader, I got a call from a dear friend in Nevada today, a surgeon. He is very active in public affairs, a very close friend of our Republican Governor. He told me that in Nevada, where the Governor called a special session that we have caps, the insurance rates have not been affected at all; they are still going up. He originally had a policy with St. Paul. They pulled out. Another company came in and doctors are always concerned with what they call the "tail," to make sure if something happens after their policy expires that they are covered for acts that took place in the past. He went with a new company. They pulled out after a year and a half. Now he is going to have to pay more than $100,000 for 1 year to have coverage for today and acts that took place in the past.

I say to my friend, the distinguished Senator from Tennessee, a physician, this medical malpractice is something we have to address. I don't know the best form to do it. But when we do it, we are not only going to have to deal with some of the policies outlined by both parties today, but we will have to take a look at what the insurance industry is doing to my friend and other physicians. This is not just a problem generated solely by the trial bar; the insurance industry has some culpability.

I hope the distinguished majority leader, when again we get to this issue, will help us come up with a framework and we can discuss this issue. Part of the discussion has to be directed toward the insurance industry.

Mr. FRIST. Mr. President, let me respond through the Chair that the problem has gotten so big that patients are being hurt and potential patients are being hurt. It is a crisis. It is a complex problem.

As a physician, and as one who sees patients, I recognize they are being hurt by this system, and we have to start somewhere. Part of it is being able to proceed to debate. If the timing is not right, we will come back and do it at another time. We will come back to it. This problem is not going to go away. I look forward to addressing it again.

This particular bill is not a comprehensive bill. We are not talking about all of the doctors out there. Rather, we took one specialty. I am a little perplexed how to come back to it because I want to keep the issue out there. Patients are being hurt, and we are going to come back to it. We will work together to figure out the best way to try to have an appropriate forum for what is a complex issue. Hopefully, we will bring it back in some shape or form in the next several weeks.

The PRESIDING OFFICER. The Senator from Florida is recognized.

CRISIS IN HAITI

Mr. GRAHAM of Florida. Mr. President, I wish to share a few observations and thoughts about the current circumstances, the tragic circumstances in our near neighboring country of Haiti.

Haiti was once a beautiful country. It was one of the jewels of the Caribbean. Its people, who secured their freedom from France in 1804, have suffered a long history of despair, poverty, and misrule. This country has now fallen into chaos.

Regrettably, Haiti is one of the poorest nations on Earth. It is ranked 172 out of 208 countries in per capita gross national income. It is the only country in the Western Hemisphere to be labeled a least-developed nation.

Haitians are also among the most malnourished people in the Western Hemisphere. The World Health Organization reports that the average daily caloric intake for Haitians is the lowest in the hemisphere and on a par with the poorest nations in Africa.

Violence is on the rise. At least 70 people have been killed in the recent uprising, and the number of dead and wounded grows daily.

Indeed, the country of Haiti now faces twin crises. The first is the possible collapse, if not the violent overthrow, of a democratically elected government, with no agreed-upon follow-on governmental structure. An opposition leader predicted on Sunday that the capital, Port-au-Prince, would fall to armed rebels in 2 weeks.

Second is the humanitarian catastrophe, primarily caused by the violence and the disruption that the violence has created.

The current humanitarian crisis is forcing poor Haitians to literally eat the seeds they have saved for spring planting. With nothing planted, there will be no harvest. These desperate food shortages will strike at the same time the weather improves, and a massive exodus by sea will be feasible and more likely.

The question before the United States and the world is, What should be our priorities? Tragically, it appears that our administration has taken a firm stance on the side of indifference. This may prove to be the longest running and biggest crisis of all for Haiti. The diplomatic effort this past weekend, unfortunately, has accomplished nothing to date.

Cap Hatien, the second largest city in Haiti, fell to the rebels the day after our Assistant Secretary of State left the country. We sent 50 marines to Port-au-Prince on Monday to protect our embassy. From what I can tell, there is no administration plan B.

Furthermore, I have detected very little concern for the potential impact of this crisis on the United States itself, with my State of Florida being on the front lines.

As we have seen repeatedly over the past two decades, one of the impacts of this catastrophe will almost certainly be a dramatic increase in the number of refugees risking their lives in leaky and unsafe boats to try to escape the violence.

Yet there has been little or no contact between Federal agencies and the State and local authorities, our first responders, to prepare for the potential influx of refugees. The principal agencies of the Federal Government have limited capacities to handle yet another immigration crisis. I am told the Department of Homeland Security, which includes the Bureau of Immigration and Customs Enforcement, has the capability to handle only 150 additional refugees once they reach our shores. This is in large part because of, in my judgment, the inappropriate use of what is supposed to be a temporary holding facility as, in fact, the permanent prison for long-term detainees. But that is another story.

The Defense Department is understandably hesitant to mix Haitian refugees with the detainees from the war on terror at Guantanamo Bay, Cuba.

The Bush administration's feeling—which appears to be shared by others in the international community—is that the problem in Haiti is a political crisis, and that until these paltry and late-starting diplomatic efforts run their course, there is no basis for dealing with the humanitarian crisis.

When asked at a briefing yesterday what the administration is planning to do to halt the violence, Scott McClellan, the White House spokesman, responded:

> We remain actively engaged in these diplomatic efforts to bring about a peaceful, political solution to the situation in Haiti.

That is simply and obviously not enough. Our first priority must be the humanitarian crisis and finding a way to halt the violence which has fueled it.

A political solution should, of course, be actively pursued, but not at the cost of abandoning efforts to address the humanitarian crisis and loss of lives which are occurring daily in Haiti.

There was already a humanitarian crisis as seen by the level of malnutrition. It is now crashing to new levels with the killings and the threats of violence which have forced international aid organizations to reduce support to the poor and impoverished of Haiti.

If we wait for a political settlement, we will be tolerating more scores of people being killed and more deaths due to the meager food supply and lack of adequate health services. Sadly, most of those who are feeling this humanitarian crisis, who are dying today, are innocent women and children.

If we continue to wait for a political solution, the country will be controlled by armed gangs, drug dealers, and thugs. These conditions represent a clear threat to the national security of the United States of America and to the security of friendly allies even closer to Haiti than we are.

It is estimated, for example, that approximately 30 percent of the population of the Bahamas represents Haitian refugees. Allowing the crisis in Haiti to continue could destabilize the Bahamas and its other neighbors, such as the Dominican Republic.

What do we need to do to avoid a humanitarian tragedy? What do we need to do to make that priority No. 1? First, we need to see a sense of urgency on the part of the United States, and that sense of urgency needs to start at the White House.

Just a few days ago, I met with the top administration official who effectively said that it was the policy of the administration to stand on the sidelines and hope that someone else—France, Canada, the Organization of Caribbean Nations, CARICOM, or the Organization of American States—would take the lead in settling the problem.

This is unacceptable as American foreign policy. There is no other alternative but the use of U.S. influence. We must become engaged at a serious and sustained level or, failing to do so, be prepared to pay the cost of chaos 700 miles off our coast and on the seas which separate us from Haiti.

Second, the next step should be a police presence of sufficient scale that it can quell the violence. This can and should be done under the auspices of the Organization of American States, but the United States must be a leader and full participant.

Third, to assure the success of that police presence, the U.S. military should serve as a visible backup force. Recently, this visible backup force worked off the coast of Liberia when we sent a marine amphibious group aboard Navy ships to stand by off the coast while we put ashore a marine security team to protect our embassy. If we can provide the powerful influence of U.S. military troops 3,000 miles away, certainly we can do so in our own neighborhood.

Next, we must enhance our humanitarian presence starting with emergency deliveries of additional foodstuffs and medical supplies, and we must assure that delivery of those supplies is available throughout the countryside.

Next, given the indifference of the State Department and the National Security Council, the President should seriously consider the appointment of a high-level delegation to Haiti, such as that represented by President Carter, Senator Nunn, and General Powell in 1994, to make certain that our expectations, as well as our level of commitment, is clear.

Next, we must enhance our capacity to understand what is happening inside Haiti. In a manner which is eerily similar to the situation in the late 1980s and the early 1990s, our capacity to gather information inside Haiti is woefully inadequate to the scale and the significance of the crisis.

Among other problems, all diplomatic personnel are confined to the capital Port-au-Prince. As one senior administration official described it:

> Our intelligence is very thin.

This limited understanding, without question, has contributed to our allowing the situation to reach near anarchy without the United States assertively engaging itself. These circumstances in Haiti are part of a disturbing pattern of our current international relations. One, by its unwillingness to engage in a leadership role in the world, with the dramatic exception of Iraq, this administration is ceding its sovereignty to other nations. We have ceded to China the leadership for negotiations with North Korea over its nuclear capability. We have ceded to the French, the Canadians, the OAS, and the Caribbean leadership our sovereignty in dealing with the crisis in Haiti.

That loss of sovereignty comes at a heavy price in our ability to influence other nations and international organizations from a position of strength. How can we challenge China on its trade practices when we are relying on China to handle the most sensitive negotiations with North Korea?

Just a year ago, our fragile relations with France were center stage. How can we now rely on France and regional organizations alone to defend our national interests in the Caribbean? The current administration appears indifferent, at best, to our neighbors in the hemisphere, specifically those in the Caribbean and Latin America. This is surprising and distressing because candidate George W. Bush stated that as President George W. Bush he would pursue a policy of much greater U.S. involvement in Latin America.

On August 25, 2000, speaking at Florida International University in Miami, FL, candidate George W. Bush declared:

> This can be the century of the Americas. . . . Should I become president, I will look South not as an afterthought, but as a fundamental commitment to my presidency. . . . Those who ignore Latin America do not fully understand America itself.

After crises in Argentina, in Bolivia, in Venezuela, and now this test in Haiti, the Bush administration has yet another credibility crisis and yet another failure of intelligence. While not on the scale of missed opportunities to disrupt the plots of September 11 or the misinformation which led us to war in Iraq, again we have a failure of intelligence to inform national leadership as to the true state of an international situation or of national leadership to effectively utilize the intelligence which was provided.

Had we secured and utilized accurate and timely information on Haiti, possibly our response would not have been as impotent and retarded as it now is.

Finally, this is the latest example of the need for a United States or international capacity to respond effectively in nation sustaining, even nation building, after our military has successfully secured the territory.

In 1994, the United States effectively invaded Haiti in order to remove a military dictatorship and replace its democratically elected president. We did that with the kind of surgical precision that has come to characterize our military efforts. We then proceeded to spend almost $3 billion attempting to sustain and build the nation of Haiti. I suggest that today, 10 years later, Haiti is in worse condition than it was when we invaded in 1994. The very things that make our military so effective; recruitment, training, support, the exercises of actions, have allowed us to have such a string of successes in the military phase of dealing with a hostile or chaotic foreign situation. Unfortunately, none of those characteristics is true of the efforts that are made after the war concludes. We need to take the leadership, either unilaterally or, I believe, preferably with other international allies, to develop a capability which has the same characteristics of recruitment, training, support. Having exercised, before actual use, the security, the development of democratic institutions, the restoration of a governmental structure, the development of infrastructure necessary to support the population and a market economy, which can be available after the bullets stop flying, assures our future investments in nation sustaining and nation building are not as ineffective as they have been in the last decade.

The failure to have such a capacity after the 1994 invasion is a primary reason why today we stand on the edge of the volcano of chaos in Haiti yet again, 10 short years later. Let us today, by our inaction and indifference, not provide as a heritage to future generations in America and to future generations in countries like Haiti, Iraq, and Somalia the heritage of a failed effort because we were not able to complete the mission that began so brilliantly with military actions to the conclusion of a stable, democratic, functioning country that gave to their people some reasonable prospect of prosperity and personal peace.

I ask that immediately after my remarks editorials from the Miami Herald, the St. Petersburg Times, the Palm Beach Post, the Washington Post, and the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Feb. 19, 2004]

SET THE RIGHT PRIORITIES IN HAITI: OUR OPINION: IT'S TIME FOR WASHINGTON TO TAKE A MORE ACTIVE ROLE

Now that Haiti is in flames again, an epidemic of hand-wringing is spreading from Washington to the United Nations to the Elysee Palace in Paris.

Where was everybody when the first puffs of smoke appeared years ago? When President Jean-Bertrand Aristide started relying on thugs to maintain order? When brave journalists were murdered for writing and broadcasting the truth? When peaceful protests were repressed by violent means? Today, in the belated haste to do something—anything—there is a danger of failing to adopt the right set of priorities.

PREVENT A DISASTER

The first goal should be to prevent a full-scale humanitarian crisis, and it is already late in the day. It shouldn't take an armed invasion of Haiti to put an end to the hooliganism that has made food, gasoline and medicine scarce. But if strong diplomatic pressure on all sides can't do the job, a small military force may have to be deployed before conditions worsen.

Restoring civil order on the streets is the next priority. Here the challenge is both military and, ultimately, political. Before any outside attempt to launch a police action is made, the nonviolent opposition should be given a chance to show that it is capable of doing something besides voicing demands that Mr. Aristide must go. An effort by Mr. Aristide's critics to curtail the growing insurrection would demonstrate that the opposition is a legitimate political force with clout. The opposition should be mature enough to try to reach at least a temporary accommodation with Mr. Aristide that could lay the groundwork for a political settlement.

Although the president has failed to live up to previous promises to govern in a more democratic manner, the crisis demands a suspension of political demands from his opponents because violence threatens the survival of all political factions in the country.

Mr. Aristide carries the main burden of political responsibility. A band of thugs must not be allowed to depose an elected president, but Mr. Aristide has to do more than simply insist on remaining in power. Reaching out to the opposition to form a bulwark against the forces of violence is the best way to show that he has Haiti's best interests at heart.

DEMOCRACY TAKES TIME

The fundamental problem is that Haiti is a failed state, and will remain one until democracy takes root—the ultimate goal. CARICOM and the OAS can help Haiti get there, but only the United States has the authority, or the muscle, to lead this effort. It is time for the Bush administration to take a more active role in stabilizing the situation. As Sen. Bob Graham has pointed out, if we can send a military force to Liberia to protect our interests, we can do the same in Haiti, the sooner the better.

[From the St. Petersburg Times, Feb. 21, 2004]

CRISIS IN HAITI

With violence and chaos spreading in Haiti, the world community cannot afford to just stand by and do nothing. With the police hiding in their barracks, armed thugs patrolling the street and the elected president appealing for international protection, Haiti is on the verge of another major humanitarian and political crisis. It's understandable that the Bush administration has "no enthusiasm," as Secretary of State Colin Powell put it, to intervene militarily. However, there is an urgent need for an international peacekeeping effort. If ever there was a situation calling out for United Nations peacekeepers, Haiti is it.

The two-week-old uprising has killed at least 60 people. The U.S. government Thursday urged Americans to leave, and the Peace Corps began withdrawing its staff. Washington also dispatched a military team to assess security at the U.S. Embassy. As the nation that stood behind the president, Jean-Bertrand Aristide, the United States has a special obligation to help. Since American military forces restored Aristide to power in 1994, after his ouster in a coup, Aristide has cruelly turned his back on his people and promises. He has not alleviated the human misery in Haiti or reached out to his political opponents. Armed vigilantes roaming the streets terrorize in his name. Aristide has become a polarizing force and a discredited figure internationally. The rebels, however, are not any better. Many leaders are one-time death squad commanders, who have no political legitimacy or idea how to govern.

The United Nations, working with Caribbean leaders and France and Canada, should dispatch a peacekeeping force as soon as possible to try to end the bloodshed. Beyond the need to protect innocent lives and extend a humanitarian hand, the United Nations should underscore that change in Haiti must come through the democratic process. Aristide should be held to the commitments he made to his people. He needs to disarm and disband the vigilante groups, disassociate himself from their operations and bring political opponents into the governing process. The world community has an interest in protecting Aristide, but it stems from his standing as a democratically elected president and because the alternative is even worse. Far from endorsing his presidency, international intervention would be a slap at the character of a man who sold himself to the world as a champion of democratic principles and then betrayed those very principles.

Washington has a major role to play in defusing this crisis—and a big stake in the outcome. This country, after all, restored Aristide to power, and it will become the destination of any mass exodus of Haitian refugees. On Friday, diplomats from the United States, Europe and the Caribbean were preparing to present Aristide and opposition groups a plan for political reform and a return to the rule of law. It's largely the same plan that was presented to the warring parties weeks ago. Secretary of State Powell said the plan does not call for Aristide's resignation but added that the United States would not object if he decided to step down before his term ends as part of a negotiated political solution.

Even if the violence can be quelled in the coming days, a humanitarian crisis is already upon one of the poorest countries in the world. The world community should quickly unite behind an effort that offers humanitarian aid and protects both human rights and Haiti's sovereignty.

[From the Palm Beach Post, Feb. 21, 2004]

ON HAITI, U.S. CAN'T WAIT

As President Bush tries to install democracy thousands of miles away in Iraq, he no longer can remain disengaged from the moral and practical need for democracy hundreds of miles away in Haiti.

Late this week, the State Department acknowledged that Americans in Haiti should leave the "steady deterioration of the security situation" between an increasingly defiant President Jean-Bertrand Aristide and the loosely organized movement to oust him. But as the administration finally has become more active in trying to broker a political settlement, it has become increasingly unrealistic to think that a settlement will not require military action. Ideally, that would take place in concert with regional allies, stabilizing Haiti and bolstering the country for the long haul beyond the end of Mr. Aristide's term in 2006.

Each hour's delay only makes the problem more difficult, as the loyal opposition that Mr. Aristide calls a band of terrorists is being subordinated by gangsters returning from exile. Haiti's outnumbered and outgunned police force of fewer than 4,000 is retreating from its posts. If certain rebels take control, they will not easily give it up.

Gov. Bush was brief by the Coast Guard again this week. "But we have the power to some degree to stop this from hitting our shores," said U.S. Rep. Mark Foley, R-West Plam Beach. "We can't take the standoff position." Colombia, he said, is a case where the U.S. has "used the military to try to rebuild the economy and stem the drug flow. Liberia also is an example that's on point. (Former President) Charles Taylor wasn't going anywhere until the U.S. said we're backing the nations that are liberating Liberia."

In Haiti, Rep. Foley said, Jamaica, the Dominican Republic and the Bahamas "need to be leading the dialogue rather than have the perception of imperial saber-rattling. We have to have the sense that we're all in this together, With America saying, 'We're behind you.'" But it is important, as he said, "to make sure the Haitian people understand, as well as Aristide, that we are not there to prop him up."

That's the message the international delegation led by Assistant Secretary of State Roger Noriega should carry to Haiti today. There's a lot at stake for Florida and the United States, which doesn't need a failed state close to home. It is too late just to assume that things will get better.

[From the Washington Post, Feb. 9, 2004]

NO HELP FOR HAITI

Once again a poor nation with strong ties to the United States is in desperate trouble—and once again, the response of the Bush administration is to backpedal away, forswear all responsibility and leave any rescue to others. Last summer President Bush refused to commit even a few hundred U.S. troops on the ground to help end a bloody crisis in Liberia. Now he and his administration stand by as Haiti, a country of 7.5 million just 600 miles from Florida, plunges into anarchy.

Armed gangs are spreading through cities across the country in a violent rebellion against President Jean-Bertrand Aristide, whose own police force is so weak that a group of about 40 thugs was able to take over a town of 87,000 people on Tuesday. France and the United Nations have begun exploring the possible deployment of police or peacekeepers—which is probably the only way to stop the killing. But Secretary of State Colin L. Powell made clear that "there is frankly no enthusiasm" within the Bush administration "for sending in military or police forces to put down the violence." Mr. Powell rejected "a proposition that says the elected president must be forced out of office by thugs." But that, apparently, doesn't mean the United States—which has intervened repeatedly in Haitian affairs during its 200-year history—is prepared to take any action to stop it.

Nor has the administration been willing to take the lead in seeking a political settlement to the crisis. For several years it has delegated the arbitration of Haiti's mounting domestic conflict to well-meaning but powerless diplomats from the Organization of American States or the Caribbean Community, also known as Caricom. In particular, it has declined to exercise its considerable leverage on the civilian opposition parties, some of which have been supported by such U.S. groups as the International Republican Institute and which have rejected any political solution short of Mr. Aristide's immediate resignation. Apart from Mr. Powell's statement, the administration's rhetoric has mostly been directed at Mr. Aristide. "There certainly needs to be some changes in the way Haiti is governed," said White House spokesman Scott McClellan.

Mr. Aristide is guilty of supporting violence against the opposition and has cruelly disappointed those who expected him to consolidate democracy. But Haiti's mess flows in part from U.S. actions. After restoring Mr. Aristide to power in 1994 and abolishing the army that previously ruled the country by dictatorship, the United States failed to follow through. U.S. forces were pulled out after only two years—they are still in Bosnia and Kosovo eight and five years, respectively, after they arrived—and all aid to the government was suspended after Mr. Aristide's party tampered with the results of a congressional election. Some of the military's former death-squad leaders command the gangs that would seize power. But the Bush administration would rather leave the answers to Caricom or the United Nations or France. It's an inexcusable abdication.

[From the New York Times, Feb. 24, 2004]

HOUR OF THE GUNMEN IN HAITI

Rebels in Haiti were going house to house yesterday, arresting supporters of President Jean-Bertrand Aristide and looting their possessions. The capital, Port-au-Prince, remained in government hands, but the nation's second-largest city, Cap Haitien, was held by the insurgents. The situation is clearly becoming dire. The United States needs to take the lead in protecting the Haitian people from the growing anarchy around them. There is much that Washington could do.

Only the slimmest hope remains for salvaging an international mediation effort that began last weekend. If it cannot be revived, there is a strong likelihood that the country's raging political crisis could ultimately be resolved by brute force. Abrupt and violent changes of government have been a regular feature of Haitian politics over the years and are among the main reasons that Haiti has never developed stable democratic institutions.

Mr. Aristide is no beacon of democratic principles, but he was freely elected to a five-year term that is not scheduled to run out until February 2006. It would have been better if all sides had accepted the proposed compromise that would allow him to stay in office while sharing power with the opposition.

Most, but not all, of the responsibility for the failure to reach an agreement lies with the leaders of Haiti's nonviolent political opposition. They argued that with popular anger against Mr. Aristide running so high, they could accept no compromise that did not cut short his presidency.

That public anger is largely Mr. Aristide's fault, because of a succession of betrayals of his original democratic promises. By failing to end a long impasse over flawed parliamentary elections, he has effectively shut down Parliament and now rules by decree. He has politicized the police and courts and uses special police brigades and armed gangs of his supporters to terrorize civilians and break up opposition demonstrations.

Yet the opposition's unwillingness to stand up to the former army leaders and opposition thugs now demanding Mr. Aristide departure—and their failure to back a compromise that would have been strongly supported by Washington and other mediating countries—is a troubling sign. It suggests that these politicians may not have the toughness needed to make sure that any armed ouster of Mr. Aristide does not lead to a rapid restoration of the same discredited forces that ruled Haiti before he came to power. These include thuggish leaders of the country's officially disbanded army and the murderous paramilitary groups that supported military rule. Some of these elements have already re-entered Haiti from the neighboring Dominican Republic.

There is still time for the political opposition to reconsider its rejection of compromise before the armed rebels impose their own new tyranny.

Whether or not the opposition comes to its senses, Haiti's people deserve protection. More than 70 lives have already been lost. The United States should quickly offer to build up the current force of 50 marines who arrived Monday to protect the American Embassy and make it the core of a multinational stabilization force that would also include soldiers from France, Canada and Latin America. Haiti's army was dissolved in 1994, and a modest international military force could go a long way. It should be in place before armed rebel elements grab power for themselves.

Once a stabilization force is established, an American-led international effort should be mounted to train professional, politically independent police officers and judges. It was the absence of such institutions that allowed Mr. Aristide to create a new authoritarianism behind a democratic shell. American police training programs during the Clinton administration did not reach far enough or last long enough to succeed. Washington should also make it easier for Haiti to earn its way out of poverty by eliminating the American rice subsidies that have contributed to pricing poor Haitian rice farmers out of the market.

Developing a durable democracy in this deeply impoverished country, which has no history of strong, independent civic institutions, will take plenty of time and effort. Failure to begin that effort now will surely result in future revolts, future dictators and future tides of desperate refugees headed for American shores.

Mr. LAUTENBERG. Mr. President, I rise today to express my concern about the violent political crisis engulfing Haiti. We dare not remain silent when faced with such a widespread insurrection in our backyard. I believe that we, members of Congress and the Bush administration, must make an honest reckoning regarding our history of often inconsistence and sometimes even negligent U.S. policies toward this neighboring country, the poorest in the western hemisphere. If the current vicious cycle of resistance and violent reaction to the resistance continues, the resulting instability will have a substantial impact on democracy and security in the Caribbean and will affect our entire hemisphere.

Just last month, Haiti celebrated the 200th anniversary of its independence; it was only the second country in the western hemisphere after the United State to throw off the yoke of foreign domination and to declare independence from a European colonizer. Unfortunately, Haiti's long experience with democracy and self-rule has been impeded by successive waves of military coups—over 30 since its independence—and power consolidation by elites. Poverty and disease are pervasive and government corruption rampant. In its October 2003 survey, Transparency International labeled Haiti the third most corrupt country out of 133 countries in the world and the most corrupt of the 30 countries in the Americas and the Caribbean.

Prior to Jean-Bertrand Aristide's election to his first term in 1990, Haiti had been ruled by successive military dictators, many of whom were anointed by foreign leaders. In 1990, the U.S. government and we, the members of the U.S. Congress, felt optimistic about democratic prospects under Aristide's leadership. The subsequent U.S.-backed restoration of Aristide to power derived from an American hope, perhaps even a naive idealism, that he could rebuild viable democratic institutions and further democratic progress as a legitimate head of state. This American idealism, I believe, led the Clinton administration to deploy 20,000 American troops to support Aristide. Since this time, however, Aristide and his political party have made poor economic choices; they have consolidated power, eviscerated the role of the parliament, and allowed corruption and cronyism to corrode the government.

Indeed, over the past few years, as our foreign policy attention has shifted eastward, towards hotpots in the Middle East and Southeast Asia, we have been dangerously negligent of Haiti's continuing political dissolution and Aristide's failed leadership.

I believe that the current violent expression of political opposition, which has taken the lives of over 40 Haitians in the past two weeks, derives directly from the Haitians' frustration with their government. Haitian political rights have been chipped away since Aristide's 2000 re-election, based on only five percent voter turnout, created a political stalemate. The Haitian parliament has since stopped functioning, prompting international aid donors to block millions of dollars in needed economic aid.

The resulting economic situation is bleak. Most of Haiti's 8 million people live on less than $1 per day and it ranks 150th out of 175 countries on the United Nations Human Development Index.

But Aristide's government has exacerbated Haiti's economic crisis. The U.S. State Department classified the country's current situation as "economic stagnation" caused by ineffective economic policies, political instability, environmental deterioration, the lack of a functioning judiciary, and the migration of skilled workers.

On the other hand, we know that this month's violent outburst is not the only means for Haitians to express political opposition. For years, legitimate opposition groups have opposed Aristide's government and most of them do not condone today's violence. Instead they endorse new elections and a peaceful transition of power.

We have a unique obligation to stand up for the people of Haiti. Our two countries are inextricably linked—by the virtue of our similar histories, because of our involvement in Aristide's return to power, and as a result of the influx of Haitians who have come to our shores seeking refuge from the economically and politically ravaged country. These Haitian Americans have contributed greatly to American life and I am proud to have a talented young man of Haitian origins on my staff and to represent nearly 60,000 Haitian Americans in my State.

The Bush administration has advocated for a negotiated political solution to the crisis. Yesterday, Southern Command has dispatched a small military team to Haiti to provide the ambassador and the embassy staff with an enhanced capability to monitor the current situation. Secretary of State Colin Powell recently met with regional officials and the Canadian and Haitian ambassadors to discuss a possible Caribbean-Canadian police force for Haiti. I support the State Department in its efforts to forge a negotiated political solution brought about by dialogue, negotiation, and compromise and fully support the power sharing agreement put forth by Secretary Powell and international community. I urge the opposition groups to accept this proposal to share power with Aristide until he can be replaced democratically.

I also ask my colleagues to follow this crisis closely and to join me in demanding that President Bush, Secretary Powell and other foreign policy advisors continue to play a leading role, facilitating negotiations between the Haitian government and the opposition factions.

If the opposition accepts the power-sharing agreement, Secretary Powell should enlist French, United Nations, and Caricom help to see that forceful diplomatic intervention ends the current stand-off. The next step is for the U.S., in concert with international organizations, to assist Haiti in creating a unity government, a council of advisors and the installation of a new prime minister. American diplomacy and influence can be effectively mustered to convince both Aristide and the opposition to accept these reformist measures.

U.S. hegemony, wealth, and power have, over the course of our country's history, generated myriad international obligations to resolve global conflicts and preserve peace and security. Our responsibilities emerge no clearer than when conflicts arise in our own neighborhood. It is time to break with a recent policy of U.S. dismissal and neglect regarding Haiti's self-destructive government and devastating economic situation.

I urge my colleagues to join with me in insisting that the administration, with Congressional support, rise to fulfill the responsibilities of global leadership.

HONORING OUR ARMED FORCES

SPC BILLY JESS WATTS

Mr. THOMAS. Mr. President. I express our Nation's deepest thanks and gratitude to a young man and his family from Meeteetse, WY. On February 5, 2004, SPC Billy Jess Watts was killed in the line of duty while preparing to deploy to Iraq to serve his country in the war on terrorism. While traveling in a military convoy to a final training exercise before leaving for duty in Operation Iraqi Freedom, SPC Watts died when the vehicle he was riding in hit ice and rolled over.

SPC Watts was a member of the Wyoming Army National Guard's 2-300 Field Artillery Battalion. He enjoyed the outdoors, hunting and camping, and loved watching NASCAR racing and pitching horseshoes. He loved his family and his country. SPC Watts' profound sense of duty led him to join the U.S. Army following his high school graduation, and the National Guard upon his return to Wyoming. He was an American soldier.

It is because of people like Billy Watts that we continue to live safe and secure. America's men and women who answer the call of service and wear our Nation's uniform deserve respect and recognition for the enormous burden that they willingly bear. Our people put everything on the line everyday, and because of these folks, our Nation remains free and strong in the face of danger.

SPC Watts is survived by his wife Connie and his son Austin John, as well as parents, Bill and Bertha, sisters Bonnie, Betty and Barbara, and his brothers in arms of the 2-300 Field Artillery Battalion. We say goodbye to a husband, a father, a son, a brother, a soldier, and an American. Our Nation pays its deepest respect to SPC Billy Jess Watts for his courage, his love of country and his sacrifice, so that we may remain free. He was a hero in life and he remains a hero in death. All of Wyoming, and indeed the entire Nation are proud of him.

2LT LUKE S. JAMES

Mr. NICKLES. Mr. President, you don't have to do much more than open the morning newspaper or turn on the evening news to understand that the enemies of freedom are working hard in Iraq.

They lay ambushes for our troops, set off bombs by remote control, and drive explosive-laden autos into crowds of innocent Iraqis who want nothing more than a brighter future for their country and their children.

Terrorists connected with al-Qaida, foreign interests and Baathist loyalists conspire to destroy the dream of a free Iraq before it is fully born. They will fail.

But Saddam Hussein, a one-man weapon of mass destruction who preyed on his countrymen and threatened his neighbors, is in custody. His murderous sons are dead. His lieutenants and henchmen are captured, killed, or moving nearer those fates with each passing hour.

The same fates await those who would steal the dream of liberty and replace it with a nightmare of repression, corruption and domination. America's front line in her war against terrorism is now in the fields of Afghanistan and the streets of Iraq instead of in the skies over New York and Washington, DC.

Like Americans everywhere, I was thrilled to see the statues of Saddam Hussein knocked from their pedestals. Those images reminded me that the Iraqi people needed our help, our tanks, our troops, and our commitment to topple a brutal dictator. I am proud of our military and America's commitment to make the people of the Middle East more free and secure.

Without a doubt, our military men and women will face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. Everyone expects more violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

Today I rise to honor who made the ultimate sacrifice one can make for his country.

A few days ago I stood in Arlington National Cemetery to honor the memory of 2LT Luke S. James.

Lieutenant James, 24, was a native of Hooker, OK, and a graduate of Oklahoma State University. He was killed in Iraq on January 27 during a roadside ambush near Iskandariyah.

Lieutenant James was assigned to the 2nd Battalion, 505th Infantry out of Fort Bragg, NC. He'd only been in Iraq a few days.

Our prayers and debt of appreciation now go to his family. He is survived here on the homefront by his wife Molly, his 6-month-old son, Bradley, his parents Brad and Arleen James, his sister Sharla, and his brother Kirby.

"That was his dream (to serve in the Army)," Molly James said in a recent interview. "He wasn't afraid to go. He was able to do his duty and die with honor."

As we watch the dawn of a new day in Iraq, we must never forget that the freedom we enjoy every day in America is bought at a price.

2LT Luke James did not die in vain. He died so that many others could live freely. And for that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family and with the troops who are putting their lives on the line in Iraq.

CONTROL AND DISPOSAL OF RADIOACTIVE SOURCES

Mr. AKAKA. Mr. President, I rise today to express my concern that the threat posed by the detonation of a "dirty bomb" has not been adequately addressed. Controlling access to the radioactive materials needed to fabricate such a weapon remains a challenge today, just as it did in the days immediately following the terrorist attacks of September 11, 2001. Security improvements have been slow to come. Dirty bombs continue to threaten the people and the economy of the United States.

Radioactive sealed sources are all around us. They are used widely in medicine, research, industry, and agriculture. Some of these sources are more risky than others, and Congress must take action to ensure the control and safe disposal of those sources that pose the greatest risk. These sources, known as "greater-than-Class-C" sealed sources, are of major concern because of their potential for use in the fabrication of a dirty bomb.

To address this risk, I introduced S. 1045, the Low-Level Radioactive Waste Act of 2003, this past May. My bill addresses the efforts made by the Department of Energy, DOE, to recover and dispose of thousands of domestic greater-than-Class-C radiological sources. This measure was developed after three different U.S. General Accounting Office reports I requested showed that the efforts being made by DOE and other Federal agencies to control and dispose of these radioactive sources, both domestically and internationally, have not gone far enough.

Provisions of S. 1045 were included in H.R. 6, the Energy Policy Act of 2003, but as debate over the energy bill continues, radioactive sources remain a threat to our country. Over the holidays, there was a serious concern about the possible detonation of a dirty bomb at one of the large open-air New Year's Eve celebrations around the country. The DOE took serious and prudent action to detect possible terrorist activities and thankfully this situation did not end in tragedy. However, next time we may not be so lucky. The lack of a safe, secure, and permanent disposal site for unwanted radioactive sealed sources places our country at risk.

Thousands of sealed sources await disposal, some requiring security measures greater than those in place at current storage facilities. The problem posed by these sources will not go away by itself. Universities and industry do not have the means or facilities to secure these materials and are seeking Federal Government assistance. In my own State, the University of Hawaii is currently seeking the assistance of the DOE to remove large unwanted radioactive sources, belonging to DOE, that are no longer useful for their research. While DOE is working on a solution, the sources remain in Hawaii awaiting disposal. My bill would require the DOE to fulfill their statutory obligation to develop a disposal facility for all of these sources, in consultation with Congress, and would also require that DOE explore Federal and non-Federal alternative disposal options to make sure that the best disposal method is chosen.

However, my concern over radioactive material does not end here. I will continue my work to improve Federal oversight of radioactive sources and devices. Just a few weeks ago in New Jersey, a gauge containing radioactive material was damaged, and its radioactive material is still missing. Creating a disposal facility for this class of radioactive waste is only the beginning of getting this problem under control. We need to improve the licensing and tracking of these widely used sources and devices, so that they will not fall into the wrong hands.

When the United States began nonproliferation efforts in the former Soviet Union, one of the first jobs was to begin consolidating nuclear weapons and fissile materials in secure facilities to await disposal or destruction. Due to worries about terrorists acquiring dirty bombs, the DOE is now working to secure radiological sources in many countries oversees. I support these efforts. A theft this month of cesium-137 in China re-emphasizes the need to work with other countries to collect and dispose of unwanted radiological materials. The cesium, stolen by scrap metal thieves, ended up being melted by a steel mill. The mill is now contaminated and will have to undergo expensive clean-up efforts. While this type of incident is less likely to happen in the U.S., we must learn from this, and take steps to protect our nation from these materials. We should take the lead in helping other nations secure their radioactive material, for the good of us all.

The bill that I introduced and which is cosponsored by Senators BINGAMAN and LANDRIEU, will give radiological sources and waste on American soil a safe and secure, permanent disposal facility. Before September 11, 2001, collecting and securing these sources was a matter of public safety, now it is a national security concern that demands the attention of Congress. I urge my colleagues to support the Low-Level Radioactive Waste Act of 2003, to ensure that our nation is better protected from the dangers of dirty bombs.

LESSONS FROM A CLEAN AIR LISTENING TOUR

Mr. JEFFORDS. Mr. President, I have spoken many times about my serious concern for our Nation's deteriorating air quality. I would like to speak today on behalf of those Americans who are working tirelessly at the regional and local levels to protect our air quality, and who have expressed their concerns to me. Many Americans across the country feel that the Clean Air Act has not done enough to protect their health and their environment. They also worry that, under the leadership of our President, things will only get worse. They are taking action at the local and State levels, and State government is responding with real leadership. We need to support these actions with strong, Federal legislation to protect our current laws and improve our air quality.

On a nationwide Clean Air Listening Tour I initiated in 2003, I heard firsthand from Americans who are tired of getting sick from breathing dirty air, and tired of putting their children's health at risk from eating mercury-contaminated fish. In Asheville, NC, and in Boston, MA, the public demands that the Federal Government work immediately to clean their air.

Asheville is situated in close proximity to the Great Smoky Mountains National Park, the most visited National Park in the Nation at nine million visitors every year. Sadly, this majestic park is also the Nation's most polluted, as reported by the National Parks Conservation Association. Its visibility is tied for the worst with Mammoth Cave National Park, at a mere 14-mile range during the summer months. Under natural conditions, the vista should average around 80-miles.

The Smokies have the highest rate of acid precipitation among the parks, at thirty-five kilograms per hectare. This is six to seven times the nitrogen pollution that local soils can process. In fact, the highest peak in the Smokies can be as acidic as vinegar.

The total number of hourly ozone exceedences in the Smoky Mountains far outnumbers other parks at over one hundred and thirty-three thousand per year. Ozone exposure in the Smokies is twice that of the region's most ozone-ridden cities—Knoxville, TN, and Atlanta, GA.

These statistics mean that in the Smoky Mountains, dozens of tree and plant species are damaged, streams are dying, aquatic wildlife populations are declining, and area residents face increased mortality and chronic lung ailments. Plus, the fish that people consume are poisoned with toxic mercury, which can cause a number of birth defects and health problems in adults.

What is causing all this dreaded pollution? While cars and industry contribute substantially to the problem, old, dirty power plants are my greatest concern. About 30,000 premature deaths occur every year due to power plant pollution alone. Incredibly, North Carolina loses 1,800 people each year because of this pollution. And, hundreds of thousands of children are born annually at risk of birth defects and neurological damage from their mothers' exposure to mercury.

These are shocking figures, and we should be responding immediately to this crisis. Power plants are still the Nation's single largest source of air pollution in this country. They are responsible for most of our Nation's smog and haze pollution, and asthma- and lung disease-causing particulate matter, by emitting 60 percent or more of national sulfur dioxide emissions, and 25 percent of nitrogen oxides. In fact, the country's oldest and dirtiest plants are responsible for 75 to 85 percent of the haze in the southwestern Appalachians. Power plants also emit more than one-third of the Nation's poisonous mercury into the air.

We should also know that power plants emit 25 percent of our country's emissions of carbon dioxid—the greatest greenhouse gas. Our Nation's utilities alone send forth 10 percent of the world's carbon dioxide emissions. They are, in part, responsible for the global warming that is occurring today and will continue into the future. Global warming will seriously affect the 130 species of trees and the 4,000 other plant species in the Smokies, as well as worsen the already dangerously unhealthy ozone pollution problem. Many local residents are not only highly concerned, but they are frustrated with our Federal Government's absent leadership.

State officials and others in Asheville and the Smoky Mountain region are tired of waiting on the Federal Government to protect their air and their climate. They are already acting to reduce this power plant pollution. The North Carolina legislature has made great strides with the passage of the Clean Smokestacks Act. Other States are quickly following suit. However, States are keenly aware that since much of the pollution they experience blows in from elsewhere, a national solution is crucial. In my listening session at the Grove Park Inn on May 19, 2003, I heard witnesses testify in compelling language how air pollution affects Smoky Mountain communities, and how citizens are banding together to protect public health.

North Carolina State Senator Steven Metcalf, Buncombe County Commissioner and Chair of the Land of Sky Regional Council David Gantt, as well as John Stanton, Vice President of the National Environmental Trust, joined me in a press conference to launch the listening session. Hugh Morton, Owner of Grandfather Mountain, which is a scenic travel attraction near Linville, NC, began the public forum with a slide show illustrating the devastation that air pollution has on his business. Slide after slide showed trees made bare by acid rain, and vistas clogged with haze. There is no doubt in his mind that such pollution threatens the environmental health and economic productivity of the mountain.

Don Barger, Senior Director of the Southeast Regional Office of the National Parks Conservation Association, Brownie Newman, Executive Coordinator of the Western North Carolina Alliance, Elizabeth Ouzts, State Director of the North Carolina Public Interest Research Group, and Michael Shore, Managing Director of the local Environmental Defense, added to the dialogue by describing how grassroots action has led to a high level of public awareness about air pollution and its effects, and how that action has resulted in State legislation to begin cleaning the air.

Dr. Clay Ballantine, an Asheville physician and medical expert on power plant-related health damage, also provided excellent testimony. Given that air pollution decreases lung function, causes pneumonia and respiratory infection, increases lung cancer rates similar to those of second-hand smoke exposure, causes asthma and asthma attacks, and leads to premature death, Dr. Ballantine is concerned about the suffering he sees first-hand. I am grateful to all of these witnesses for participating in the listening session, and for sharing their expertise with me.

Since Asheville ranks sixth in the Nation in per capita deaths caused by power plant pollution, and since North Carolina is facing millions of dollars in additional pollution-related health costs, local citizens there have every reason to be concerned, and every right to be outraged that this administration plans to do nothing to help them. The administration has worked to effectively neutralize and eviscerate nearly all major protections in the Clean Air Act. From dropping all enforcement cases against the worst violators of New Source Review, to the recent proposal to delist utilities for mandatory mercury control, this administration should make all of us angry. These actions are an insult to all Americans, and a slap in the face. From Asheville, NC to Boston, MA, Americans made clear to me their desperation and frustration at being told they have to wait a decade or more for this administration and this Congress to clean their air, while the hundreds of thousands of asthma attacks and birth defects continue across the country.

Residents of Boston, MA are especially worried about the potential dangers of mercury pollution from power plants, as the Boston economy, which is highly reliant on commercial and recreational fishing and tourism, may become affected by declining consumer confidence in the safety of local fish. Fortunately for some New England residents, states such as Massachusetts and Connecticut are already moving ahead with emission reduction plans.

I sincerely appreciate the participation and support of my distinguished colleagues Senator TED KENNEDY and Congressmen MIKE CAPUANO, JIM McGOVERN, and BILL DELAHUNT, and Massachusetts Attorney General Tom Reilly in standing with me on September 22, 2003, at the New England Aquarium to bring attention to the serious mercury pollution problem facing New England. Also lending their support during the press conference were Ed Toomey, Aquarium President and CEO, and Armond Cohen, Executive Director of the Clean Air Task Force in Boston. The Aquarium and Task Force have been leaders in mercury and air pollution-related research, education, and advocacy.

At the public forum, Cindy Luppi, Organizing Director of Clean Water Action in Boston, and Jane Bright of HealthLink in Marblehead, Massachusetts spoke about the grassroots Northeast Clean Power Campaign, representing over 300 organizations from Maine to Connecticut that are all fighting to reduce power plant pollution in the region.

Ms. Luppi also provided compelling findings from a Tufts University study: direct costs of environmentally-attributable neurobehavioral disorders, such as those caused by mercury pollution, in Massachusetts alone total between $40 million and $150 million each year, with indirect costs totaling an additional $100 million to $400 million. Also, Ms. Luppi presented the findings of a 2002 Massachusetts Department of Environmental Protection study which determined, "The Department believes that the removal of 85 to 90-plus percent of mercury in flue gas has been demonstrated to be technologically and economically feasible." In other words, there is no excuse to delay mandating tough national mercury reductions under the Clean Air Act.

Massachusetts and Connecticut are moving now to require an 85 to 95 percent reduction in mercury emissions in the next 5 to 9 years. Like in Asheville, the witnesses stressed that such State-level progress is encouraging, but that real relief from air pollution can only come from reductions made across the country.

During the listening session, Dr. Jill Stein, a physician and President of the Massachusetts Coalition for Healthy Communities, and Dr. Bill Bress, State Toxicologist for the Vermont Department of Health, detailed the serious and often life-threatening health effects of mercury exposure through consumption of contaminated fish. Nearly 10 percent of American women have high mercury blood levels above EPA's safe health threshold. Pregnant women who consume even small amounts of fish can inadvertently put their developing babies at risk of mental retardation, seizures, cerebral palsy, vision and hearing problems, abnormal gait and speech, and learning disabilities. EPA has estimated that 630,000 children are born at risk each year due to mercury exposure in the womb. This is twice EPA's previous estimate.

An astonishing 50 percent of Americans who eat fish regularly exceed the mercury health limit, and 10 percent exceed the limit by a factor of four. Adults are also susceptible to developing heart, kidney, and immune system disorders due to mercury consumption. Anglers and certain ethnic groups who eat large amounts of fish face two to five times these health risks. Clearly, dramatically curbing mercury pollution will improve all of our lives.

Dr. Steve Petron, Board Member of the National Wildlife Federation and Senior Ecosystems Scientist for CH2M Hill, demonstrated how toxic mercury pollution from power plants harms our Nation's aquatic wildlife. Those species that depend on fish for food are the most at risk. Because of this, loons, bald eagles, otters, amphibians, and other animals are already facing or could soon face decline. And lastly, Dr. Praveen Amar, Director of Science and Policy for the Northeast States for Coordinated Air Use Management, NESCAUM, represented State air quality regulators by stressing that mercury control technologies are available and affordable, and by expressing the need for smart Federal environmental laws to drive technology innovation and application. As a recent NESCAUM report found. "Where strong regulatory drivers exist, substantial technological improvements and steady reductions in control costs follow."

That's where Congress comes in. We are elected to serve the people of this Nation. Where people are becoming sick and are dying because of air pollution, something must be done. We must never knowingly allow such suffering to continue if we have the ability to act, and we do. Time and time again, mothers and fathers, doctors, scientists, and community members ask for our help.

At the bare minimum, we should be protecting current law. But to truly benefit the public good, we must pass tough legislation to force dirty power plants and other polluters to start behaving like good citizens. The air is not their toxic waste dump. It is not theirs to pollute for free, even though this administration is encouraging them to think that way. If it belongs to anyone, the air belongs to those children who play outdoors, or those families who go fishing and take trips to our scenic national parks, or to the poorest of us who are unlucky enough to live next to a smokestack. The air belongs to all of us. We should treat it like the most precious resource we know. Americans from around the country have learned this important lesson. Congress and this administration must now do the same.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In February 1999, Steve Garcia was returning to his home from a party wearing women's clothing and shoulder length hair. He died of a gunshot wound to the shoulder and because none of his jewelry was stolen, police suspect that he was targeted because of the way he was dressed.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

RETIREMENT OF TOM RYAN

Mr. SPECTER. Mr. President. March 1 marks a very special occasion—although it is with mixed feelings I report that Tom Ryan, the key Department of Labor Budget Analyst for employment and training programs is retiring following more than 32 years of a most distinguished career. As the members of the Appropriations Committee can attest, Mr. Ryan's work in this area has been extraordinary, in its breadth, its depth, and in its effectiveness. As needs arose and even when crisis has come to the lives of so many job seekers throughout our Nation, Mr. Ryan has been a pillar of strength in helping people as he worked tirelessly with us to ensure that funding for the right training opportunities were available when job seekers needed them.

On behalf of the members of the Appropriations Committee, I would like to take this opportunity to express our heartfelt thanks to Mr. Ryan for his vision which has so often guided us in formulating creative solutions to funding jobs training programs, in caring for the people we serve—many of those who are in critical need of assistance. The complexities of funding these programs during the challenging years of fiscal austerity have been met with a determination to find solutions, and the countless people receiving job training and employment assistance are well-served, due in no small measure, to Mr. Ryan's efforts and his devotion to these endeavors. For these efforts and so many more, we extend our congratulations to Mr. Ryan and wish him an enjoyable and well-deserved retirement.

ADDITIONAL STATEMENTS

TRIBUTE TO ERNIE MARX

● Mr. BUNNING. Mr. President, I take a moment today to pay tribute to Ernie Marx of Louisville, KY for his service to the people of Kentucky and his willingness to teach understanding and compassion to our Commonwealth's youth.

Mr. Marx is a survivor of the Holocaust and has used this tragic event in human history as an inspiration to educate the youth of our country about tolerance and respect. He has focused his efforts on middle and high school students, speaking about his experiences before hundreds of different groups.

One such event was on Tuesday, April 29, 2003, when Mr. Marx spoke at the annual Yom HaShoah commemoration at Fort Knox, KY. Yom HaShoah, or Holocaust Remembrance Day, is an important day of reflection for Americans and people throughout the world. His own message to our soldiers at Fort Knox was about hate and tolerance. He told the soldiers that they can prevent a Holocaust, saying, "You are our hope and are fight for our freedom."

This fall Mr. Marx led his 54th trip to Washington, DC to educate children and citizens about the Holocaust. He brings these groups, primarily students, to visit the holocaust Museum and teaches them about tolerance and understanding. I am certain he will continue to lead these trips in the tradition of the Holocaust Museum's mission of education.

From Atherton High School in Louisville, KY to the Henry County Middle School in New Castle, KY, Ernie Marx has had a profound impact on the youth of the Louisville region. I would like to honor his dedication, leadership and commitment to the people of Kentucky.●

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3783. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6390. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report of actions taken by the President of the United States under Presidential Determination 2004-08 relating to the Russian Federation; to the Committee on Armed Services.

EC-6391. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, four quarterly Selected Acquisition Reports for the quarter ending September 30, 2003; to the Committee on Armed Services.

EC-6392. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report of the Office of Inspector General for the period from April 1, 2003 through September 30, 2003, along with the classified Annex to the Semiannual Report on intelligence-related or classified and sensitive subjects; to the Committee on Governmental Affairs.

EC-6393. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Cooperative Threat Reduction Act of 1993 with respect to Ukraine; to the Committee on Foreign Relations.

EC-6394. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the Trade Act of 2002; to the Committee on Finance.

EC-6395. A communication from the President of the United States, transmitting, pursuant to law, a report relative to United States assistance for the interdiction of aircraft engaged in illicit drug trafficking; to the Committee on Foreign Relations.

EC-6396. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the Authorization for Use of Military Force Against Iraq Resolution; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 2103. A bill to amend the Internal Revenue Code of 1986 to limit the deduction for charitable contributions of patents and similar property; to the Committee on Finance.

By Mr. SCHUMER:

S. 2104. A bill to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the "Barber Conable Post Office Building"; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2105. A bill to improve the Federal shore protection program; to the Committee on Environment and Public Works.

By Mr. BUNNING (for himself, Mr. MILLER, Mr. ALEXANDER, and Mr. HATCH):

S. 2106. A bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. LEAHY, and Mr. DOMENICI):

S. 2107. A bill to authorize an annual appropriations of $10,000,000 for mental health costs through fiscal year 2009; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. LIEBERMAN, and Ms. CANTWELL):

S. 2108. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers receive information about the nutritional content of restaurant food and vending machine food; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, and Mr. LAUTENBERG):

S. 2109. A bill to provide for a 10-year extension of the assault weapons ban; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to extend the Highway Trust Fund provisions through March 31, 2004, and to add the volumetric ethanol excise tax credit (VEETC), and for other purposes; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 469

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 469, a bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies.

S. 557

At the request of Ms. COLLINS, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 595

At the request of Mr. HATCH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 664

At the request of Mr. HATCH, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1034

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1034, a bill to repeal the sunset date on the assault weapons ban, to ban the importation of large capacity ammunition feeding devices, and for other purposes.

S. 1272

At the request of Mr. CORZINE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1272, a bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties.

S. 1277

At the request of Mr. BIDEN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1277, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement discipline, accountability, and due process laws.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1335

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Virginia (Mr . ALLEN) were added as cosponsors of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1374

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1374, a bill to provide health care professionals with immediate relief from increased medical malpractice insurance costs and to deal with the root causes of the current medical malpractice insurance crisis.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1392

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1392, a bill to amend the Richard B. Russell National School Lunch Act to improve the nutrition of students served under child nutrition programs.

S. 1393

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1393, a bill to amend the

Richard B. Russell National School Lunch Act to reauthorize and expand the fruit and vegetable pilot program.

S. 1466

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1466, a bill to facilitate the transfer of land in the State of Alaska, and for other purposes.

S. 1597

At the request of Mr. ALLEN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1597, a bill to provide mortgage payment assistance for employees who are separated from employment.

S. 1704

At the request of Ms. COLLINS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1704, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 1726

At the request of Mr. ALEXANDER, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1726, a bill to reduce the preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 1840

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1840, a bill to amend the Food Security Act of 1985 to encourage owners and operations of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States.

S. 1873

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 1902

At the request of Mr. REED, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1902, a bill to establish a National Commission on Digestive Diseases.

S. 1916

At the request of Ms. LANDRIEU, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. CORZINE), and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1948

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1948, a bill to provide that service of the members of the organization known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 1949

At the request of Mr. BIDEN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Nebraska (Mr. HAGEL), and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1949, a bill to establish The Return of Talent Program to allow aliens who are legally present in the United States to return temporarily to the country of citizenship of the alien if that country is engaged in post-conflict reconstruction, and for other purposes.

S. 2011

At the request of Mr. HAGEL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2011, a bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Kansas (Mr. ROBERTS), the Senator from Arizona (Mr. KYL), the Senator from Alabama (Mr. SESSIONS), the Senator from Nebraska (Mr. HAGEL) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 2061

At the request of Mrs. DOLE, her name was added as a cosponsor of S. 2061, a bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

At the request of Mr. ENSIGN, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Ohio (Mr. VOINOVICH), the Senator from Kentucky (Mr. BUNNING), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Nebraska (Mr. HAGEL), the Senator from Alabama (Mr. SESSIONS), the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 2061, supra.

S. 2065

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2065, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 2090

At the request of Mr. DASCHLE, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2090, a bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs.

S. 2092

At the request of Mr. ALLEN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2092, a bill to address the participation of Taiwan in the World Health Organization.

S. 2093

At the request of Mrs. HUTCHISON, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2093, a bill to maintain full marriage tax penalty relief for 2005.

S. 2096

At the request of Mr. LUGAR, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2096, a bill to promote a free press and open media through the National Endowment for Democracy and for other purposes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. TALENT) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2105. A bill to improve the Federal shore protection program; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Coastal Restoration Act of 2004 for myself and Senator CORZINE. Since 1995, the Federal beach nourishment program has been a regular target of the White House Office of Management and Budget, OMB. Under two separate administrations there have been at least five efforts to radically change or terminate the program.

The 1996 Congress passed the Shore Protection Act as Section 227 of the Water Resources Development Act of 1996. That legislation was the first statement by Congress since 1946 of its intent that the Nation needed an ongoing Federal beach nourishment program. Unfortunately, that has not stopped OMB from trying to change Federal policies by making budget proposals that would cripple the program.

The Coastal Restoration Act, CRA, restates the congressional intent regarding the importance of the Federal beach nourishment program. The CRA makes it clear that changes in administration policy will not prevent feasibility and other types of studies from being processed through the Corps of Engineers and sent to Congress. The legislation emphasizes the role of Congress in determining which beach nourishment projects should be authorized for construction. It also re-states and strengthens existing law that periodic renourishment is an integral part of the ongoing construction of a beach nourishment project.

This bill states the intent of Congress that preference shall be given to areas 1, where there has been a previous investment of federal funds; 2, where regional sediment management plans have been adopted to integrate coastal beach nourishment, navigation, and environmental projects; 3, where there is a need to prevent or mitigate damage to shores, beaches, and other coastal infrastructure where that damage is caused at least in part by Federal activities; or 4, where the project promotes human health and safety as well as the quality of life for individuals and families. This recognizes that a primary purpose for establishing the Federal beach nourishment program in 1946 was the promotion of public recreation.

My bill will also raise the low priority now accorded by the U.S. Army Corps to the recreational benefits of beach nourishment, giving equal consideration to all national projects. It also establishes the cost share for beach nourishment projects whose primary net benefit is recreational at the same level of Federal cost share participation as it applies to storm damage and environmental restoration beach nourishment projects. Congress retains the prerogative to authorize the project and appropriate funds based on the Corps' report findings.

These changes are needed to protect and restore our beaches as the national treasure they are. According to a recent study, travel and tourism is the world's largest industry, contributing $3.5 trillion to the world's economy in 2001. In the United States, nearly 17 million people are employed in the tourism industry.

Beaches are the leading tourist destination in the Nation. Each year about 180 million Americans make 2 billion visits to the ocean, the Gulf, and our inland beaches. That is almost twice as many visits as those made to State and national parks and wilderness areas combined. In its "State of the Beach 2003" report the Surfrider Foundation states that tourist expenditures in 16 of our coastal States topped $104 billion.

My home State, New Jersey, has 127 miles of shoreline and we are proud of every mile. A significant portion of our tourism industry, which generates $10 billion a year, is due to our beaches. I know many of my colleagues in the Senate have similar situations in their States.

Our beaches also provide vital habitat for numerous species of plants, and for animals such as claims, snails, and crabs. Every time a wave hits the shore it brings nutrients and oxygen to support the tiny but necessary life forms that live there.

Not to be overlooked are the peace and relaxation that a day, or week, at the beach can provide. The poet Lord Byron put it so exquisitely nearly two hundred years ago when he wrote:

There is a rapture on the lonely shore,
There is a society, where none intrudes,
By the deep sea, and music in its roar:
I love not man the less, but Nature more.

The shore's economic, environmental, and aesthetic benefits are truly limitless. That is why I am introducing the Coastal Restoration Act of 2004. My legislation will revitalize the Federal beach nourishment program by placing beach nourishment projects on a par with other Army Corps projects, and assigning recreational benefits the same priority as storm damage protection and environmental restoration, correcting the inequities in our current practices.

Since the 1980s, when medical waste, sewage, and garbage began washing up on the Jersey shore I have been working hard to protect and nurture our beaches. I wrote the Ocean Dumping Act of 1988, which ended ocean dumping of sewage sludge and industry waste. And I have led the fight to ban oil and gas drilling off the Jersey shore. We have made a lot of progress since the 1980s, but our work is far from over.

I ask unanimous consent the text of my bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Restoration Act of 2004".

SEC. 2. FEDERAL AID IN RESTORATION AND PROTECTION OF SHORES AND BEACHES.

The first section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e), is amended to read as follows:

"SECTION 1. FEDERAL AID IN RESTORATION AND PROTECTION OF SHORES AND BEACHES.

"(a) DECLARATION OF POLICY.—

"(1) POLICY.—It is the policy of the United States to promote shore and beach protection projects and related research that encourages the protection, restoration, and enhancement of shores, sandy beaches, and other coastal infrastructure on a comprehensive and coordinated basis by Federal, State, and local governments and private persons.

"(2) PURPOSES.—The purposes of this Act are—

"(A) to restore and maintain the shores, beaches, and other coastal resources of the United States (including territories and possessions); and

"(B) to promote the healthful recreation of the people of the United States.

"(3) PRIORITY.—In carrying out this Act, preference shall be given to areas—

"(A) in which there has been a previous investment of Federal funds;

"(B) where regional sediment management plans have been adopted;

"(C) with respect to which the need for prevention or mitigation of damage to shores, beaches, and other coastal infrastructure is attributable to Federal navigation projects or other Federal activities; or

“(D) that promote—

“(i) human health and safety; and

“(ii) the quality of life for individuals and families.

“(b) IMPLEMENTATION.—The Secretary shall pay the Federal share of the cost of carrying out shore and beach protection projects and related research that encourages the protection, restoration, and enhancement of shores, sandy beaches, and other coastal infrastructure (including projects for beach restoration, periodic beach nourishment, and restoration or protection of State, county, or other shores, public coastal beaches, parks, conservation areas, or other environmental resources).

“(c) FEDERAL SHARE.—

“(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Federal share of the cost of a project described in subsection (b) shall be determined in accordance with section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

“(2) EXCEPTION.—In the case of a project for beach erosion control the primary purpose of which is recreation, the Federal share shall be equal to the Federal share for a beach erosion control project the primary purpose of which is storm damage protection or environmental restoration.

“(3) REMAINDER.—

“(A) IN GENERAL.—Subject to subparagraph (B), the remainder of the cost of the construction of a project described in subsection (b) shall be paid by a State, municipality, other political subdivision, nonprofit entity, or private enterprise.

“(B) EXCEPTION.—The Federal Government shall bear all of the costs incurred for the restoration and protection of Federal property.

“(4) GREATER FEDERAL SHARE.—In the case of a project described in subsection (b) for the restoration and protection of a State, county, or other publicly-owned shore, coastal beach, park, conservation area, or other environmental resource, the Chief of Engineers may increase the Federal share to be greater than that provided in paragraph (1) if the area—

“(A) includes—

“(i) a zone that excludes permanent human habitation; or

“(ii) a recreational beach or other area determined by the Chief of Engineers;

“(B) satisfies adequate criteria for conservation and development of the natural resources of the environment; and

“(C) extends landward a sufficient distance to include, as approved by the Chief of Engineers—

“(i) protective dunes, bluffs, or other natural features;

“(ii) such other appropriate measures adopted by the State or political subdivision of the State to protect uplands areas from damage, promote public recreation, or protect environmental resources; or

“(iii) appropriate facilities for public use.

“(5) RECOMMENDATIONS.—

“(A) IN GENERAL.—In recommending to Congress projects for Federal participation, the Secretary shall recommend projects for the restoration and protection of shores and beaches that promote equally all national economic development benefits and purposes, including recreation, hurricane and storm damage reduction, and environmental restoration.

“(B) REPORT.—The Secretary shall—

“(i) identify projects that maximize net benefits for national purposes; and

“(ii) submit to Congress a report that describes the findings of the Secretary.

“(d) PERIODIC BEACH NOURISHMENT.—In this Act, when the most suitable and economical remedial measures, as determined by the Chief of Engineers, would be provided by periodic beach nourishment, the term ‘construction’ shall include the deposit of sand fill at suitable intervals of time to furnish sand supply to protect shores and beaches for a period of time specified by the Chief of Engineers and authorized by Congress.

“(e) PRIVATE SHORES AND BEACHES.—

“(1) IN GENERAL.—A shore or beach, other than a public shore or beach, shall be eligible for Federal assistance under this Act if—

“(A) there is a benefit to a public shore or beach, including a benefit from public use or from the protection of nearby public property; or

“(B) the benefits to the shore or beach are incidental to the project.

“(2) FEDERAL SHARE.—The Secretary shall adjust the Federal share of a project for a shore or beach, other than a public shore or beach, to reflect the benefits described in paragraph (1).

“(f) AUTHORIZATION OF PROJECTS.—

“(1) IN GENERAL.—Subject to paragraph (2), no Federal share shall be provided for a project under this Act unless—

“(A) the plan for that project has been specifically adopted and authorized by Congress after investigation and study; or

“(B) in the case of a small project under sections 3 or 5, the plan for that project has been approved by the Chief of Engineers.

“(2) STUDIES.—

“(A) IN GENERAL.—The Secretary shall—

“(i) recommend to Congress studies concerning shore and beach protection projects that meet the criteria established under this Act and other applicable law;

“(ii) conduct such studies as Congress requests; and

“(iii) report the results of all studies requested by Congress to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) RECOMMENDATIONS FOR SHORE AND BEACH PROTECTION PROJECTS.—

“(i) IN GENERAL.—The Secretary shall—

“(I) recommend to Congress the authorization or reauthorization of all shore and beach protection projects the plans for which have been approved by the Chief of Engineers; and

“(II) report to Congress on the feasibility of other projects that have been studied under subparagraph (A) but have not been approved by the Chief of Engineers.

“(ii) CONSIDERATIONS.—In approving a project plan, the Chief of Engineers shall consider the economic and ecological benefits of the shore or beach protection project.

“(C) COORDINATION OF PROJECTS.—In conducting studies and making recommendations for a shore or beach protection project under this paragraph, the Secretary shall—

“(i) determine whether there is any other project being carried out by the Secretary or other Federal agency that may be complementary to the shore or beach protection project; and

“(ii) if there is such a complementary project, undertake efforts to coordinate the projects.

“(3) SHORE AND BEACH PROTECTION PROJECTS.—

“(A) IN GENERAL.—The Secretary shall construct any shore or beach protection project authorized by Congress, or separable element of such a project, for which Congress has appropriated funds.

“(B) AGREEMENTS.—

“(i) REQUIREMENT.—After authorization by Congress, before the commencement of construction of a shore or beach protection project or separable element, the Secretary shall offer to enter into a written agreement for the authorized period of Federal participation in the project with a non-Federal interest with respect to the project or separable element.

“(ii) TERMS.—The agreement shall—

“(I) specify the authorized period of Federal participation in the project; and

“(II) ensure that the Federal Government and the non-Federal interest cooperate in carrying out the project or separable element.

“(g) EXTENSION OF THE PERIOD OF FEDERAL PARTICIPATION.—At the request of a non-Federal interest, the Secretary, acting through the Chief of Engineers and with the approval of Congress, shall extend the period of Federal participation in a beach nourishment project that is economically feasible, engineeringly sound, and environmentally acceptable for such additional period as the Secretary determines appropriate.

“(h) SPECIAL CONSIDERATIONS.—In a case in which funds have been appropriated to the Corps of Engineers for a specific project but the funds cannot be expended because of the time limits of environmental permits or similar environmental considerations, the Secretary may carry over such funds for use in the next fiscal year if construction of the project, or a separable element of the project, will cause minimal environmental damage and will not violate an environmental permit.”.

By Mr. BUNNING (for himself, Mr. MILLER, Mr. ALEXANDER, and Mr. HATCH):

S. 2106. A bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works; to the Committee on Finance.

Mr. ALEXANDER. Mr. President, I applaud Senator BUNNING for introducing the bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works, and I am proud to be a co-sponsor of this bill.

This bill will make songwriters eligible for the capital gains tax rate when they sell their portion of a song catalogue. It treats the taxation of songwriters fairly so that they are on equal footing with musical publishers. Many songwriters are self-employed small business owners, but they are distinguishable from other similar small business owners, such as authors, because the rate of pay for songwriters is set by the Federal Government.

Historically, almost all professional songwriters assigned their copyright to a music publisher. As a result, the songwriters did not own the song or receive any royalty payments from the song. The songwriters did not own the copyright, and therefore, were not required to participate in any expenses toward exploiting it.

Currently, songwriters and music publishers are equal, joint-venture business partners. The publisher serves as the songwriter's agent in getting songs recorded or placed, otherwise known as "co-publishing." Under this scenario, the songwriter and publisher equally share expenses of, among other things, demos costs and legal fees, and they equally share in any royalty income. Alternatively, the songwriter is the music publisher and bears all of the expenses of, among other things, demo costs and legal fees. Under the first scenario, the songwriter is subject to ordinary income tax, rather than capital gains tax, despite the fact that the sale of the song catalogue was actually a capital gain and should have been taxed at a lower rate. A capital gain is the result of a sale of a capital asset. Clearly, a song catalog is a capital gain because it is an asset of the songwriter.

Under current law, music publishers are eligible for the capital gains tax rate when they sell their portion of a song catalogue, but songwriters are not. When the publishing rights or the song catalogue is sold, music-publishing companies are allowed to claim the capital gains tax rate on their portion of the sale. However, because the songwriter wrote the song, they must pay ordinary income tax on their share of the same sale even though they share in expenses toward exploiting the copyright.

I am proud to be a cosponsor of this bill because it levels the tax playing field between songwriters and music publishers.

By Mr. DEWINE (for himself, Mr. LEAHY, and Mr. DOMENICI):

S. 2107. A bill to authorize an annual appropriations of $10,000,000 for mental health courts through fiscal year 2009; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today to introduce a bill that would reauthorize America's Law Enforcement and Mental Health Project. This program addresses the impact that mentally ill offenders have had on our criminal justice system and the impact the system has had on the offenders and their special needs.

My interest in, and experience with this issue began over thirty years ago, when I was working as Assistant County Prosecuting Attorney in Greene County, OH, and then as County Prosecutor. What I learned then—and what I have continued to encounter throughout my career in public service—is that our State and local correctional facilities have become way stations for far too many mentally ill individuals in our Nation.

A recent Justice Department study revealed that 16 percent of all inmates in America's State prisons and local jails today are mentally ill. The American Jails Association estimates that 600,000 to 700,000 seriously mentally ill persons each year are booked into local jails, alone. In Ohio, nearly 1 in 5 prisoners need psychiatric services or special accommodations.

Far too many of our Nation's mentally ill persons have ended up in our prisons and jails. In fact, on any given day, the Los Angeles County Jail is home to more mentally ill inmates than the largest mental health care institution in our country. What happens is that all too often, the mentally ill act out their symptoms on the streets. They are arrested for minor offenses and wind up in jail. They serve their sentences or are paroled, but find themselves right back in the system only a short time later after committing additional—often more serious—crimes.

Throughout this destructive cycle, law enforcement and corrections spend time and money trying to cope with the unique problems posed by these individuals. Certainly, many mentally ill offenders must be incarcerated because of the severity of their crimes. However, those who commit very minor non-violent offenses don't necessarily need to be incarcerated; instead, if given appropriate care early, their illnesses could be addressed, helping the offenders, while reducing recidivism and decreasing the burdens on our police and corrections officials.

That's why, four years ago Senator DOMENICI and I introduced America's Law Enforcement and Mental Health Project, to begin to identify—early in the process—mentally ill offenders within our justice system and to use the power of the courts to assist them in obtaining the treatment they need.

This program has been a success. In pilot programs around the country, mental health courts have begun to help local communities take steps toward effectively addressing the issues raised by the mentally ill in our justice system, and these steps must continue. That's why Senators LEAHY and DOMENICI join me in cosponsoring this bill to reauthorize this important program.

America's Law Enforcement and Mental Health Project established a Federal grant program to help States and localities develop mental health courts in their jurisdictions. These courts are specialized courts with separate dockets. They hear cases exclusively involving nonviolent offenses committed by mentally ill individuals. Fundamentally, mental health courts enable State and local courts to offer alternative sentences or alternatives to prosecution for those offenders who could be served best by mental health services. These courts are designed to address the historic lack of coordination between local law enforcement and social service systems and the lack of interaction within the criminal justice system.

To deal with the separate needs of mentally ill offenders, these mental health courts are staffed by a core group of specialized professionals, including a dedicated judge, prosecutor, public defender, and court liaison to the mental health services community. The courts promote efficiency and consistency by centrally managing all outstanding cases involving a mentally ill defendant referred to the mental health court.

Mental health court judges decide whether or not to hear each case referred to them. The courts only deal with defendants deemed mentally ill by qualified mental health professionals or the mental health court judge. Similarly, participation in the court by the mentally ill is voluntary; however, once the defendant volunteers for the Mental Health Court, he or she is expected to follow the decision of the court. For instance, in any given case, the mental health court judge, attorneys, and health services liaison may all agree on a plan of treatment as an alternative sentence or in lieu of prosecution. The defendant must adhere strictly to this court-imposed treatment plan. The court must then provide supervision with periodic review. This way, the court can quickly deal with any failure of the defendant to fulfill the treatment plan obligations. The mental health courts provide supervision of participants that is more intensive than might otherwise be available, with an emphasis on accountability and monitoring the participant's performance. In this sense, the mental health courts function similarly to drug courts.

Mr. President, mentally ill persons who choose to have their cases heard in a mental health court often do so because that is the first real opportunity that many of these people have to seek treatment. A judicial program offering the possibility of effective treatment—rather than jail time—gives a measure of hope and a chance for rehabilitation to these defendants.

The successes of mental health courts are encouraging and show that we can improve the health and safety of our communities through these programs. For example, in Ohio, the Fairfield Municipal Mental Health Court began its program on January 1, 2001. Of those participating in the Fairfield program, 46 percent are bipolar, 42 percent suffer from depression, and 13 percent are schizophrenic. It recently conducted its first "graduation" ceremony of program participants. The program's first graduate came to them hostile, uncommunicative, and unable to function in society due to her bipolar mood disorder. Two years later, she left the program confident, talkative, healthier, and reconnected to her family and her life.

Many jurisdictions across America have established mental health courts as a result of the program that we established four years ago. Our Nation's communities are trying desperately to find the best way to cope with the problems associated with mental illness. Law enforcement agencies and correctional facilities remain challenged by difficulties posed by mental illnesses. Mental health courts offer a solution.

Mental health courts have shown great success, and we must ensure their continuation. Our Nation has long been enriched by the dual ideals of compassion and justice, and these programs are a wonderful embodiment of both ideals. I urge my colleagues to join in support of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended by striking "fiscal years 2001 through 2004" and inserting "fiscal years 2004 through 2009".

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. LIEBERMAN, and Mrs. CANTWELL):

S. 2108. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers receive information about the nutritional content of restaurant food and vending machine food; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I rise to introduce a bill, the Menu Education and Labeling Act, on behalf of myself and my colleagues, Senators KENNEDY, LIEBERMAN and CANTWELL.

More than 65 percent of American adults are overweight, and more than 30 percent are clinically obese. We lead the world in this dubious distinction, which is growing worse. In the past 20 years, obesity rates have doubled among American adults and children, while they have tripled among teens. If we do not change course, kids attending school today will be the first generation in American history to live a shorter lifespan than their parents.

The issue is far from merely cosmetic. It is medical and economic. The obesity epidemic has huge consequences. Overweight people have an increased risk of diabetes, cardiovascular disease, cancers and other illnesses. Sixty percent of overweight youth already have at least one risk factor for heart disease which is the No. 1 killer of adults in the U.S. Obesity also causes or contributes to $117 billion a year in health care and related costs, more than half borne by taxpayers.

There is no single solution to the complex problem of obesity, but we must start taking meaningful steps to address this growing problem by giving people the tools necessary to live healthier lifestyles. That is why my colleagues and I are introducing this bill today to extend nutrition labeling beyond packaged foods to include foods at chain restaurants with 20 or more locations, as well as food in vending machines. This common-sense idea will give consumers a needed tool to make wiser choices and achieve a healthier lifestyle. It is a positive step toward addressing the obesity epidemic.

In 1990, Congress passed the Nutrition Labeling and Education Act, NLEA, requiring food manufacturers to provide nutrition information on nearly all packaged foods. The impact has been tremendous. Not only do nearly three-quarters of adults use the food labels on packaged foods, but studies indicate that consumers who read labels have healthier diets.

Restaurants, which are more and more important to Americans' diet and health, were excluded from the NLEA. American adults and children consume a third of their calories at restaurants at the very time when nutrition and health experts say that rising caloric consumption and growing portion sizes are causes of obesity. We also know that when children eat in restaurants, they consume twice as many calories as when they eat at home. Consumers say that they would like nutrition information provided when they order their food at restaurants, yet, while they have good nutrition information in supermarkets, at restaurants they can only guess.

Vending machine food sales also plays a large role in contributing to the diets of Americans. Over the last three decades vending machine sales have shot up eighty-five percent after inflation. Most vending machine sales include foods of low nutritional value. The Menu Education and Labeling Act will require fast-food and other chain restaurants, as well as vending machines, to list basic nutritional information clearly—so consumers can make better choices about the foods that they eat.

Let there be no doubt: obesity is indeed an epidemic, and it is continuing to grow. This is a public health crisis and we must address it. Although this bill alone will not halt rising obesity in its tracks, it provides consumers with an important tool with which to make better choices about the food that they and their children consume.

In the coming weeks I will be offering additional initiatives to give Americans the tools they need to stay healthy and address risk factors like obesity and mental health that are associated with the rising medical and financial costs of chronic illnesses. The common thread will be an emphasis on preventing unnecessary disease and illness.

By Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, and Mr. LAUTENBERG):

S. 2109. A bill to provide for a 10-year extension of the assault weapons ban; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senators WARNER, SCHUMER, DEWINE, LEVIN, CHAFEE, DODD, JEFFORDS, BOXER, CLINTON, REED and LAUTENBERG to offer legislation that will reauthorize the 1994 assault weapons ban—which is now set to expire on September 13, 2004—for another ten years.

I would first like to thank my courageous colleague from Virginia, Senator WARNER, for joining me in this effort. Senator WARNER voted against the assault weapons ban in 1994.

But this year, Senator WARNER was willing to revisit his position on the issue. He saw that—contrary to the fears of many in 1994—the ban has done nothing to hurt innocent gun owners. Instead, the ban has only made it harder for criminals to get access to military style firearms. A willingness to look at issues like this with an open mind, particularly this issue, shows a courage and a commitment to making the right decisions that should be emulated by all public servants, and I want to again thank Senator WARNER for this.

Second, I would like to speak about who else supports this legislation.

Those who join us in supporting a reauthorization of the assault weapons ban include: Fraternal Order of Police; National League of Cities; United States Conference of Mayors; National Association of Counties; International Association of Chiefs of Police; National Association of Police Organizations; International Brotherhood of Police Officers; U.S. Conference of Catholic Bishops; National Education Association; Americans for Gun Safety; The Brady Campaign/Million Mom March; NAACP; American Bar Association; and the list goes on, and on.

More than ten years ago—on July 1, 1993—Gian Luigi Ferri walked into 101 California Street in San Francisco carrying two high-capacity TEC-9 assault pistols. Within minutes, Ferri had murdered eight people, and six others were wounded. This tragedy shook San Francisco, and it shook the entire Nation.

The American people saw in that incident and so many others that came before and after it the incredible destruction that could be inflicted with military-style assault weapons—weapons designed and manufactured with one goal in mind—maximum lethality.

It all started, really, on August 1, 1966, when Charlie Whitman climbed the clock tower at the University of Texas and killed more than a dozen people in an hour and a half shooting spree before he was finally killed himself.

The day Whitman climbed that tower was the first time Americans realized that they could become the random victims of gun violence no matter where they were, and no matter what they were doing.

What made the Texas shooting so terrible was the total inability of law enforcement to get to Charlie Whitman until he had been firing shots for almost 96 minutes. The tower allowed him to do this. The tower made him, at least for that amount of time, invincible.

But gunmen no longer need the protection of clock towers, because they now have assault weapons.

We saw in the Columbine shooting, in the Long Island Rail Road shooting, and so many others, that high capacity assault weapons can make those who wield them temporarily invincible to law enforcement, because it is so difficult to get close to the shooter.

It is often only when a gunman stops to reload that bystanders or the police can move in to stop the shooting. And if the gun's magazine holds hundreds of bullets, that could take a long time, and result in a lot of deaths.

This is vitally important, because grievance killings by disgruntled members of society have taken an increasing number of lives in recent years. And when those grievance killers wield high capacity weapons, the toll on lives is exponentially increased.

The grievance killings have been across the Nation, in every forum: In a San Ysidro, CA, McDonald's in 1984, when a gunman with an Uzi killed 21 and wounded 15 others. In Stockton, CA, in 1989, when drifter Patrick Purdy walked into a schoolyard with an AK–47 and killed 5, wounding 30 others. In Long Island, NY, in 1993, when a gunman killed 6 and wounded 19 others on a commuter train—he was only brought down when he finally stopped to reload. In Pearl, MS, in 1997 when 2 students killed. In Paducah, KY, in 1998 when 3 students were killed. In Jonesboro, AR, in 1998 when 5 were killed, and 10 more wounded. In Springfield, OR, in 1998 when 2 were killed, and 22 wounded. In Littleton, CO, when 12 teens and one teacher were killed in Columbine High School. In Atlanta, GA in 1999 when a troubled day trader killed his wife, 2 children and several people trading stocks. At a Granada Hills, CA, Jewish Community Center when a gunman wounded three and killed a Filipino-American postal worker—many of us remember that one touching photo of small children being quickly led across the street to escape the gunfire. No child should have to go through that. At a Fort Worth, TX, Baptist church where seven were killed and seven more wounded at a teens church event, all by a man with two guns and 9 high capacity clips, with a capacity of 15 rounds each.

Recognizing the earliest of these shootings as a problem that needed to be dealt with, Congress finally took notice in 1993. In the aftermath of the 101 California shooting, we in Congress did something that no one had succeeded in doing before—we banned the manufacture and importation of military-style assault weapons.

We were told it could not be done—but we did it. I was even told by colleagues on my own side of the aisle that I was wasting my time—that the gun lobby was just too strong. I hear many of the same arguments today. But we succeeded in 1994, and we will succeed this year. We succeeded, and we will succeed, because the American people will accept no less of us.

The goal of the 1994 legislation was to drive down the supply of these weapons and to make them more difficult to obtain, and to eventually get them off our streets. And in the years following the enactment of the ban, crimes using assault weapons were indeed reduced dramatically—in fact, the percentage of crimes using banned assault weapons fell by more than 65 percent between 1995 and 2002.

The ATF has found that the proportion of banned assault weapons used in crime has fallen from 3.57 percent in 1995 to just 1.22 percent by 2002. Now these are not big percentages—most crimes are not committed by assault weapons.

But it is important to note that crimes committed with assault weapons often result in many more deaths than crimes committed with other guns. A simple robbery with a handgun is far less likely to result in multiple deaths than a drive-by shooting with an Uzi, or a grievance killing in a school using an AK–47 with a large capacity ammunition magazine.

And contrary to the near-hysterical rhetoric coming from the NRA at the time, no innocent gun owner lost an assault weapon. No gun was confiscated as a result of the ban. The sky did not fall. And life went on—but it went on with fewer grievance killers, juveniles, and drive-by shooters having access to the most dangerous of firearms.

Despite these results, House Majority Leader TOM DELAY said last year that House Republicans will let the Assault Weapons ban die when it sunsets after ten years.

To those of us who have been in Congress for some time, this comes as little surprise—after all, the House actually voted to repeal the original assault weapons ban soon after it was signed into law.

But the good news is that the President of the United States does support reauthorizing the ban.

In April of last year, White House spokesman Scott McClellan said of the assault weapons ban, "The president supports the current law, and he supports reauthorization of the current law."

That is what we are doing with this legislation—reauthorizing the current law. Period.

I know the President agrees with me when I say that I don't believe that banned guns like the AK–47, the TEC–9, or the Street Sweeper should once again be manufactured or imported into the United States. These are military guns, with no purpose but the killing of other human beings. They have pistol grips and other features designed solely to allow the weapons to be more easily concealed, and more easily fired from the hip in close quarters combat—or, tragically, in places like the schoolyard in Stockton, where five children died, the McDonalds in San Ysidro, the law firm at 101 California Street in San Francisco, Columbine High School, or so many other places where maniacs with their military guns were able to shoot large numbers of people in short periods of time.

That is why I believe that Congress should reauthorize the 1994 law, which expires next September 13. And that is undoubtedly why the President also supports our efforts.

I know there will be some who will say that the current law doesn't go far enough—and frankly, I agree. I would prefer to expand the ban to California law, so that we prohibit the copycat assault weapons that manufacturers so cravenly designed following the ban.

Senator LAUTENBERG has introduced legislation to do this, and I co-sponsored that bill. Ideally, we would pass legislation that fully prevents craven manufacturers from circumventing the ban.

But in an environment where the NRA has such a stranglehold on gun legislation, we will need all the help we can get just to keep the current ban.

The current ban has been effective in limiting the supply of these most dangerous guns. Even the copycat guns are less dangerous, because they are harder to conceal, harder to fire from the hip.

And no matter whether the ban has been entirely effective or not, what is the argument for letting these banned guns back on the streets?

Who is clamoring for newly manufactured AK–47s?

Who is clamoring for new TEC–9s?

These are guns that are never used for hunting. They are not used for self defense, and if they are it is more likely that they will kill innocents than intruders.

These guns—and everyone knows it—have but one purpose, and that purpose is to kill other human beings. Why would we want to open the floodgates again and let them back on our streets? There is simply no good reason.

This debate should not be about whether the assault weapons ban is perfect. This debate should be about whether these guns need to come back—and the American people know that they do not.

With the President, law enforcement, and the American people behind us, we can succeed. We can beat the NRA's narrow, special interest agenda and keep these guns off the streets.

I urge my colleagues to read the dozens of editorials in support of the ban, to listen to their constituents, to ask us questions, and to make the only decision that makes sense—to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Assault Weapons Ban Reauthorization Act of 2004".

SEC. 2. 10-YEAR EXTENSION OF ASSAULT WEAPONS BAN.

Section 110105 of the Public Safety and Recreational Firearms Use Protection Act (18 U.S.C. 921 note) is amended to read as follows:

"SEC. 110105. SUNSET PROVISION.

"This subtitle and the amendments made by this subtitle are repealed September 13, 2014.".

Mr. WARNER. Mr. President, I rise today in support of reauthorizing the Assault Weapons Ban.

Signed into law in 1994, the Assault Weapons Ban placed a 10-year prohibition on the domestic manufacture of semi-automatic assault weapons and high capacity ammunition clips. The 10-year ban ends on September 13, 2004. Consequently, unless Congress and the President act prior to September 13, 2004, weapons like Uzis and AK-47s will once again be produced in America, and more and more often, these weapons will fall into the hands of criminals who lurk in our neighborhoods.

For a number of years now, President Bush has indicated that he supports reauthorizing the assault weapons ban. To date, though, no legislation has been introduced in the Senate to accomplish the President's goal. While measures have been introduced to make the ban permanent or to even expand the ban further, no legislation has been introduced to simply reauthorize the Assault Weapons Ban for another ten years.

I am pleased today to introduce, with Senator FEINSTEIN, legislation that models exactly what the President has indicated he would sign into law: a straight 10-year reauthorization of the Assault Weapons Ban.

Not only does President Bush support this legislation—law enforcement does as well. The men and women of law enforcement know that this legislation makes communities safer. In a letter dated February 18, 2004, the Grand Lodge of the Fraternal Order of Police writes, "It is the position of the Grand Lodge that we will support the reauthorization of current law, but we will not support any expansion of the ban." This endorsement comes in addition to the endorsement of just about every other major law enforcement organization, and in addition to the endorsements of chiefs of police all across Virginia.

Now, admittedly, I have not always been a supporter of the Assault Weapons Ban. When the ban legislation came before the United States Senate for a vote in 1993, I opposed it. At the time, I believed Senator FEINSTEIN's legislation would do nothing to help reduce crime in this country, and I believed it would be a back door way to take firearms out of the hands of law abiding gun-owners and hunters.

Ten years have since passed from the day of that vote. Over the course of those ten years, I have watched the bill be signed into law, and I have watched its implementation. I have studied the law and its affect on crime, and I have watched carefully to see how it affects law abiding gun-owners.

Based on the ten years of history of the Assault Weapons Ban, my thoughts on the ban have evolved.

Ten years of experience provides us with key facts. The Assault Weapons Ban has helped to dramatically reduce the number of crimes using assault weapons. It has made America's streets safer, and it has protected the rights of law abiding gun-owners better than many of us predicted. In fact, the law explicitly protects 670 hunting and recreational rifles.

Moreover, we all know that the world has dramatically changed since that Senate vote in 1993. September 11, 2001, has forever changed our country and has taught us many lessons.

No longer is America protected by the great oceans. The war on terror is not only being fought abroad, but now here at home. September 11 showed us that terrorism lurks in the shadows of our own backyard. Given the world today, now is not the time to make it easier for terrorists to acquire deadly rapid fire assault weapons and use them in our neighborhoods.

Now, over my 25 years plus in the United States Senate, I have always tried to stand up for what is right, regardless of politics. I believe that is why the good people of the Commonwealth of Virginia have given me their trust and elected me to represent them in the United States Senate for five terms.

I know that reauthorizing the Assault Weapons Ban is the right thing to do.

I am pleased to join Senator FEINSTEIN in introducing this legislation, and it is my hope that the Senate will act expeditiously and send this legislation to President Bush to sign into law.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to extend the Highway Trust Fund provisions through March 31, 2004, and to add the volumetric ethanol excise tax credit (VEETC), and for other purposes; to the Committee on Finance

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Extension Act of 2004".

SEC. 2. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "April 1, 2004",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004.", and

(E) in the matter after subparagraph (G), as added by this paragraph, by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "April 1, 2004",

(B) in subparagraph (C), by striking "or" at the end of such subparagraph,

(C) in subparagraph (D), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (D) the following new subparagraph:

"(E) the Surface Transportation Extension Act of 2004.", and

(E) in the matter after subparagraph (E), as added by this paragraph, by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking "March 1, 2004" and inserting "April 1, 2004".

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Surface Transportation Extension Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "March 1, 2004" and inserting "April 1, 2004", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of

such Code is amended by striking "March 1, 2004" and inserting "April 1, 2004".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) Temporary Rule Regarding Adjustments.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on March 31, 2004, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

SEC. 3. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) In General.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) Allowance of Credits.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) Alcohol Fuel Mixture Credit.—

"(1) In general.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) Applicable amount.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) Mixtures not containing ethanol.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) Alcohol fuel mixture.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) Other definitions.—For purposes of this subsection—

"(A) Alcohol.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) Taxable fuel.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) Termination.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) Biodiesel Mixture Credit.—

"(1) In general.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) Applicable amount.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) Amount for agri-biodiesel.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) Biodiesel mixture.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) Other definitions.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) Termination.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) Mixture Not Used as a Fuel, etc.—

"(1) Imposition of tax.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) Coordination With Exemption From Excise Tax.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) Registration Requirement.—Section 4101(a) of the Internal Revenue Code of 1986 (relating to registration) is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) Additional Amendments.—

(1) Section 40(c) of the Internal Revenue Code of 1986 is amended by striking "section 4081(c), or section 4091(c)" and inserting "section 4091(c), section 6426, section 6427(e), or section 6427(f)".

(2) Section 40(d)(4)(B) of such Code is amended by striking "or 4081(c)".

(3) Section 40(e)(1) of such Code is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) of such Code is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) of such Code is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Paragraph (1) of section 4041(k) of such Code is amended to read as follows:

"(1) In general.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 6426(b)(4)(A)), the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c).".

(7) Section 4081 of such Code is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) of such Code is amended to read as follows:

"(2) Gasoline.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 of such Code is amended by inserting after subsection (d) the following new subsection:

"(e) Alcohol or Biodiesel Used To Produce Alcohol Fuel and Biodiesel Mixtures or Used as Fuels.—Except as provided in subsection (k)—

"(1) Used to produce a mixture.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) Used as fuel.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Subsection (f) of section 6427 of such Code is amended to read as follows:

"(f) AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (l).

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.".

(11) Paragraphs (1) and (2) of section 6427(i) of such Code are amended by inserting "(f)," after "(d),".

(12) Section 6427(i)(3) of such Code is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(13) Section 6427(o) of such Code is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) any tax is imposed by section 4081, and",

(B) by striking "such gasohol" in paragraph (2) and inserting "the alcohol fuel mixture (as defined in section 6426(b)(3))",

(C) by striking "gasohol" both places it appears in the matter following paragraph (2) and inserting "alcohol fuel mixture", and

(D) by striking "GASOHOL" in the heading and inserting "ALCOHOL FUEL MIXTURE".

(14) Section 9503(b)(1) of such Code is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(15) Section 9503(b)(4) of such Code is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(16) Section 9503(c)(2)(A)(i)(III) of such Code is amended by inserting "(other than subsection (e) thereof)" after "section 6427".

(17) Section 9503(e)(2) of such Code is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(18) The table of sections for subchapter B of chapter 65 of such Code is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(19) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (19) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(15) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(12)(C)) not later than September 30, 2004.

SEC. 4. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 of such Code is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) of such Code is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, February 25, 2004, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the President's Fiscal Year 2005 Budget Request.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, March 10th, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; S. 1575 and H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada; S. 1778, to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes; S. 1819 and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; and H.R. 3249, to extend the term of the Forest Counties Payments Committee.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. COCHRAN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Marketing, Inspection, and Product Promotion will meet on March 4, 2004 in SH–216, Hart Senate Office Building at 2:00 p.m. The purpose of this subcommittee hearing is to discuss the development of a national animal identification plan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 10 a.m. to conduct a hearing on the "Proposals for Improving the Regulatory Regime of the Housing Government Sponsored Enterprises."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 24, 2004, at 9:30 a.m. on Voice-Over-Internet-Protocol (VOIP).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 10 a.m. to receive testimony concerning the reliability of the Nation's electricity grid. Specifically, the recommendations in the February 10th North American Reliability Council Report Regarding the August 14th blackout will be reviewed and implementation of the proposed solutions will be discussed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 2:30 p.m. to hold a hearing on The Middle East: Rethinking the Road Map.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, February 24, 2004, at 10 p.m. for a hearing titled "Preserving a Strong United States Postal Service: Workforce Issues."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Disabled American Veterans.

The hearing will take place in room 216 of the Hart Senate Office Building at 2:00 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 10 a.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 2:30 p.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, February 24, 2004 from 10:00 a.m.–12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on "Virtual Threat, Real Terror: Cyberterrorism in the 21st Century" on Tuesday, February 24, 2004, at 10 a.m., in Dirksen 226.

Witness List

Panel I: Mr. John Malcolm, Deputy Assistant Attorney General, DOJ, Washington, DC; Mr. Keith Lourdeau, Deputy Assistant Director, FBI, Washington, DC; and Mr. Amit Yoran, director of the National Cybersecurity Division, DHS, Washington, DC.

Panel II: Mr. Dan Verton, Author, Burke, VA; Mr. Howard Schmidt, Chief Information Security Officer, EBay, San Jose, CA; and Mr. Michael Vatis, Executive Director, Task Force on National Security in the Information Age, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. ENSIGN. Mr. President, I ask unanimous consent that Dr. Rita Redberg, a legislative fellow for Senator HATCH, be granted floor privileges during consideration of S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that privileges of the floor be granted to Lauren Doyle, a legislative fellow in my office.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Patrick Shen and Brett Tolman, detailees on the Judiciary Committee staff, be granted the privileges of the floor for the duration of this session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. Mr. President, I ask unanimous consent that one of my staffers, Telly Lovelace, be permitted the privilege of the floor for the rest of the afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING 200TH ANNIVERSARY OF THE BIRTH OF CONSTANTINO BRUMIDI

AUTHORIZING PRINTING OF "HISTORY OF THE UNITED STATES CAPITOL"

PERMITTING USE OF ROTUNDA OF THE CAPITOL FOR COMMEMORATION OF HOLOCAUST

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following resolutions which are at the desk en bloc: H. Con. Res. 264, H. Con. Res. 358, and H. Con. Res. 359.

The PRESIDING OFFICER. The clerk will report the concurrent resolutions by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 264) authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

A concurrent resolution (H. Con. Res. 358) authorizing the printing of "History of the United States Capitol" as a House document.

A concurrent resolution (H. Con. Res. 359) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

There being no objection, the Senate proceeded to consider the concurrent resolutions.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolutions be agreed to, the preambles, where applicable, be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements relating to the concurrent resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 264) was agreed to.

The preamble was agreed to.

The concurrent resolution (H. Con. Res. 358) was agreed to.

The concurrent resolution (H. Con. Res. 359) was agreed to.

MEASURE READ THE FIRST TIME—H.R. 3783

Mr. FRIST. Mr. President, I understand that H.R. 3783 which came over from the House is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3783) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Mr. FRIST. I now ask for its second reading and object to further proceedings on this matter.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, will the Senator yield?

Mr. FRIST. Yes.

Mr. REID. Mr. President, I know H.R. 3740 is an important piece of legislation. It extends the highway bill now in effect for 4 months. I have not spoken to Senator INHOFE today, but we have communicated through staff. He and I would rather have a 1-month extension. It is my understanding that the two leaders have met and think that 60 days would be an appropriate time. I want everybody to be on notice that if there is any effort to extend this beyond 60 days, I will do whatever I can to make sure that is not the case.

It is so important that we move this most important piece of legislation to 4 months, as there will be no bill this year. We have spent too much time over here. It now appears that the debate is over dollars. It is not about the content of the bill in any way.

I hope the two leaders understand the grief and difficulty that Senators INHOFE and I and KIT BOND and Senator JEFFORDS have gone through to get to the point where we are. I will agree with the decision of the two leaders, but when it comes back from the House, I hope there will be an agreement to split the difference after that.

Mr. FRIST. Mr. President, in all likelihood, we will be looking at 2 months. Again, for those listening now, a lot of people said 1 month. A lot of people said 4 months. A lot of people said a year. So this was negotiated again with both sides, and we understand the immediacy and the importance of this bill, which I do also strongly support.

ORDERS FOR WEDNESDAY, FEBRUARY 25, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, February 25. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the motion to proceed to S. 1805, the gun liability bill; provided that the time until 10:30 a.m. be equally divided between Senators CRAIG and REED of Rhode Island, or their designees, and the vote on the cloture motion occur at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration of the motion to proceed to S. 1805, the gun liability bill. The cloture vote on the motion to proceed will occur at 10:30 a.m., and that will be the first vote of the day.

It is my hope that we will invoke cloture and begin consideration of the bill shortly thereafter. For the remainder of the day, we will work through amendments on the gun liability bill. Senators who wish to offer amendments should contact the managers to schedule time for floor consideration.

Senators should expect rollcall votes throughout the afternoon as we proceed in the amendment process.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:45 p.m., adjourned until Wednesday, February 25, 2004, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, February 24, 2004*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. LEACH).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 24, 2004.

I hereby appoint the Honorable JAMES A. LEACH to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Bishop Alfred A. Owens, Jr., Greater Mount Calvary Holy Church, Washington, DC, offered the following prayer:

Most gracious and everlasting God, we thank You for this, another glorious day that You have allowed us to see, and we honor You for Your undying faithfulness towards us.

Lord, help us to continually hold up the light of Your love, and may we be always mindful of our collective duty to serve each other as we serve You.

Teach us Your ways and lead us in a plain path. Shine Your light upon the road that our Members of Congress must travel. Give them grace and truth to guide their every decision. Unite them under the banner of Your love and allow them to speak with one clarion voice that which You would have them say.

Teach us all to lean on Your everlasting arms, and give us the grace to lead according to Your everlasting Word. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PEARCE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PEARCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. FILNER) come forward and lead the House in the Pledge of Allegiance.

Mr. FILNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3108. An act to amend the employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3108) "An Act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. GREGG, Mr. MCCONNELL, Mr. BAUCUS, and Mr. KENNEDY, to be the conferees on the part of the Senate.

The message was announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1786. An act to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

The message also announced that pursuant to Public Law 100–175, as amended by Public Laws 102–375, 103–171, and 106–501, the Chair, on behalf of the Democratic Leader, after consultation with the members of the Committee on Health, Education, Labor, and Pensions, and the Committee on Aging, appoints the following individuals as members of the Policy Committee to the White House Conference on Aging—

The Senator from Iowa (Mr. HARKIN); and

The Senator from Nevada (Mr. REID).

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 13, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on February 13, 2004 at 10:10 a.m.

That the Senate passed without amendment H. Con. Res. 361.

Appointments:

Board of Visitors United States Naval Academy.

Board of Visitors United States Air Force Academy.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Thursday, February 19, 2004:

H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes;

S. 523, to make technical corrections to laws relating to Native Americans, and for other purposes.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

REMEMBERING VICTIMS OF BROTHERS TO THE RESCUE SHOOTDOWN ON EIGHTH ANNIVERSARY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to honor the memory of Carlos Costa, Armando Alejandre, Mario de la Pena, and Pablo Morales, who, 8 years ago today, were murdered by the terrorist regime in Havana.

These four brave men, committed to the cause of freedom and democracy in Cuba, ventured out over international waters in search of those who risked it all to reach here, the United States, the land of liberty. But what they came face to face with was the evil, ruthless, and brutal nature of the Castro dictatorship in the form of MiG–29 fighter jets. Like vultures circling their prey, these MiGs closed in, and at 3:21 and 3:27 p.m. aimed their missiles and destroyed these two Brothers to the Rescue planes.

There would be no international outcry. Yet their deaths at the hands of the tyrant and his agents of terror would serve as a catalyst, a call to action, a new Grito de Baire, for Cuba's internal opposition.

I ask my colleagues to remember these fallen heroes, Carlos, Armando, Mario, and Pablo, and to pray for the enslaved people of Cuba.

ETHICAL CLOUD HANGING OVER WASHINGTON GROWS DARKER

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, the ethical cloud hanging over Republicans in Washington grows darker.

Every good lawyer and judge knows the importance of avoiding conflicts of interest and the appearance of conflicts of interest. Last month, Supreme Court Justice Antonin Scalia went hunting in Louisiana with Vice President CHENEY, on land owned by an oil executive. They flew on Air Force Two, at taxpayer expense.

Three weeks earlier, the Supreme Court agreed to decide In Re Cheney, a case brought to force Vice President CHENEY to disclose information about his secret energy task force meetings with oil executives. Justice Scalia said afterwards, "I do not think my impartiality could reasonably be questioned."

He is wrong. He has no business deciding a case of enormous significance to his friend and hunting companion.

To preserve the integrity of the Supreme Court and to maintain the trust of the public, Justice Scalia should recuse himself from any role in the Cheney case. And Vice President CHENEY should have been the first to ask him to do so.

IN SUPPORT OF PROPOSED CONSTITUTIONAL AMENDMENT REGARDING MARRIAGE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, after weeks of legal and moral confusion, from Massachusetts to California, today President George W. Bush called on this Congress to adopt a constitutional amendment defining marriage historically and culturally as it has ever been, as the union between a man and a woman. In so doing, President George W. Bush brought moral clarity to the debate by calling for this amendment banning gay marriage, in his words, preventing courts from changing that "most enduring of human institutions."

And so marriage is. Ordained by God, confirmed by law, marriage is the glue of the family and the safest harbor for children. Congress should heed President Bush's courageous moral leadership, pass the marriage amendment, and affirm the confidence of the American people in our ability to defend their most cherished of institutions.

A WEAPON OF MASS DISTRACTION

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Well, there they go again. The Commander in Chief has signalled the start of the culture wars, so they are here with their wedge politics, trying to divide us, trying to divide us as a Nation.

Three million jobs lost since this President took office, a war in Iraq that we cannot seem to win, 545 of our bravest young men and women killed, more waiting as sitting ducks; but what we are going to talk about in this House is a constitutional amendment to preserve marriage. Talk about wedge politics at its finest. Talk about something to divide the Nation.

Mr. Speaker, the gentleman from Indiana, and I assume all those who are going to come after him, should look at the history of the United States and the Constitution, the Constitution which represents for us expanding the rights of all Americans, expanding.

We went from giving the right to citizenship to African Americans to giving the right to vote to women, always expanding what the American Dream was about, always expanding what America ought to be. But now we are going to pass an amendment that restricts rights. Now we are going to pass an amendment that says do not look at jobs, do not look at the war in Iraq, do not look at any of the things that bother the American people at their dinner table, their lack of health insurance, their lack of quality education. No, let us focus on this constitutional amendment.

Mr. Speaker, the Commander in Chief has unleashed his Weapon of Mass Distraction.

UNBORN VICTIMS AND MORAL LEADERSHIP

(Mr. DeLAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeLAY. Mr. Speaker, this week the House will hear a lot, on the floor and off the floor, about the Unborn Victims of Violence Act, also known as Laci and Conner's Law, which acknowledges the victimhood of unborn children injured during attacks against their pregnant mothers.

Though the bill says nothing about Roe v. Wade, Casey v. Planned Parenthood, or any abortion law at any level of government in this Nation, we will hear false arguments to the contrary. We will hear the usual arguments, from the usual suspects, that any legislation that in any way recognizes the humanity of unborn children is an assault on the Constitution.

Those of us who support this legislation, who, I should add, represent a point of view shared by more than 80 percent of the American people, will be scolded and have fingers wagged at us by people telling us in ominous tones that they "know what we are doing."

Well, I should hope so. I hope the whole world knows what we are doing, sees the stands that we are taking on behalf of pregnant mothers and their families, providing justice and codifying common sense.

There is nothing in Laci and Conner's Law we should hide from. Indeed, so intuitive is the notion that an attack against a pregnant mother involves two victims, so essential to both natural law and basic human experience, that I would venture to guess that even most children in this country just assume that legislation like the Unborn Victims of Violence Act is already on the books.

This is a no-brainer, Mr. Speaker. Of course Laci and Conner's Law should be passed. Of course this House and this Nation can stand up for pregnant women and their families and acknowledge the injuries their children suffer at the hand of violent predators and set penalties accordingly.

Defending the family is part of our core agenda in this Congress, and passing Laci and Conner's Law is one of the ways we can fulfill it. After all, what kind of moral leaders would we be if, given the choice, we rejected the natural instinct of all people that they all have to recoil at news of violence against pregnant mothers?

Fortunately, Mr. Speaker, come Thursday's vote, we will not have to find out.

SECRETARY OF EDUCATION SHOULD RESIGN

(Ms. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCOLLUM. Mr. Speaker, yesterday the Secretary of Education branded the 2.7 million teacher-strong National Education Association a "terrorist organization."

Mr. Paige's words were a hateful comment, beneath the dignity of any Cabinet Secretary. Rather than trying to achieve the highest standards of civility, setting the best example for American children, Mr. Paige's "teachable moment" was to stand in the White House and vilify the NEA and America's teachers by labeling them terrorists, in effect, enemies of America.

This vile language was no joke. It was not insensitive. In fact, it was a deliberate attack, an example of neo-McCarthyism at its worst.

The Secretary's words harmed public education, and they were clear in their intent to threaten the millions of American citizens that the NEA honorably represents.

It is time for Mr. Paige to resign.

Resign now, sir.

THANKING ERIC THOMPSON FOR 35 YEARS OF PUBLIC SERVICE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to commend a South Carolinian who has been a model of public service for the last 35 years. Eric Thompson of North Augusta, South Carolina, retired this January from his post as executive director of the Lower Savannah Council of Governments, where he had worked since 1981.

☐ 1415

The Council is a regional planning and development organization serving 6 counties and 45 incorporated municipalities.

Mr. Thompson has helped the Lower Savannah Council secure nearly $172 million in State and Federal grants for cities and counties in the region, which includes Aiken, Allendale, Bamberg, Barnwell, Calhoun, and Orangeburg Counties. He has worked previously as part of planning commissions for Aiken and Brunswick-Glynn County, and currently serves as a member of the Board of Directors of the National Association of Development Organizations, where he has served as president.

South Carolina is so thankful for Eric Thompson's dedication to our State, and I ask all of my colleagues to join me in commending him for his commitment to public service.

In conclusion, may God bless our troops. We will never forget September 11.

BLUE DOG DEFICIT UPDATE

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, today we owe the country $7,078 billion, being swept under the rug every day. Foreign holdings of our debt now total $1.5 trillion. Foreign investors financed 70 percent of our record $373 billion debt last year. In January of 2002, foreign investors held $1 trillion of our U.S. debt; today it is $1.5 trillion. Japan holds $545 billion, and China holds $149 billion of our debt. By far, the United States' largest foreign aid program is our interest payments to foreign investors, yet we continue to not want to change our economic game plan to do something about it. The largest single debt tax increase in the history of our country is being perpetrated on us today.

Mr. Speaker, $7,078 billion, that is what we owe today.

MAKE TAX RELIEF PERMANENT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, the economic numbers we are seeing right now do not lie. Our economy is growing and jobs are being created, but to stay on that track, we need to keep our economy growing. Growth encourages business expansion and entrepreneurship, both of which lead to new jobs, and tax relief encourages growth. That is what we have seen this year.

When small businesses and working families keep more of their own money, they spend it far better than we do here in Washington. But many, even many here in this Chamber today, do not believe that. So we will hear lots of talk about repealing tax cuts and spending more. But, Mr. Speaker, that is the wrong way to go. Raising taxes will hurt this economy. Lower tax rates on American families will unleash the full potential of this economy.

We need to let American workers keep the reward for their hard work. We need to act this year to make the tax relief permanent. This will encourage long-term growth and allow families and small business owners to plan with confidence for the future.

CONGRATULATING SENATOR JANE NELSON

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Texas State Senator Jane Nelson on her recent receipt of the Nathan Davis Award for Outstanding Government Service from the American Medical Association.

Senator Nelson is a Republican who represents senate district 12 in Texas. She is my senator. She was elected to the Texas Senate in 1992 after serving two terms on the Texas State Board of Education. At the board of education, future Senator Nelson led her colleagues on a fight to correct over 5,000 errors in textbooks across the State of Texas.

During all of this activity, Senator Nelson has also managed to own and operate an aircraft component manufacturing firm with her husband Mike, while raising a son and four daughters, three of whom I delivered.

Senator Nelson has made health care policy and advocacy for Texas patients a top priority. She wrote Texas' first comprehensive privacy law, she fought for HMO reform, and wrote the law returning physical education classes to help fight childhood obesity.

In the most recent session of the State legislature, Senator Nelson worked for liability reform in the health care industry and for relief of rising health care costs. She also sponsored prompt pay legislation, which simply requires HMOs to pay their bills on time.

This is definitely a high honor for Senator Nelson, as it would be for any elected official. In the years to come, hopefully, the Nation will be honoring more great leaders such as Senator Nelson for their hard work and dedication to worthy causes as health care reform.

Senator Nelson, congratulations. I regard you as a friend and mentor, and, certainly, Texas physicians have no better friend in the State legislature, and you have been a true friend to the family of medicine across the country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LEACH). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

SALT CEDAR AND RUSSIAN OLIVE CONTROL ASSESSMENT AND DEMONSTRATION ACT

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2707) to direct the Secretaries of the Interior and Agriculture, acting through the U.S. Forest Service, to carry out a demonstration program to assess potential water savings through control of Salt Cedar and Russian Olive on forests and public lands administered by the Department of the Interior and the U.S. Forest Service, as amended.

The Clerk read as follows:

H.R. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt Cedar and Russian Olive Control Assessment and Demonstration Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Secretaries.—The term "Secretaries" means the Secretary of Agriculture, in cooperation with the Secretary of the Interior.

(2) Western United States.—The term "Western United States" refers to the States defined by the Act of June 17, 1902 (commonly known as the 1902 Reclamation Act; 43 U.S.C. 371 et seq.), which includes Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Kansas; Oklahoma, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming.

SEC. 3. ASSESSMENT OF SALT CEDAR AND RUSSIAN OLIVE INFESTATION IN WESTERN UNITED STATES.

(a) Assessment.—Not later than one year after the date on which funds are first made available to carry out this section, the Secretaries shall complete an assessment of the extent of Salt Cedar and Russian Olive invasion in the Western United States.

(b) Content.—The assessment shall include the following:

(1) To the extent practicable, documentation of the quantity of water lost due to the infestation.

(2) Documentation of the quantity of water saved due to various control methods, including the portion of saved water that returns to surface water or groundwater supplies and at what rates.

(3) Determination of the optimum control method for the various land types and land uses.

(4) Determination of what conditions indicate the need to remove such growth and the optimal methods for disposal or use of such growth.

(5) Determination of methods to prevent the regrowth and reintroduction of Salt Cedar and Russian Olive and to reestablish native species.

(c) Report on Assessment.—

(1) Preparation and content.—The Secretaries shall prepare a report containing the results of the assessment. The report shall identify long-term management and funding strategies that could be implemented by Federal, State, Tribal, and private land managers and owners on all land management types to address the invasion of Salt Cedar and Russian Olive. The report shall also identify deficiencies or areas for further study and where actual field demonstrations would be useful in the control effort.

(2) Submission.—The Secretaries shall submit the report to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources of the Senate.

(d) Support for Identification of Long-Term Management and Funding Strategies.—The Secretaries may make grants to institutions of higher education or nonprofit organizations (or both) with an established background and expertise in the public policy issues associated with the control of Salt Cedar and Russian Olive to obtain technical experience, support, and recommendations related to the identification of the long-term management and funding strategies required to be included in the report under subsection (c)(1). Each grant awarded under this subsection may not be less than $250,000.

SEC. 4. DEMONSTRATION PROGRAM FOR CONTROL OF SALT CEDAR AND RUSSIAN OLIVE IN WESTERN STATES.

(a) Demonstration Projects.—

(1) Projects required.—Based on the results of the assessment and report in section 3, the Secretaries shall initiate a program of not fewer than three demonstration projects in the Western United States designed to address the deficiencies and areas for further study to address the invasion of Salt Cedar and Russian Olive, including the test of additional control methods, identified by the report.

(2) Implementation.—The Secretaries may enter into an agreement with a State in the Western United States to carry out a demonstration project. If the Secretaries select a demonstration project for implementation on National Forest System lands, the Secretary of Agriculture shall be responsible for implementation of the project.

(b) Elements of Projects.—

(1) Design and scale.—Each demonstration project shall be designed with integrated methods and adaptive management strategies and carried out over time frames and spatial scales large enough to accomplish the goals laid out in the report.

(2) Scientific review.—Before being carried out, the methods and strategies proposed for each demonstration project shall be subject to review by scientific experts, including non-Federal experts, selected by the Secretaries. The Secretaries may use existing scientific review processes to the extent they comply with this requirement.

(c) Project Costs and Cost Sharing.—The total cost of each demonstration project may not exceed $7,000,000, including the costs of planning, design, implementation, revegetation, maintenance, and monitoring. In the case of a demonstration project conducted on lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, the Secretaries may accept, but not require, funds or in-kind contributions, including State agency provided services. The Federal share of the costs of any activity on private lands funded under the project shall be no more than 75 percent of the total cost of the activity.

(d) Reporting Requirement.—During the period in which the demonstration projects are carried out, the Secretaries shall submit to the congressional committees specified in section 3(c)(2) an annual report describing—

(1) the demonstration projects;

(2) the progress made in carrying out the projects during the period covered by the report; and

(3) the costs of the projects under subsection (c).

(e) Monitoring.—Demonstration projects shall include the following:

(1) Documentation of the quantity of water saved due to various control methods, including the portion of water saved that returns to surface water or groundwater supplies and at what rates.

(2) Optimal revegetative states to prevent the regrowth and reintroduction of Salt Cedar and Russian Olive and to reestablish native species.

(f) Cooperation.—The Secretaries shall use the expertise of their various agencies, as well as other Federal agencies, institutions of higher education, State and local governments and political subdivisions thereof, including soil and water conservation districts, and Indian tribes, which are actively conducting assessments on or implementing Salt Cedar and Russian Olive control activities.

SEC. 5. RELATION TO OTHER AUTHORITY.

Nothing in this Act shall be construed to affect, or otherwise bias, the use by the Secretaries of other statutory or administrative authorities to plan or conduct Salt Cedar or Russian Olive control and eradication that is not planned or conducted under this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) Assessment.—There are authorized to be appropriated to the Secretaries $5,000,000 for fiscal year 2005 to conduct the assessment required by section 3.

(b) Grants.—There are authorized to be appropriated to the Secretaries $1,000,000 for fiscal year 2005 to award as grants under section 3(d).

(c) Demonstration Projects.—There are authorized to be appropriated to the Secretaries $18,000,000 for each of the fiscal years 2005 through 2009 to carry out the program of demonstration projects under section 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2707, the Salt Cedar and Russian Olive Control Demonstration Act, provides for the Secretaries of the Interior and Agriculture to carry out a demonstration program assessing potential water savings through control of Salt Cedar and Russian Olive on forests and public lands administered by the Department of the Interior and the U.S. Forest Service.

Salt Cedar and Russian Olive are both invasive species that adversely impact the water supply, increases soil salinity, lowers the potential water that the soil can hold, and increases fire frequency. Last summer in Albuquerque, New Mexico, several hundred acres along the Rio Grande River burned, forcing about 600 people to be evacuated from their homes. This fire burned many native cottonwood and willow trees. However, one of the culprits being blamed for the escalation of the fire is the large amount of underbrush that had collected, which was mostly Salt Cedar. Without this buildup of Salt Cedar, the fire probably would not have burned as extensively or with the intensity that it did.

Regardless of what side of the aisle one is on, most can agree that controlling Salt Cedar and Russian Olive is important for water salvage, riparian restoration, salinity control, habitat restoration, and wildlife management.

Salt Cedar is widely distributed and is extensive along riparian areas in the Western United States, particularly along the Colorado, Rio Grande, the Pecos and Gila Rivers. Controlling and hopefully one day completely eradicating Salt Cedar and Russian Olive is important. As we eradicate Salt Cedar, we increase the flow of water in the streams, springs, and rivers, and restore native plants that are less water-consuming and improve habitat.

Because of the widespread nature of Salt Cedar and Russian Olive, there have been many projects to clear these trees and then to estimate how much water was saved. These increased stream flows and water restoration estimates vary widely. The high ranges from 6 to 9 acrefeet saved per year, down to a low of between zero to 1.5 acrefeet per year, per acre cleared, the last estimate based on a study done by USGS on the Pecos River in New Mexico.

Mr. Speaker, H.R. 2707 will begin to address these problems by providing sound science and, in turn, developing and expanding on innovative approaches to control these harmful weeds.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation, H.R. 2707. Salt Cedar and Russian Olive trees have caused severe ecological damage in the Southwest. These invasive species crowd out native species while crossing public and private lands, spreading indiscriminately. This bill will take the first step to enhance our capability to control these species. Under this proposed legislation, land managers will quantify the scope of the Salt Cedar and Russian Olive invasion and then develop demonstration projects to eradicate the invasives.

Invasive species control should become a national priority. I believe this bill is only a tip of the iceberg. We must find a solution not only to Salt Cedar and Russian Olive invasions, but also to the spread of other invasive plants and animals.

I want to commend my good friend, the gentleman from New Mexico (Mr. PEARCE), for his management of this legislation, and commend him also for sponsoring this legislation. I also thank the majority for incorporating amendments to the text at our request. I would also like to recognize the members of the Committee on Resources and members on this side of the aisle who also have been cosponsors of this bill: the gentleman from Arizona (Mr. GRIJALVA), the gentleman from California (Mr. CARDOZA), the gentleman from Colorado (Mr. MARK UDALL), and the gentleman from New Mexico (Mr. TOM UDALL) as sponsors of this legislation.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PEARCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, I rise today in support of H.R. 2707, the Salt Cedar and Russian Olive Control Demonstration Act.

In Texas, New Mexico, and other Western States prone to drought, Salt Cedar trees are absorbing millions of gallons of water that our communities and farms can put to better use. Landowners and local State agencies have been working to slow the spread of Salt Cedars and eradicating them from the banks of rivers and streams, but this effort has been an uphill battle. Their vast root systems and abundant seeds carried by wind and water make getting rid of them very challenging. Unless we eliminate them, Salt Cedars will continue soaking up valuable and scarce water that west Texas communities need.

The demonstration projects and research authorized by this legislation will help find more effective means to speed the eradication of Salt Cedars. Better strategies for fighting the spread of Salt Cedars will benefit communities across State lines. Much water used in west Texas originates in other States, and Salt Cedars along those rivers are reducing the supply available to all of us.

Salt Cedar eradication projects are showing results. A project in the Pecos River in Texas has saved 12 billion gallons of water, nearly enough water to serve my hometown of Lubbock for 1 year, and additional eradication efforts are under way. In order to effectively eliminate Salt Cedar, these projects must cover many miles of rivers and stream banks. Taking out large areas of Salt Cedar at a time reduces the spread of new plants.

A mature Salt Cedar can use up to 200 gallons of water per day, much more water than native vegetation that could be replanted to stabilize those stream banks. Salt Cedars add to the salinity of water, which kills other plants and displaces wildlife.

While we still need rain in west Texas to alleviate the drought and replenish water supplies, we also need to take proactive steps to save the water resources we already have. Large-scale eradication of Salt Cedars is one of the means to conserve water. Enacting this legislation to further demonstration projects and additional research will help other States, our State and other communities implement the best strategies to deal with this Salt Cedar infestation sucking down our water supplies.

I urge my colleagues to support this legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I rise in support of H.R. 2707. I thank the gentleman from New Mexico for his sponsorship and leadership. We have heard about how important it is to the areas of Texas and New Mexico. It is also important to my district, one of the most important agricultural areas in the United States, the Imperial Valley of California.

We use water from the Colorado River, and we have heard how invasive this Salt Cedar can be. In fact, the Imperial County Agriculture Commissioners Office and the Brawley, California Research Station have been studying for a long time now how to control Salt Cedar. John Kershaw, the president of the Imperial Valley Conservation Research Center Committee, and Stephen Birdsall, Imperial County Agricultural Commissioner, have briefed me on the great strides that have been made to controlling Salt Cedar in our area. This bill will greatly help with those efforts.

We have heard how much water these species use. Salt Cedar is like a giant straw: One tree can suck up to 200 gallons of water a day.

□ 1430

It can cause an increase in fire and flooding, a decrease in water quantity and quality and an increase in soil salinity. It can replace native species, degrade wildlife habitat, and limit the human use of riverbanks.

Salt Cedar was originally introduced in order to stabilize stream banks, but it has turned into a nightmare for our farming communities. We have spent millions of dollars trying to eradicate this pest. Million of gallons of water have been wasted. We have become increasingly concerned about water conservation and the best use of our natural resources in this Nation. Those of us who rely on the Colorado River see that Salt Cedar squanders this precious, precious water.

Removing it would allow native plants which have been squeezed out by the noxious tree to come back to our community. Removing the tree would also encourage wildlife populations to increase, including several species, such as the Willow Flycatcher, that are declining or are threatened or endangered. The Flycatcher is an endangered bird that eats insects that thrive on native plants in my district, which the Salt Cedar has displaced.

I commend the Departments of Interior and Agriculture for their dedication to controlling or eradicating invasive species such as Salt Cedar. We must continue this important work. We can protect our most precious natural resources, water, wildlife, and soil, by eradicating this invasive species.

Mr. Speaker, clearly these species are serious problems across all the United States, but particularly in the Southwest. The challenges they present to our communities are enormous, but we cannot let them ruin our natural native resources. We can and we must take back the land and water for our communities.

I thank the gentleman from New Mexico (Mr. PEARCE) for his leadership in this struggle.

Mr. PEARCE. Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. STENHOLM), our most senior ranking member on the Committee on Agriculture, and certainly commend him for his expertise on agriculture-related issues.

Mr. STENHOLM. Mr. Speaker, I thank my friend from American Samoa for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 2707. I am an original cosponsor of this legislation, and I worked hard to push it through the House Committee on Agriculture; and I also want to commend highly my colleague from New Mexico (Mr. PEARCE) for his diligent work on the Committee on Resources to make this issue a top priority and to shepherd this bill to the floor of the House of Representatives today. Again, I thank my friend from American Samoa (Mr. FALEOMAVAEGA) for his work on bringing it to the floor today.

My friend from New Mexico and I share similar constituencies, and we maintain the same concerns that we must act now to ensure the availability of fresh water in the future. This legislation is not about simply eliminating Salt Cedar and Russian Olive from watersheds. It is about controlling these plants to increase our supplies of fresh water in the Western United States. America's citizens should not have to compete with invasive pests for an already limited supply of drinking water.

I have represented west Texas now for 25 years, and there is virtually nothing of greater daily concern out there than the availability of fresh water. Like much of the West, the 17th Congressional District of Texas has certainly experienced the consequences of drought. Stream banks and lakebeds continued to recede during the dry periods, while Salt Cedar proliferates in those areas.

The devastating results can be seen all over west Texas as dense thickets of Salt Cedar have overtaken native plant species in the Colorado River basin. In fact, the Colorado River Municipal Water District estimated that Salt Cedar consumed more water in 2002 than the district's largest municipal customer, a city with more than 100,000 people. The combined capacity of the district's three reservoirs fell below 25 percent during 2002, and it became readily apparent that Salt Cedar was robbing municipalities of this precious resource.

The water district has worked closely with many Federal, State, and local entities to begin brush control projects within the Colorado River watershed. They have implemented Salt Cedar control projects with reasonable success on both public and private lands. Further, private landowners have successfully partnered with the National Resources Conservation Service to employ brush control on their properties. In several cases, dormant streams and creeks have again begun to flow where those control programs were implemented.

I am convinced that this bill moves towards real solutions to the Salt Cedar and Russian Olive invasion. It lays out the framework for private and public land managers to cooperate with the U.S. Department of the Interior; U.S. Department of Agriculture, local soil and water conservation districts and State agencies to work together on the demonstration programs authorized in this bill. After all, it will take integrated control and management practices to significantly deter the further spread of these non-native species.

I have worked tirelessly during my time in Congress to address the scarce water situation in west Texas, and I can attest that brush control efforts have produced the most lasting results in the 17th district. Most of our Nation faces an urgency to develop long-term plans to ensure that communities will have an adequate supply of drinking water. I truly believe this legislation will help public and private land managers across the Western United States take a giant step toward implementing more efficient and effective brush control projects that will result in better water conservation.

I close by saying, unlike a barrel of oil, it is tough to put a price on clean, fresh water.

Mr. FALEOMAVAEGA. Mr. Speaker, I gladly yield 5 minutes to the distinguished gentleman from New Mexico (Mr. UDALL), one of the cosponsors of this legislation.

Mr. UDALL of New Mexico. Mr. Speaker, as a cosponsor of H.R. 2707, I am extremely pleased that this bill is on the floor of the House today.

I would like to thank my colleague from New Mexico (Mr. PEARCE) for introducing this important legislation and for his leadership on this issue. I would also like to thank the gentleman from American Samoa for his hard work and his leadership in bringing this to the floor today.

Mr. Speaker, those of us from the West are all too familiar with the water troubles that our communities are facing. Many of us are trying to find commonsense approaches to sustainable water management. This legislation is an important step in that direction.

H.R. 2707 authorizes funds for demonstration projects on the Pecos and Rio Grande rivers to find the most efficient way to eliminate the invasive Salt Cedar species. The legislation authorizes up to $7 million per trial for the Army Corps of Engineers to begin examining the most effective methods to remove the Salt Cedar. The invasive Salt Cedar species is very damaging to water efficiency, has no natural enemies such as insects and diseases, and has a ravenous thirst. A large tree can soak up as much as 200 gallons of water per day.

Removing the Salt Cedar alone will not be a panacea for our water troubles, but will certainly go a long way towards improving our water efficiency.

Because of the importance of this task, support of efforts to eradicate non-native plants in New Mexico are widely supported by a diverse number of groups. The Alliance for the Rio Grande Heritage and the Northern New Mexico Sierra Club have supported efforts by the New Mexico legislature to eliminate Salt Cedar and other phreatophytes along the State's riverbanks.

Farmers and conservationists agree that everything possible must be done to remove Salt Cedars and other invasive species. Addressing a problem of this magnitude will require significant resources; and it is, therefore, imperative that we develop the most effective approaches. Passing this legislation will allow the Federal Government to make a significant contribution to helping communities throughout the Nation eradicate the Salt Cedar.

Mr. Speaker, the water problems facing the West are complex and politically charged. However, we all stand here today committed to taking an important step in the fight against water shortages by passing this legislation. I urge my colleagues to support this bill.

I thank, once again, the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I yield myself 2 minutes.

As the assembled body can hear, this bipartisan bill has great importance, and especially throughout the West. I thank the gentleman from Texas (Mr. STENHOLM), the gentleman from American Samoa (Mr. FALEOMAVAEGA), and the gentleman from New Mexico (Mr. UDALL) for their hard work on behalf of this bill.

I have areas, Mr. Speaker, in my district which typically get around 16 inches of rainfall a year. In the last several years, we have gotten less than 6 inches in many of those areas; in some areas, as little as 2 inches in the last 12 months.

Mr. Speaker, our entire agricultural production system is at risk. We need to support our farming and ranching. We need to understand that one of the most critical things we can provide for ourselves and our Nation is a secure supply of food.

Mr. Speaker, this bill should begin to deliver more water to the agriculture community of America.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, my district has 200 inches of rainwater a year, and I would be more than glad to share some of my water with my colleagues. Unfortunately, they would have to go many miles to get these 200 inches of water that we would be more than glad to share with our friends here in the continental United States.

Mr. Speaker, I think the spirit of bipartisanship has been demonstrated this afternoon as we debate and discuss this issue; and, again, I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I accept the gentleman's offer of the rain that he has and shares so willingly, and we will address that in the next bill.

Mr. MATHESON. Mr. Speaker, as Utah copes with its most severe drought in recent times, protecting our native species from invasive plants is vital to both agriculture and the environment. It is important to those of us in the West to take those steps necessary to stop non-native species from consuming our precious water resources.

Throughout the development of the West, we have maintained a healthy and vibrant balance between our economic and residential needs and the needs of our native plants and animals. The tamarisk threatens that balance.

For this reason, I support H.R. 2707—The Salt Cedar and Russian Olive Control Demonstration Act. This bill has particular meaning to me and to my constituents, because of the efforts it promotes to eradicate tamarisk.

Overall, experts estimate the economic impact of invasive species in the U.S. to be over $100 billion annually. Scientists have calculated that tamarisk plants soak up an estimated 2–4 million acre-feet of water per year in the West. A single plant can absorb up to 300 gallons of water a day through a taproot that can reach down 50 feet into the water table. Tamarisk, originally introduced by settlers trying to control stream bank erosion, is inedible to most animals and is notoriously difficult to kill. Even when it's burned, it generates new shoots.

This plant's effects are particularly devastating in our state and in our neighboring states, and so I have worked on the Science Committee to create new opportunities to combat tamarisk. This bill is an important step towards eradicating the threat that tamarisk poses in Utah and other Western states, and I will continue to support it and other legislation which furthers our battle to remove this threat.

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today to support H.R. 2707, the Salt Cedar and Russian Olive Control Demonstration Act, introduced by my colleague from New Mexico STEVE PEARCE.

The Russian Olive and Salt Cedar are invasive species that are soaking up our water. Water is the lifeblood of the American West and foundation of our economy. The Salt Cedar can consume up to 200 gallons of water per day during growing season. This is more than the average Albuquerque household consumes in a day.

Additionally, these invasive species are highly flammable and put our communities at risk. In 2003 two major fires, fueled by these invasive species, broke out in the heart of Albuquerque. These fires left 16,000 people temporarily without electrical power, threatened 600 homes and led to the evacuation of about 1,000 people.

This legislation begins an important Federal initiative to reduce the negative effect of these invasive species.

Mr. PEARCE. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LEACH). The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 2707, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PEARCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOUTHWEST FOREST HEALTH AND WILDFIRE PREVENTION ACT OF 2004

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2696) to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West, as amended.

The Clerk read as follows:

H.R. 2696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southwest Forest Health and Wildfire Prevention Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) there is an increasing threat of wildfire to millions of acres of forest land and rangeland throughout the United States;

(2) forest land and rangeland are degraded as a direct consequence of land management practices, including practices to control and prevent wildfires and the failure to harvest subdominant trees from overstocked stands that disrupt the occurrence of frequent low-intensity fires that have periodically removed flammable undergrowth;

(3) at least 39,000,000 acres of land of the National Forest System in the interior West are at high risk of wildfire;

(4) an average of 95 percent of the expenditures by the Forest Service for wildfire suppression during fiscal years 1990 through 1994 were made to suppress wildfires in the interior West;

(5) the number, size, and severity of wildfires in the interior West are increasing;

(6) of the timberland in National Forests in the States of Arizona and New Mexico, 59 percent of such land in Arizona, and 56 percent of such land in New Mexico, has an average diameter of 9 to 12 inches diameter at breast height;

(7) the population of the interior West grew twice as fast as the national average during the 1990s;

(8) catastrophic wildfires—

(A) endanger homes and communities;

(B) damage and destroy watersheds and soils; and

(C) pose a serious threat to the habitat of threatened and endangered species;

(9) a 1994 assessment of forest health in the interior West estimated that only a 15- to 30-year window of opportunity exists for effective management intervention before damage from uncontrollable wildfire becomes widespread, with 8 years having already elapsed since the assessment;

(10) healthy forest and woodland ecosystems—

(A) reduce the risk of wildfire to forests and communities;

(B) improve wildlife habitat and biodiversity;

(C) increase tree, grass, forb, and shrub productivity;

(D) enhance watershed values;

(E) improve the environment; and

(F) provide a basis in some areas for economically and environmentally sustainable uses;

(11) sustaining the long-term ecological and economic health of interior West forests and woodland, and their associated human communities requires preventing severe wildfires before the wildfires occur and permitting natural, low-intensity ground fires;

(12) more natural fire regimes cannot be accomplished without the reduction of excess fuels and thinning of subdominant trees (which fuels and trees may be of commercial value);

(13) ecologically based forest and woodland ecosystem restoration on a landscape scale will—

(A) improve long-term community protection;

(B) minimize the need for wildfire suppression;

(C) improve resource values;

(D) improve the ecological integrity and resilience of these systems;

(E) reduce rehabilitation costs;

(F) reduce loss of critical habitat; and

(G) protect forests for future generations;

(14) although landscape scale restoration is needed to effectively reverse degradation, scientific understanding of landscape scale treatments is limited;

(15) rigorous, objective, understandable, and applied scientific information is needed for—

(A) the design, implementation, monitoring, and adaptation of landscape scale restoration treatments and improvement of wildfire management;

(B) the environmental review process; and

(C) affected entities that collaborate in the development and implementation of wildfire treatment.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to enhance the capacity to develop, transfer, apply, monitor, and regularly update practical science-based forest restoration treatments that will reduce the risk of severe wildfires, and improve the health of dry forest and woodland ecosystems in the interior West;

(2) to synthesize and adapt scientific findings from conventional research programs to the implementation of forest and woodland restoration on a landscape scale;

(3) to facilitate the transfer of interdisciplinary knowledge required to understand the socioeconomic and environmental impacts of wildfire on ecosystems and landscapes;

(4) to require the Institutes established under this Act to collaborate with Federal agencies—

(A) to use ecological restoration treatments to reverse declining forest health and reduce the risk of severe wildfires across the forest landscape; and

(B) to design, implement, monitor, and regularly revise representative wildfire treatments based on the use of adaptive ecosystem management;

(5) to assist land managers in—

(A) treating acres with restoration-based applications; and

(B) using new management technologies (including the transfer of understandable information, assistance with environmental review, and field and classroom training and collaboration) to accomplish the goals identified in—

(i) the National Fire Plan;

(ii) the report entitled "Protecting People and Sustaining Resources in Fire-Adapted Ecosystems-A Cohesive Strategy" (65 Fed. Reg. 67480); and

(iii) the report entitled "10-Year Comprehensive Strategy: A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment" of the Western Governors' Association;

(6) to provide technical assistance to collaborative efforts by affected entities to develop, implement, and monitor adaptive ecosystem management restoration treatments that are ecologically sound, economically viable, and socially responsible; and

(7) to assist Federal and non-Federal land managers in providing information to the public on the role of fire and fire management in dry forest and woodland ecosystems in the interior West.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADAPTIVE ECOSYSTEM MANAGEMENT.—

(A) DEFINITION.—The term "adaptive ecosystem management" means a natural resource management process under which planning, implementation, monitoring, research, evaluation, and incorporation of new knowledge are combined into a management approach that—

(i) is based on scientific findings and the needs of society;

(ii) treats management actions as experiments;

(iii) acknowledges the complexity of these systems and scientific uncertainty; and

(iv) uses the resulting new knowledge to modify future management methods and policy.

(B) CLARIFICATION.—This paragraph shall not define the term "adaptive ecosystem management" for the purposes of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(2) AFFECTED ENTITIES.—The term "affected entities" includes—

(A) land managers;

(B) stakeholders;

(C) concerned citizens; and

(D) the States of the interior West, including political subdivisions of the States.

(3) DRY FOREST AND WOODLAND ECOSYSTEM.—The term "dry forest and woodland ecosystem" means an ecosystem that is dominated by ponderosa pines and associated dry forest and woodland types.

(4) INSTITUTE.—The term "Institute" means an Institute established under section 5(a).

(5) INTERIOR WEST.—The term "interior West" means the States of Arizona, Colorado, Idaho, Nevada, New Mexico, and Utah.

(6) LAND MANAGER.—

(A) IN GENERAL.—The term "land manager" means a person or entity that practices or guides natural resource management.

(B) INCLUSIONS.—The term "land manager" includes a Federal, State, local, or tribal land management agency.

(7) RESTORATION.—The term "restoration" means a process undertaken to move an ecosystem or habitat toward—

(A) a sustainable structure of the ecosystem or habitat; or

(B) a condition that supports a natural complement of species, natural function, or ecological process (such as a low-intensity fire).

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(9) SECRETARIES.—The term "Secretaries" means—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) the Secretary of the Interior.

(10) STAKEHOLDER.—The term "stakeholder" means any person interested in or affected by management of forest or woodland ecosystems.

(11) SUBDOMINANT TREES.—Are trees that occur underneath the canopy or extend into the canopy but are smaller and less vigorous than dominant trees.

(12) OVERSTOCKED STANDS.—Where the number of trees per acre exceeds the natural carrying capacity of the site.

(13) RESILIENCE.—The ability of a system to absorb disturbance without being pushed into a different, possibly less desirable stable state.

SEC. 5. ESTABLISHMENT OF INSTITUTES.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall—

(1) not later than 180 days after the date of enactment of this Act, establish Institutes to promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of forest and woodland ecosystems, in the interior West; and

(2) provide assistance to the Institutes to promote the use of collaborative processes and adaptive ecosystem management in accordance with paragraph (1).

(b) LOCATION.—

(1) EXISTING INSTITUTES.—The Secretary may designate an institute in existence on the date of enactment of this Act to serve as an Institute established under this Act.

(2) STATES.—Of the Institutes established under this Act, the Secretary shall establish 1 Institute in each of—

(A) the State of Arizona, to be located at Northern Arizona University;

(B) the State of New Mexico, to be located at New Mexico Highlands University, while engaging the full resources of the consortium of universities represented in the Institute of Natural Resource Analysis and Management (INRAM); and

(C) the State of Colorado.

(c) DUTIES.—Each Institute shall—

(1) develop, conduct research on, transfer, promote, and monitor restoration-based hazardous fuel reduction treatments to reduce the risk of severe wildfires and improve the health of dry forest and woodland ecosystems in the interior West;

(2) synthesize and adapt scientific findings from conventional research to implement restoration-based hazardous fuel reduction treatments on a landscape scale using an adaptive ecosystem management framework;

(3) translate for and transfer to affected entities any scientific and interdisciplinary knowledge about restoration-based hazardous fuel reduction treatments;

(4) assist affected entities with the design of adaptive management approaches (including monitoring) for the implementation of restoration-based hazardous fuel reduction treatments; and

(5) provide peer-reviewed annual reports.

(d) QUALIFICATIONS.—Each Institute shall—

(1) develop and demonstrate capabilities in the natural, physical, social, and policy sciences; and

(2) explicitly integrate those disciplines in the performance of the duties listed in subsection (c).

(e) COOPERATION.—Each Institute may cooperate with—

(1) researchers and cooperative extension programs at colleges, community colleges, and universities in the States of Arizona, New Mexico, and Colorado that have a demonstrated capability to conduct research described in subsection (c); and

(2) other organizations and entities in the interior West (such as the Western Governors' Association).

(f) ANNUAL WORK PLANS.—As a condition of the receipt of funds made available under this Act, for each fiscal year, each Institute shall develop in consultation with the Secretary, for review by the Secretary, in consultation with the Secretary of the Interior, an annual work plan that includes assurances, satisfactory to the Secretaries, that the proposed work of the Institute will serve the informational needs of affected entities.

(g) ESTABLISHMENT OF ADDITIONAL INSTITUTES.—If after 2 years after the date of the enactment of this Act, the Secretary finds that the Institute model established at the locations named in subsection (b)(2) would be constructive for other interior West States, the Secretary may establish 1 institute in each of those States.

SEC. 6. COOPERATION BETWEEN INSTITUTES AND FEDERAL AGENCIES.

In carrying out this Act, the Secretary, in consultation with the Secretary of the Interior—

(1) to the extent that funds are appropriated for the purpose, shall provide financial and technical assistance to the Institutes to carry out the duties of the Institutes under section 5;

(2) shall encourage Federal agencies to use, on a cooperative basis, information and expertise provided by the Institutes;

(3) shall encourage cooperation and coordination between Federal programs relating to—

(A) ecological restoration;

(B) wildfire risk reduction; and

(C) wildfire management technologies;

(4) notwithstanding chapter 63 of title 31, United States Code, may—

(A) enter into contracts, cooperative agreements, and interagency personal agreements to carry out this Act; and

(B) carry out other transactions under this Act;

(5) may accept funds from other Federal agencies to supplement or fully fund grants made, and contracts entered into, by the Secretaries;

(6) may support a program of internships for qualified individuals at the undergraduate and graduate levels to carry out the educational and training objectives of this Act;

(7) shall encourage professional education and public information activities relating to the purposes of this Act; and

(8) may promulgate such regulations as the Secretaries determine are necessary to carry out this Act.

SEC. 7. MONITORING AND EVALUATION.

(a) In General.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall complete and submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a detailed evaluation of the programs and activities of each Institute—

(1) to ensure, to the maximum extent practicable, that the research, communication tools, and information transfer activities of each Institute are sufficient to achieve the purposes of this Act, including—

(A) implementing active adaptive ecosystem management practices at the landscape level;

(B) reducing unnecessary planning costs;

(C) avoiding duplicative and conflicting efforts;

(D) increasing public acceptance of active adaptive ecosystem management practices; and

(E) achieving general satisfaction on the part of affected entities;

(2) to determine the extent to which each Institute has implemented its duties under section 5(c); and

(3) to determine whether continued provision of Federal assistance to each Institute is warranted.

(b) Termination of Assistance.—If, as a result of an evaluation under subsection (a), the Secretary, in consultation with the Secretary of the Interior, determines that an Institute does not qualify for further Federal assistance under this Act, the Institute shall receive no further Federal assistance under this Act until such time as the qualifications of the Institute are reestablished to the satisfaction of the Secretaries.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this Act $15,000,000 for each fiscal year.

(b) Limitation.—No funds made available under subsection (a) shall be used to pay the costs of constructing any facilities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2696, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2696 establishes institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires and restore the health of fire-adaptive forest and woodland ecosystems of the interior West.

This legislation directs the Secretary of Agriculture, in consultation with the Secretary of Interior, to establish the Ecological Restoration Institute at Northern Arizona University, under the leadership of Dr. Wally Covington, and similar institutes in New Mexico and Colorado, with the purpose of supporting groups to assist in the design and implementation of large-scale forest restoration treatments.

Research has shown that large forest fires will continue unless large scale action is taken. The treatment of our forests must begin with solid, sound science to restore the balance of our unhealthy forests. H.R. 2696 will facilitate this important research.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to extend my commendation to the gentleman from Arizona for his sponsorship of this proposed bill; and, Mr. Speaker, H.R. 2696 directs the Secretary of Agriculture to establish three university-based institutes to conduct and promote research to assist Federal land managers in the complicated process of reducing risks of wildfires and improving forest health in the interior West.

The bill specifically designates two universities to house institutes, Northern Arizona University in Arizona and Highlands University in New Mexico. The Secretary shall also designate a third institute to be located in the State of Colorado. The bill authorizes $15 million annually for these institutes, subject to appropriations.

□ 1445

Mr. Speaker, I congratulate the bill's sponsor, again the gentleman from Arizona. I also want to recognize the contributions of the Members on this side of the aisle, the gentleman from Colorado (Mr. UDALL) and the gentleman from New Mexico (Mr. UDALL). I thank them for their help, their sponsorship and their support of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of H.R. 2696, the Southwest Forest Health and Wildfire Prevention Act of 2003. This is extremely important legislation, and I applaud the gentleman from Arizona (Mr. RENZI) for his work on this issue. I also thank the gentleman from American Samoa for his leadership on this important issue.

Mr. Speaker, in my home State of New Mexico, we are experiencing a very serious and prolonged drought. Not only does this further exacerbate our water shortage as well as the difficulties faced by agriculture and livestock communities, but it also makes for very dangerous fire conditions as we approach spring and summer.

Unfortunately, the issue of fire prevention and suppression is extremely controversial. That is why I believe it is important that our country establish a science-based common-sense fire policy. This bipartisan legislation before us today lays the groundwork for a science-based strategy to combat wildfire in the West.

H.R. 2696 directs the Forest Service, in consultation with the Department of the Interior, to establish institutes to promote the use of adaptive ecosystem management to reduce the risk of wildfires and restore the health of fire-adapted woodland in the West. The Agency would be required to provide the institutes with financial and technical assistance. Creating these institutions will create a solid foundation for scientific knowledge and the ability to rapidly convert new insights into technology and tools.

These institutes will also create common ground for environmental, recreational, commercial, and governmental interests to work together and end the gridlock that has often paralyzed forest management initiatives.

Mr. Speaker, I am also extremely pleased the Forest Management Institute in New Mexico will be centered at New Mexico Highlands University, located in my congressional district. While being centered at Highlands, however, the institute will engage the full resources of the consortium of universities represented in the Institute of Natural Resource Analysis and Management, INRAM. This includes the other New Mexico education institutions of higher learning, such as New Mexico State University, University of New Mexico, New Mexico Tech, New Mexico Highlands, Eastern New Mexico University, and Western New Mexico University.

I would also like to thank the gentleman from Arizona (Mr. RENZI) as well as the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from New Mexico (Mrs. WILSON) for their work on this provision in the bill. It truly was a bipartisan effort.

Mr. Speaker, by passing this legislation and creating these institutions we will provide much-needed assistance to land managers in their ongoing efforts to decrease the severity of fires in our forests and restore woodland ecosystems. I urge my colleagues to support passage of this important legislation.

Mr. RENZI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume to again urge my colleagues to support this proposed bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from American Samoa for his leadership, and to add that the gentleman from New Mexico (Mr. UDALL) truly played a major role in the input and construction of this language, and I am grateful to him for his leadership.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LEACH). The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 2696, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DOUGLAS COUNTY, OREGON LAND CONVEYANCE

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 714) to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes.

The Clerk read as follows:

S. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF BUREAU OF LAND MANAGEMENT LAND IN DOUGLAS COUNTY, OREGON.

(a) IN GENERAL.—

(1) CONVEYANCE.—The Secretary of the Interior shall convey, without consideration and subject to valid existing rights, to Douglas County, Oregon (referred to in this section as the "County"), all right, title, and interest of the United States in and to the parcel described in paragraph (2) for use by the County for recreational purposes.

(2) PARCEL.—The parcel referred to in paragraph (1) is the parcel of land consisting of approximately 68.8 acres under the administrative jurisdiction of the Bureau of Land Management, as generally depicted on the map entitled "S. 714, Douglas County, Oregon Land Conveyance", dated May 21, 2003.

(b) PURPOSES OF CONVEYANCE.—The purposes of the conveyance under subsection (a) are to improve management of and recreational access to the Oregon Dunes National Recreation Area by—

(1) improving public safety and reducing traffic congestion along Salmon Harbor Drive (County Road No. 251) in the County;

(2) providing a staging area for off-highway vehicles; and

(3) facilitating policing of unlawful camping and parking along Salmon Harbor Drive and adjacent areas.

(c) SURVEY.—The exact acreage and legal description of the parcel to be conveyed under subsection (a) shall be determined by a survey—

(1) that is satisfactory to the Secretary; and

(2) the cost of which shall be paid by the County.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 714, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 714, introduced by Senator RON WYDEN of Oregon, and amended by the Senate, would provide for the conveyance of 69 acres of BLM land in Douglas County, Oregon, to improve management of and recreational access to the Oregon Dunes National Recreational Area.

Mr. Speaker, the intended effect of transferring this tract of BLM land would be to move recreational traffic off of Salmon Harbor Drive and out of the nearby communities. Currently, OHV users illegally park on Salmon River Drive, creating a public nuisance and safety hazard. The legislation would allow for a staging area for off-highway vehicles and provide improved access to the Oregon Dunes for other visitors, such as hikers and backpackers.

Mr. Speaker, S. 714, as amended, is supported by the administration, has broad bipartisan support from the Oregon delegation, and I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to extend my strongest support for this proposed bill, Senate bill 714, as it was originally introduced by the good Senator from the State of Oregon, Mr. WYDEN.

Mr. Speaker, the transferring of a small parcel of land to Douglas County will resolve a difficult safety issue that has arisen regarding the Oregon Dunes National Recreational Area. The land in question has been identified by the BLM for disposal. The Committee on Resources approved similar legislation during the previous Congress, and now Senate bill 714 passed the Senate by unanimous consent.

I also want to commend the gentleman from Oregon (Mr. DEFAZIO) for his sponsorship of this bill, which is a companion bill that was introduced as well, and I certainly commend him for his tireless efforts on behalf of this legislation and his commitment to resolving this problem not only for his constituents, but others who want to visit his beautiful area.

I urge my colleagues to support this Senate bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank my colleagues for considering this legislation today and certainly hope that it is successfully passed by the House later this evening.

Mr. Speaker, this is an issue upon which I and other members of the Oregon delegation have been working for a number of years. The issue of Winchester Bay, Salmon Harbor, and the

Dunes access, which is an extremely popular OHV area, has been a growing problem because of the growing popularity. This is sort of a bright light on the coast of Oregon where the economy has been lagging and so many other industries are in a depressed state. The tourism and the support this provides for local community and small businesses is very welcome.

What has been happening is that, because of a county campground nearer to the harbor and other camping, a number of people have been driving their OHVs actually on the road to access the nearest point into the Oregon Dunes National Recreation Area. That causes obviously congestion, conflicts with other vehicles on the road, and in some cases has been very problematic in the community and been a law enforcement problem on some of the big holiday weekends. This could be easily rectified, and hopefully will be today, by transferring this parcel of land.

I visited the parcel in question. It is extraordinarily underutilized at the moment. It is virtually unpoliced because of the cutbacks in BLM law enforcement and Forest Service law enforcement because of the Federal budget. There have been problems there with illegal camping, with the use of fires in areas that are not contained, and with the dumping of trash. If we are successful in implementing this legislation today, we will see control pass to the county who will properly police it, who will develop it into a regular campsite, and who will provide excellent access for OHV users without having to drive on the public roads. They will be directly adjacent to the Dunes National Recreation Area.

This legislation, as passed by the Senate, is identical to legislation introduced into the House, H.R. 514, by myself and the gentleman from Oregon (Mr. WALDEN). So since this is identical, and I believe it enjoys extraordinary widespread and bipartisan support, as the gentleman from Arizona already pointed out. I would recommend this legislation to my colleagues and urge that everyone vote in its favor so that we can enhance these recreational opportunities and protect the public health and safety and do just a little bit to help the economy of the south coast of Oregon.

Mr. Speaker, I thank the gentleman for his generous grant of time.

Mr. RENZI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume to again commend the gentleman from Arizona for his management of this proposed bill, and also thank my good friend, the gentleman from Oregon, for his insights and understanding of the bill and what it will do to benefit the people of Oregon.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the Senate bill, S. 714, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. RENZI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMUNICATION FROM STATE ASSISTANT TO THE HONORABLE C.L. "BUTCH" OTTER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Vicki Fulton, State Assistant to the Honorable C.L. "BUTCH" OTTER, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 22, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the District Court of the First Judicial District of the State of Idaho.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

VICKI FULTON,
State Assistant,
Congressman C.L. "Butch" Otter.

COMMUNICATION FROM FIELD REPRESENTATIVE OF THE HONORABLE C.L. "BUTCH" OTTER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Mark Compton, Field Representative of the Honorable C.L. "BUTCH" OTTER, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 22, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the District Court of the First Judicial District of the State of Idaho.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

MARK COMPTON,
Field Representative,
Congressman C.L. "Butch" Otter.

COMMUNICATION FROM CHIEF OF STAFF OF THE HONORABLE SHELLEY MOORE CAPITO, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Mark Johnson, Chief of Staff of the Honorable SHELLEY MOORE CAPITO, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 17, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena, issued by the U.S. District Court for the Southern District of West Virginia, for the production of documents.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

MARK JOHNSON,
Chief of Staff.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1833

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 6 o'clock and 33 minutes p.m.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.R. 2751, GAO HUMAN CAPITAL REFORM ACT OF 2003

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House H.R. 2751; the bill shall be considered as read for amendment; the amendment in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill shall be considered as adopted; all points of order against the bill, as amended, are waived; and the previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on the Speaker's approval of the Journal and motions to suspend the rules previously postponed.

Votes will be taken in the following order:

Approval of the Journal, de novo;

H.R. 2707, by the yeas and nays; and

S. 714, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote, without objection.

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ISAKSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 32, not voting 19, as follows:

[Roll No. 25]

YEAS—381

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Cox
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)

NAYS—32

Aderholt
Baldwin
Brady (PA)
Capuano
Costello
Crane
DeFazio
English
Filner
Fossella
Gutknecht
Hefley
Jones (OH)
Kennedy (MN)
Larsen (WA)
LoBiondo
McDermott
Oberstar
Olver
Peterson (MN)
Ramstad
Rush
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (NM)
Visclosky
Waters
Weller
Wu

NOT VOTING—19

Brady (TX)
Collins
Doggett
Engel
Forbes
Gephardt
Gonzalez
Honda
Hulshof
Kilpatrick
Kucinich
Lantos
Lowey
Murtha
Ortiz
Ose
Stark
Wexler
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1902

So the Journal was approved.

The result of the vote was announced as above recorded.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 24, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the original Certificate of Election received from the Honorable Trey Grayson, Secretary of State, Commonwealth of Kentucky, indicating that, on examination of the Official Abstracts of Votes on file in that office for the special election held February 17, 2004, the Honorable A.B. "Ben" Chandler was duly elected Representative in Congress for the Sixth Congressional District, Commonwealth of Kentucky.

With best wishes, I am,

Sincerely,

JEFF TRANDAHL,
Clerk.

SWEARING IN OF THE HONORABLE BEN CHANDLER, OF KENTUCKY, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Representative-elect and the members of the Kentucky delegation present themselves in the well.

Mr. CHANDLER appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now a Member of the 108th Congress.

WELCOMING THE HONORABLE BEN CHANDLER TO THE HOUSE OF REPRESENTATIVES

(Mr. ROGERS of Kentucky asked and was given permission to address the House for 1 minute.)

Mr. ROGERS of Kentucky. Mr. Speaker, in the same bipartisan spirit of cooperation that has characterized Kentucky delegations to this great body, it is my privilege tonight, as dean of our delegation, to present to you our newest Member and America's newest Congressman, BEN CHANDLER.

BEN won the special election a week ago tonight to fill the unexpired term of our colleague and now Governor, Ernie Fletcher.

The Chandler name in Kentucky is legendary. BEN's grandfather, the late Albert "Happy" Chandler, was a twice-elected Governor; U.S. Senator: and baseball commissioner, who, by the way, presided over the integration of Major League Baseball.

But young BEN has earned his own stripes. He has just completed two terms as Kentucky attorney general, and before that the elected State auditor, and was nominated by his party for Governor last year.

BEN CHANDLER follows in the seat held by a long list of national leaders, including our own Governor Ernie Fletcher. One of the greatest Speakers of this body held this seat, Henry Clay, twice Speaker, three-time candidate for President, Secretary of State, U.S. Senator, the Great Compromiser of pre-Civil War years; Kentucky's greatest national legislator, that is until recently, of course. In fact, Henry Clay made history very early in his congressional career. He was elected Speaker immediately upon being sworn in as a freshman from this very Kentucky district.

Mr. Speaker, I like BEN CHANDLER, but maybe you and I had better keep an eye on him.

Mr. Speaker, I yield to the gentleman from Kentucky (Mr. LUCAS), our colleague from Kentucky's Fourth District.

Mr. LUCAS of Kentucky. Mr. Speaker, I thank the gentleman from Kentucky (Mr. ROGERS). It is indeed a pleasure for me to welcome my colleague BEN CHANDLER here this evening.

BEN, it has been kind of lonely up here from Kentucky for us Democrats, and now we have doubled the amount of Democrats from Kentucky, and that is really great.

In Kentucky we are known for thoroughbred racing, and of course BEN comes from the heart of the thoroughbred country. And the success of thoroughbreds are based on bloodlines. If one has great bloodlines, they are successful in racing. And BEN comes here with great bloodlines.

And I am sure you are really going to be successful, and I am happy to share this moment with you and all your friends and your family, Jennifer and your three kids. It is great for you to be here, BEN. Thank you.

Mr. ROGERS of Kentucky. Mr. Speaker, I am deeply honored to welcome Kentucky's new Member of Congress from the Sixth District, BEN CHANDLER, and I am proud to present him at this time to the body.

MAIDEN SPEECH OF THE HONORABLE BEN CHANDLER AS NEWEST MEMBER OF 108TH CONGRESS

(Mr. CHANDLER asked and was given permission to address the House for 1 minute.)

Mr. CHANDLER. Mr. Speaker, Members of this body, I thank you very, very much for this wonderful reception. It is obviously an unusual event because I won a special election. I think that lends itself to a more singular reception. But I do appreciate the attention very much.

This has been a whirlwind for me, and I can assure you that it is a tremendous honor to have the opportunity to serve with everyone here.

I am pleased to be a member of the Democratic Caucus. I am pleased to be a member of the Kentucky delegation. I am honored to represent my State that I think everyone here from Kentucky knows I am very proud of. I am also very pleased to have my wife Jennifer with me in the crowd and our three children, Lucie, Albert, and Branham, all of whom got to come down here since they are all under the age of 12. It is nice to have them here, too.

Nearly 65 years ago, my grandfather, whom Mr. ROGERS mentioned, entered this grand building much as I have today, thrust into office in the middle of a term. In October of 1939, when he came to this august place, our country stood at the brink of world war. Nazism, fascism, and tyranny threatened to destroy American security and the values that we all hold dear.

Today many of our families face not those same kinds of challenges, but challenges in many ways just as difficult and just as important, a new set of challenges, and I am very honored to have the opportunity to work with every one of you to face those challenges and hopefully to surmount them. I am very much looking forward to that.

I consider it a great privilege to represent not only the Commonwealth of Kentucky but the Sixth Congressional District in our Commonwealth, which includes the central part of our State, central Kentucky, which is the horse-racing capital of the world, the bluegrass region of the Commonwealth of Kentucky. And as was mentioned, it was represented by one of the most illustrious Members of this august body, Henry Clay, among many others, and it is truly an honor to have the opportunity to follow in his footsteps.

I want you to know that I am excited about this. I am really looking forward to being a contributing Member who brings good things to all of the people of this wonderful Nation of which we are a part. Thank you for the honor. Thank you for the privilege. Thank you for having me here today, and I am very much excited about getting to work.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces to the House that, in light of the administration of the oath to Representative CHANDLER, the whole number of the House is adjusted to 434.

SALT CEDAR AND RUSSIAN OLIVE CONTROL DEMONSTRATION ACT

The SPEAKER. The pending business is the question of suspending the rules and passing the bill, H.R. 2707, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 2707, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 367, nays 40, not voting 26, as follows:

[Roll No. 26]

YEAS—367

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case

Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Cole
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holt
Hooley (OR)
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
  (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-
  McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Oberstar
Obey
Olver
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda
  T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—40

Akin
Barrett (SC)
Bartlett (MD)
Blackburn
Coble
Culberson
Davis, Jo Ann
Deal (GA)
Doolittle
Duncan
Everett
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Gingrey
Hayes
Hefley
Herger
Hostettler
Johnson, Sam
Jones (NC)
Miller (FL)
Myrick
Norwood
Nussle
Paul
Petri
Platts
Rohrabacher
Royce
Sensenbrenner
Sessions
Shimkus
Smith (MI)
Stearns
Tancredo
Taylor (MS)
Taylor (NC)
Toomey

NOT VOTING—26

Brady (TX)
Collins
Conyers
Doggett
Doyle
Engel
Forbes
Gephardt
Gonzalez
Greenwood
Holden
Honda
Hulshof
Kilpatrick
Kucinich
Lantos
Lowey
Murtha
Musgrave
Ortiz
Ose
Sabo
Scott (VA)
Stark
Wexler
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1923

Messrs. TANCREDO, NORWOOD and ROHRABACHER, Mrs. MYRICK and Mrs. BLACKBURN changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide for an assessment of the extent of the invasion of Salt Cedar and Russian Olive on lands in the Western United States and efforts to date to control such invasion on public and private lands, including tribal lands, to establish a demonstration program to address the invasion of Salt Cedar and Russian Olive, and for other purposes.".

A motion to reconsider was laid on the table.

DOUGLAS COUNTY, OREGON, LAND CONVEYANCE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 714.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the Senate bill, S. 714, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 36, as follows:

[Roll No. 27]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
  Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
  (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-
  McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Owens
Oxley
Pallone
Pascrell

Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—36

Brady (TX)
Capps
Collins
Cox
Doggett
Doyle
Dreier
Forbes
Gephardt
Gingrey
Gonzalez
Greenwood
Holden
Honda
Hulshof
Kilpatrick
Kucinich
Lantos
Lowey
Miller (MI)
Moran (VA)
Murtha
Musgrave
Ortiz
Ose
Otter
Peterson (PA)
Pombo
Reynolds
Rogers (MI)
Sabo
Scott (VA)
Stark
Weller
Wexler
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are reminded there are 2 minutes remaining in this vote.

□ 1941

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, personal responsibilities required my presence in the 13th Congressional District of Michigan. Should I have been present for today's legislative business, I would have voted "yea" on approving the Journal (rollcall No. 25); "yea" on approving H.R. 2707, The Salt Cedar and Russian Olive Control Demonstration Act (rollcall No. 26); and "yea" on S. 714, the land transfer of Bureau of Land Management property to Douglas County, Oregon (rollcall No. 27).

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3473

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3473.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

U.S. POLICY UNDERMINES HAITIAN GOVERNMENT

(Ms. CORRINE BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Mr. Speaker, as a Member elected from Florida, I have always supported the citizens of Haiti, and I was one of the ones that went and witnessed the fair election of Mr. Aristide.

Let me just say that it was just as fair as the election that took place in Florida. But sadly, even though Haiti is right off the shores of Florida, this administration has treated Haitians and the Haitian people like unwanted stepchildren.

Right now in Haiti, people are starving to death and being slaughtered in the streets, and the U.S. is nowhere to be found. U.S. policy has undermined the Government of Haiti. Let me say again, the U.S. policy has undermined the duly-elected Government of Haiti and continues today to threaten the very lives of the Haitian people.

I ask this President, how can he justify our attack of Iraq by claiming we are building a democracy while he sits idly by and watches a democracy in Haiti being destroyed by thugs whose only goal is to steal power from a duly-elected President?

Shame on you, Mr. President.

HONORING ERIC ULYSSES RAMIREZ, AN AMERICAN HERO

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, it is with a heavy heart that I rise today to express the condolences of a grateful Nation. I rise so that this Nation will never forget the service and sacrifice of those fallen while working to keep us free.

I rise today specifically to honor the life of Eric Ulysses Ramirez. Specialist Ramirez was killed when his unit was attacked by Iraqi insurgents.

Eric was a sheriff's deputy and a National Guardsman who answered the call to duty when his unit was activated last February. He only had 42 days remaining before his planned return to family and friends when his unit was attacked by RPG, cutting short the life of a young father.

This past weekend I attended services for Specialist Ramirez and can share with my colleagues that his family is very supportive of our actions in Iraq and that we need to honor the fact that he has a very loving wife, children, and parents, and his parents actually live in my district.

We know very well that our freedom could not have been won nor our liberty maintained without those willing to make this ultimate sacrifice, but I know that these are very weak words to the grieving family left behind. I pray that the Lord and that everyone who knew Eric will maintain their memory of Eric and that this will help to assuage their pain.

Eric was a loving father, son, and husband, and this country owes its freedom to Eric and those who came before him. So do the citizens of Iraq.

Mr. Speaker, please join me in honoring this American hero.

URGING U.S. TO MOVE FORWARD IN PROVIDING SECURITY IN HAITI

(Mr. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEK of Florida. Mr. Speaker, I rise today to urge the Bush administration to move forward in providing the kind of security that we need in Haiti right now. On average, every day in Haiti, 15 to 16 Haitian nationals are losing their lives due to rebel forces and anti-Aristide forces.

I will tell my colleagues right now that the violence will continue to escalate. The rebels are getting more and more arms. They are getting body armor, they are getting helmets, they are getting all of the things that they need to continue to carry on the nightmare in Haiti.

I want to say to the U.S. citizens here tonight, standing by will not make things better in Haiti. Being from Florida and being from Miami, Florida, there is going to be a number of individuals coming to our shores if we do not stand in and intervene now. It is important that the U.S. moves forth with France and Canada, who are willing to bring about peace in Haiti, so that we can have diplomatic talks with the opposition forces.

The reason why there was not an agreement today at 5 o'clock is because there is no agreement to be made. The rebels cannot be controlled by opposition parties right now, and it is important that this administration acts now before military action will be paramount.

RECOGNIZING ELIZABETH CITY STATE UNIVERSITY

(Mr. BALLANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLANCE. Mr. Speaker, as we continue to celebrate Black History Month and the achievements and the accomplishments of African Americans in America, today I would like to recognize Elizabeth City State University, one of our historically black universities located in my congressional district, and Chancellor Mickey Burnham, trustees, faculty, alumni, and students.

Elizabeth City State University was founded in 1891 "for the purpose of teaching and training teachers of the colored race to teach in the common schools of North Carolina." Just three decades after the Civil War ended, African Americans worked hard to live up to the ideals of liberty and freedom. Although there were many challenges faced by African Americans, many persevered and took advantage of established institutions such as Elizabeth City State University in the hopes of educating African Americans.

☐ 1945

Despite the obstacles, there was a positive belief that the key to a successful future lies in education. This belief remains today.

As I think about the bright educators and students trying to be triumphant over adversity, I feel very proud of Elizabeth City State University. I wish Elizabeth City State University continued good fortune and success as they work to educate all of our people.

MOURNING THE DEATH OF LOS ANGELES POLICE DEPARTMENT OFFICER RICARDO LIZARRAGA

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, it is with deep sadness and regret that I rise to inform my colleagues of the death of Los Angeles Police Department Officer Ricardo Lizarraga, who was killed in the line of duty on Friday, February 20, 2004, while answering a domestic violence dispute in the area of Western and Vernon Avenue in my district. Officer Lizarraga became the first LAPD officer since 1998 to be shot and killed in the line of duty.

Mr. Speaker, as many of us know, domestic violence calls can be the most volatile and unpredictable situations to which police officers respond. After a woman flagged down Officer Lizarraga's police car and asked for help, the officer and his partner went to remove an abusive boyfriend from her apartment. According to official accounts, the suspect emerged with a gun and shot the 30-year-old officer just below his bulletproof vest.

Officer Lizarraga had only recently joined the police force 2 years ago. Fellow officers described him as cheerful, soft-spoken, hardworking, who loved his job and in April had landed an assignment on a fledgling special problems unit in the Newton division, where my father served and died of injuries related to his service. A fellow officer called Officer Lizarraga a gentle giant, who could look intimidating; but all one had to do was talk to him, and he would respond softly. He was very nice, very quiet, and it belied his stature.

Officer Lizarraga was born and raised in Los Angeles and attended Hamilton High School and Santa Monica College. He worked for the Ralphs Supermarket chain before fulfilling a long-time goal of joining the LAPD in September 2001. He leaves a wife, Joyce, and a mother who resides in Mexico.

Mr. Speaker, my deepest sympathies are extended to Officer Lizarraga's colleagues at the LAPD and his wife, family, and friends. It is my sincerest hope that Officer Lizarraga's death will not be in vain, but once again remind us that our business is unfinished in dealing with domestic violence, gang violence, and the proliferation of handguns which remain the weapons of mass destruction in many of our Nation's urban areas.

A TRAGEDY IS OCCURRING

(Mr. PAYNE asked and was given permission to address the House for 1 minute.)

Mr. PAYNE. Mr. Speaker, a tragedy is occurring off our shores. A duly-elected government in Haiti, President Jean Bertrand Aristide's government, is in jeopardy. He is being challenged by the former FRAPH, a paramilitary group of outlaws and bandits, the former military leaders who are across the border in the Dominican Republic and drug dealers who have taken over parts of that country, using their influence to corrupt the citizenry.

On the other hand, we have a person who is duly elected, President Aristide. I cannot understand why our Nation that stands for democracy all over the world stands idly by while we let thugs who are burning and raping and looting take a free hand.

The French have said we are willing to go in. We have 4,000 troops, as a matter of fact; and they even said, as a matter of fact, U.S.A., we do not need you, just support us.

I urge our government to help the people of Haiti by coming up with a diplomatic solution to the problem in that country.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1997, UNBORN VICTIMS OF VIOLENCE ACT OF 2004

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–427) on the resolution (H. Res. 529) providing for consideration of the bill (H.R. 1997) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SUPPORT DEMOCRACY IN HAITI

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, the bloody spectacle of this week is not the release of Mel Gibson's gory movie exploiting the suffering of Jesus Christ. In this hemisphere, 600 miles from our shores, blood is flowing in the streets of Haiti with the complicity of the Bush administration. This White House and its agents are like Pontius Pilate, pretending to wash their hands while the democratic nation of Haiti is assassinated.

At least one former CIA asset has been identified as a leader of the band of savage guerrillas. The people of the United States must turn their backs on this conspiracy and demand that the democratic nation of Haiti, the democratic government, the duly-elected President of Haiti be supported by the United States Government and that Aristide be allowed to serve out his next 2 years without any compromise with bands of thugs in the street.

There is only one opposition. The so-called civil opposition is not civil at all. They operate hand in hand with the violence. Stop the violence and support democracy in Haiti.

ANARCHY IS HAPPENING TO OUR NEIGHBOR

(Mr. MEEKS of New York asked and was given permission to address the House for 1 minute.)

Mr. MEEKS of New York. Mr. Speaker, if not now, when? Blood is in the streets. Anarchy is happening to our neighbor right next door, our third border is at stake. It is time for the United States of America to take serious the activities that are taking place on that island called Haiti, for indeed we should have been there long ago, talking and trying to negotiate and bringing things so that democracy can prevail.

We are the largest democracy on the planet Earth; and if democracy means anything, we should look just 90 miles off our shores and say that we are going to support and stand for democracy and not stand for anything that will be less than that, where mere villains and thugs can then take over a country.

We should stand strong and say that we are not going to allow that to happen, that we want democracy to flourish everywhere, not just overseas, not just away from home, but right on our third border. That protection that we need, we should be mounting the troops together, the United Nations as well as other foreign countries, to bring to the people on the ground peace.

NOW IS THE TIME FOR US TO ACT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, the headline reads, "Haitians Man Barricades Against Armed Rebels."

Mr. Speaker, this is the 200th year of the anniversary of independence of our friends who live in Haiti. If my colleagues recall, in the founding of our constitutional country, it was the Haitians who helped us claim our independence. How can we stand idly by and not demand for them justice, equality, and democracy? How can we watch blood run in the streets and not provide peacekeeping troops and the dignity to provide all of them an equal opportunity? As the President, who was duly elected, stands against the rage of the insurgents, we stand idly by.

Mr. President, Mr. Secretary of Defense and Secretary of State, it is time now for us to deal with democracy here at our very shore and then, Mr. Speaker, might I say, do not, do not denounce or do not disregard the fact that there will be thousands of Haitian refugees which we have to deal with. We are not addressing the question of those refugees or possible immigrants coming into this country. We need to be prepared and provide the asylum and provide the coverage and the opportunity for them to be here.

I simply say that now is the time for us to act. It is important for peacekeeping troops to go to Haiti now.

HAITI'S HISTORY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, as President Bush makes his decision about sending troops to Haiti, I wish that he would look at Haiti's history and would look at the history of our relationship with Haiti.

210 years ago, Haiti was a nation as wealthy as the 13 Colonies. After a slave revolt, Haiti in the early part of the next century, in 1804, proclaimed its independence. Our government, a country with slave owners, would not recognize the government of Haiti, a country where slaves were now running the government, running the country, former slaves. We did not recognize them for more than 50 years; and then, Mr. Speaker, the United States Marines, in the early part of this century, occupied Haiti.

Some years later, when Papa Doc and Baby Doc Duvalier were in power in Haiti, U.S. interests funded and propped his government up, a bloody dictatorship. So now that President Aristide is in power, Mr. Speaker, we need to recognize this democracy. We have to deal with that as a democracy of equals.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

OUR ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, this book has not hit the best seller list yet, but it should. This lays out the agenda of the President for the future of our economy, jobs, Social Security, and other programs. Actually, we have got to give the principal author, Mr. Mankiw, the President's chief economic adviser, some points for extraordinary honesty.

A quote from page 229, in reference to trade, of course, the United States of America is running a huge and growing trade deficit. We will borrow more than one-half of $1 trillion, $500 billion, from overseas to finance this. We are hemorrhaging jobs. U.S. corporations flee overseas to exploit cheap labor and Mr. Mankiw says that is all to the good. "When a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically."

He went on to say that exporting trade jobs realizes the dream of free trade that economies have talked about for 2 centuries.

□ 2000

But then he says not to worry, because, of course, we have a comparative advantage. Well, the question would be, a comparative advantage in what?

Well, since they told us first we are going to lose those obsolete manufacturing jobs, which I disagreed with, because I do not think you can be a great Nation if you do not make things anymore, but then they said, do not worry, we are going to go to the intellectual jobs. We will do those sorts of things, and we will protect those through these trade agreements. Well, we now find we are exporting those intellectual jobs, and, in fact, we are also losing them to unfair trade.

But, remember, this President supported Most Favored Nation status for the bloody dictators of Beijing, the Communist Government of China, because of the insistence of U.S. corporations. It says here, do not worry, we will defend our intellectual property against countries like China, which regularly steal it. It said that if you bring intellectual property into China, within 24 hours it will be on the streets in counterfeit form; but yet this administration, which says if a country is found to be in violation of their obligations under a trade agreement, the United States could retaliate against those countries, against the entire range of transactions covered by the agreement.

That is right. Could. But guess what? Will not. How many trade complaints has the United States filed against the Communist Government of China for wholesale theft of American intellectual property, which is leading to our $124 billion trade deficit with China and the flood of U.S. jobs into that country? None. Zero. None.

A company in my district, Videx, an American dream. The guy started with Hewlett-Packard and came up with a new scanner technology. It is all made in America. All of it. He employs 160 people directly, and even in Texas he has contractors making this good. He has also developed an electronic lock. One day he found out, and he is operating in 44 countries, that he had been cloned. His company had been entirely cloned in China, including the Website, including the software language that says U.S. copyright or patents, translated into Chinese. The Chinese had even gone one better. They took the Videx Website and put a little waving American flag up in the corner on this phony Website for a Chinese company, and condoned by the Chinese Government.

I thought, well, certainly the Bush administration, who say they want rules-based trade, they will help this company. They are for small business; they will help this company. We went to the Commerce Department and the answer was, nope, sorry, you are out of luck. In fact, in a conference call just 2 weeks ago, this company, Videx, Corvallis, Oregon, was told by the Bush Commerce Department, those great defenders of free trade, intellectual property and rules-based trade, that, in fact, they would do nothing to enforce their intellectual property rights or prevent the theft of their entire company and product in China, as is happening to dozens of other American firms, because the big corporations do not want such complaints filed against China because it might make them mad, and they might lose access to the cheap labor to produce the goods that they export back here.

That is what this administration is all about. They talk about small business, but they are just there for a few multinational corporations. They have a real chance here to help an American company to save hundreds of American jobs, to stop the Chinese from stealing that product and the product of many other American firms and stop stealing those jobs. All they have to do is file a complaint.

The company cannot file the complaint at the World Trade Organization. The Bush people stacked the deck. The only way it can be filed is by the United States Government and the Commerce Department, and they are refusing to do that. If they care about jobs, if they care about the future of this country, they will eschew these radical free trade policies. And they are not only free trade, they are theft policies being pursued by other countries against the U.S.

This is not a level and fair trade field, and it is time that things changed. But I doubt very much under this administration that they will, because small companies cannot afford to contribute the millions of dollars to the reelection campaign that the big ones can.

CONGRESS SHOULD HOLD BROADCAST MEDIA TO A HIGHER STANDARD OF DECENCY

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, 100 million people viewed this year's Super Bowl. It was a great football game. Unfortunately, most of the publicity did not focus on the football game, it rather focused on the half-time show and a few ads. Matter of fact, there were 200,000 complaints concerning some of the indecency that were filed. I think this illustrates the culture war we are currently experiencing, because most in the entertainment industry really could not understand the outcry. This is pretty much business as usual. Yet those in middle America were not quite so enthralled. They were hit right between the eyes by the media content that our children are immersed in almost daily.

Many Members of Congress, myself included, were concerned and somewhat outraged, and I just am concerned that this outrage may be short-lived if we look at the history of such things. In 2003, 240,000 complaints were filed with the FCC concerning indecent and obscene programming, yet there were practically no responses by the FCC or by Congress. Few of these complaints were even answered by the FCC. Complaints are often bundled, they are not counted separately, so there may have been well over 240,000 complaints filed. Only a handful of citations were issued, which resulted in minimal fines, roughly four or five citations. No TV station has ever been fined in the history of the FCC for broadcasting indecent material. Since the FCC began in 1934, no broadcast license has ever been suspended.

The FCC receives $278 million from Congress annually, yet it is largely derelict in the enforcement of its duties. On June 2, 2003, the FCC increased the market share media conglomerates can control from 35 percent to 45 percent. What does that mean? It means in a major media market, one conglomerate can own three TV stations, one newspaper, and eight radio stations. So there has been a huge amount of concentration in the media industry.

As media control is more centralized, and there is less local control, there is more emphasis on indecent programming. There is a focus on the bottom line; simply what will sell. Locally-owned outlets are more sensitive to community standards and are less likely to broadcast indecent material. Congress, I think, needs to reverse this trend towards concentration and move back to that 35 percent of the market that was originally the standard.

Our children are paying a price. The average young person by the age of 18 witnesses 200,000 violent acts and 40,000 murders on television. They average roughly 6 hours of media exposure per day. Research by the Congressional Public Health Summit in 2000 indicated that children exposed to media violence are more violent later in life; more apt to commit crimes of violence. Studies show that children watching sexually explicit programming adopt more permissive attitudes towards premarital sex and become more promiscuous.

Our out-of-wedlock birth was 5 percent in 1960, and today it is roughly 33 percent. One out of every three children coming into our culture are born with a huge disadvantage. They have two strikes against them. These children, and really all of us in our culture, pay a great price. So what I would urge, Mr. Speaker, is that Congress needs to stay the course, play its part, and hold the FCC to its charge.

The gentleman from California (Mr. BACA) and I have started a caucus, the Sex and Violence in Media Caucus, which we hope people will join. Several weeks ago, Bono uttered an obscenity four times during prime time, and the FCC refused to penalize the broadcast network because they said he used the obscenity as an adjective. As a result, the gentleman from California (Mr. OSE) has introduced the bill Clean Airways Act, H.R. 3687, which defines eight obscene words, and it says if these words are used, no matter whether used as adjectives, verbs, adverbs, pronouns, whatever, they are still subject to penalty. Also, the gentleman from Michigan (Mr. UPTON) has introduced H.R. 3717, the Broadcast Decency Enforcement Act, which increases penalties for obscenity from $27,500 to $275,000, a tenfold increase, which may get some people's attention.

I urge my colleagues, Mr. Speaker, to hold the broadcast media to a higher standard and to require the FCC to enforce commonly held standards of decency.

THE PRESIDENT'S BALLOONING CREDIBILITY DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, in addressing the Republican Governors Association fund-raiser last night, the President, in a much-touted speech, decided to unveil his reelection strategy. He pointedly accused the current front-runner for the Democratic nomination of having a record of flip-flopping, waffling and temporizing.

Since the State of the Union and since Meet the Press, I have been waiting for this President to offer a vision and an agenda for this country. His strategy has got America stuck in an endless occupation and a jobless economy. I thought last night we were going to hear a strategy of how to move forward, yet the President of the United States, after 3 years of governing, has decided his strategy is to tear down his opponent rather than to offer America a vision of tomorrow and what we can do to build something tomorrow.

I thought it was very ironic for a President of the United States, who has a growing credibility gap, where people question the validity and the very truthfulness of his words, to begin to question the consistency of the front-runner for the nomination of the Democratic Party. I thought it was very interesting because, if I am not mistaken, this was the President of the United States who has flip-flopped on steel tariffs. That has been this President's record. He flip-flopped within 18 months of having imposed the tariff.

This is a President who, although promoting tax cuts for the very wealthy, called them a middle-class tax cut. We now find out, in Paul O'Neill's book and Ron Suskind's book, the President of the United States knew that his tax cut went to the top end. He went into a meeting, said, "Haven't we done enough for the top end?" And yet he went out and sold his tax cuts as something else and then accused Democrats of class warfare for asking the very same question he had asked. And he wants to accuse the Democratic nominee, or near nominee, of being a flip-flopper?

He has a very interesting economic strategy. He is trying to wage three wars with three tax cuts and tell us the deficit is a result of something else; spending on veterans, police, education, and health care. Ever since his tax cuts for $3 trillion, America has added $521 billion to the deficit, 3 million Americans have lost their jobs, 5 million additional Americans are without health care, and over $1 trillion worth of corporate assets have been foreclosed on.

His economic report has now told us that the middle class of India, where they are outsourcing jobs, is the primary concern of the President's economic report rather than the shrinking middle class in Indiana. This is a President who then walked away from that. In Ohio, he said manufacturing was his top priority, yet year after year his budget cuts the manufacturing extension program which helps small businesses.

This is a President of the United States who on foreign policy took the Nation, regardless of whether you are for or against it, to war based on weapons of mass destruction, yet we have now found out in two State of the Union Addresses that he raises threats that are not true; in the State of the Union to the United States, where the world was listening.

The President's credibility gap is stretched even wider by his budget that is filled with flip-flops and inconsistencies. He has pledged $3.5 million in new money for police and firefighters, yet his budget cuts $1 billion out of existing grants to local police and firefighters. He told us the budget deficit would be manageable, but his plan to halve it by the year 2009 is an accounting fiction. Even Goldman Sachs and the IMF have blamed the Government of the United States for being a danger to the world economy, let alone employment growth here in the United States.

The President told conservatives of his own party that Medicare would cost only $400 billion. Within 2 months, the bill was for $537 billion. He promised to clean up the Great Lakes on one hand, so he increased the funding for $35 million, but with the other hand he cut the State Revolving Fund for water cleanup by $400 million. And this is an administration that wants to challenge people on the word of credibility, on their flip-flops and waffling?

The only thing this White House never waffles on is when you are a special interest and you need a special favor. They have been quite consistent if you are a pharmaceutical company, you are a polluter, or you are an insurance company or an HMO. So when this President says he wants to campaign on somebody's credibility and on their consistency, I as one Democrat welcome that, because we have 3 years of a record. This President has done a phenomenal job of getting America stuck in a jobless recovery and an endless occupation in Iraq.

This is an election about America's future, not offering the status quo that has put America in the position it is. So if credibility is a question we are going to have in this campaign, let us bring it on.

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RISING COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, there has been a lot of talk over the past few months and debate here in the Congress about the high cost of prescription drugs. I just got a letter from one of my constituents in Indiana, Joseph Neff. Joseph is 67. He and his wife buy a lot of prescription pharmaceuticals from Canada. In this letter he sent me, it shows a 3-month supply of the products he has been buying from Canada, and it shows he is going to save $3,007 a year by buying pharmaceuticals from Canada, the very same thing he would buy here in the United States, the same identical prescription drugs; and yet they cost less in Canada than if he bought them here in the United States. He is saving 50 percent on the prescription drugs he is buying from Canada. If he bought them through AARP on a discount card, it would be 10 percent. So he still saves more by going directly to Canada.

The pharmaceutical industry has been fighting day and night to stop reimportation of pharmaceuticals. They have gone to the FDA and HHS, and they have told them it is not safe to have reimportation; and our health agencies have been going along with it. And yet we held four hearings, and we asked them to give one example where people have been harmed by pharmaceuticals brought in from Canada. They could not name one example. So the pharmaceutical industry has unusual support at our health agencies. They have undue influence at our health agencies; and as a result, American people are paying exorbitant prices for prescription drugs compared to what they are paying in Canada, Germany, and other parts of the world.

Just recently there was a poll that was released by the Associated Press and stated that a third of American families struggle to afford their prescriptions, and 73 percent of those families have to cut their dosages by as much as half so they can take care of their health needs. Two-thirds of those polled felt that the Federal Government should open up this market and make it easier for people to buy prescription drugs from Canada and other countries at lower cost.

So why does our government not listen to the people we represent? There is no safety issue. That is a bogus argument. Yet the health agencies continue to walk in lock-step with the pharmaceutical companies saying it is a health risk, and it is simply about money. The big profits they make in the United States are huge compared to what they are making in other countries. We continue to let them do that when the price they charge should be fair and equitable throughout the world. All of their profits should not be loaded on the backs of the American people who are struggling to make ends meet.

In July of this year, we had a vote on this floor. The vote overwhelmingly passed saying that we wanted the reimportation of pharmaceuticals to be allowed so Americans can get the breaks that they are getting in other countries. Even though that passed, when the Medicare prescription drug bill came out of conference committee, they left that out.

The other thing that bothers me is the American people realize that our government should be negotiating to make sure that Medicare prescription drug prices are as low as possible, and yet there is a prohibition in law passed by the Congress of the United States that does not allow our government under the Medicare prescription drug bill to negotiate with the pharmaceutical companies to get the best price for the American taxpayers. So we pay the highest prices for pharmaceuticals that the pharmaceutical companies want to charge, while in other countries there are negotiations taking place between their governments and the pharmaceutical industry. This just is not right. This is something my colleagues on both sides of the aisle feel very, very strongly about.

Mr. Speaker, we have to take our health agencies and anybody else to task who is trying to load all of the profits of pharmaceuticals on the backs of the American people. The American people need fairness; they need to know that they are going to be treated fairly. They should not have to cut their pharmaceutical products in half in order to stretch them out to take care of their health needs. They do not want to pay up to 300 percent more than they are paying in Canada for the pharmaceuticals products, and they should not be called criminals because they go across the Canadian border and buy the very same product up there for less than they can get it here in the United States.

In addition, governors of 25 States and a multitude of cities across the country are now trying to negotiate with Canadian pharmaceutical distributors to buy their pharmaceutical products through Canada because they will save so much money, and it will help their budgets at the State and local level. This is a problem that is not going to go away. The pharmaceutical industry and our health agencies need to address this problem; and, Mr. Speaker, we are not going to be quiet on this floor until this problem is solved.

JOBS RECESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, after 3 years in the White House, President Bush still has not figured out how to create jobs for Americans here in the United States. The economy has yet to grow to the point where companies feel confident in hiring new employees. Accordingly, millions of Americans remain unemployed, some for so long they have actually given up their job search. If the jobs recession does not end soon and the economy does not create 2.1 million jobs this year, then President Bush will be the first President since President Hoover to preside over an economy in which he did not create one net job.

One of the major reasons for the current jobs recession is the increased exporting of high-paying white- and blue-collar jobs overseas. Fortunately, this phenomenon has not hit New Jersey as hard as States like Ohio, Michigan, North Carolina, and Georgia. However, New Jersey has still suffered.

I want Members to consider several examples from the township of Edison in my congressional district. This week a Ford plant is scheduled to close, leaving more than 900 New Jersey employees without jobs. Last year, the Frigidaire air conditioning plant closed in Edison and shifted production to Brazil, leaving 1,600 people unemployed.

One would think that the Bush administration would be concerned about these job losses. Two weeks ago, however, we learned President Bush and his economic advisers view the movement of American factory jobs and white-collar work to other families as a positive transformation that will in the end enrich our economy.

The President's chief economist, Gregory Mankiw, made national headlines earlier this month when he said, "Outsourcing is just a new way of doing international trade. More things are tradeable than were tradeable in the past, and that is a good thing." President Bush supported this view in his annual economic report in which he wrote, "When a good or service is produced more cheaply abroad, it makes more sense to import it than make it or provide it domestically here in the United States."

It is no wonder the President thinks our economic forecast is so rosy. He is not concerned about creating jobs here in the United States; sending jobs overseas is fine with him. How can we have an economic success if we send jobs overseas, but do not create enough new jobs with comparable wages here in the United States? It is clear the President and his economic team are not concerned about that at all.

These statements from President Bush and his economic advisers are particularly worrisome after Congress narrowly approved legislation last year that would give the President free rein to negotiate trade agreements with foreign governments without the ability of Congress to amend the agreements.

I opposed the so-called fast track trading negotiation authority because I was concerned the Bush administration would use it to sacrifice American jobs for cheaper imports. In an attempt to further expand international free trade, the administration is now in the process of negotiating an agreement between the United States and Central America that could potentially begin another exodus of American jobs to the south.

Mr. Speaker, I would say that such agreements will do nothing to create jobs here in the United States, and perhaps that is why President Bush and some of his leading economic advisers are backing away from another statement in that same annual economic report of the President in which the administration predicted 2.6 million jobs would be created this year. Just 1 week after the release of the report, both Treasury Secretary John Snow and Commerce Secretary Donald Evans refused to embrace President Bush's own economic projections because they know that is not going to happen.

Mr. Speaker, it is time the Bush administration realizes shipping jobs overseas and cutting taxes for the wealthy elite in our country will not create jobs. President Bush and congressional Republicans have had 3 years to turn this jobs recession around. They have totally failed. It is time for Congress to pass measures that will encourage companies to keep jobs here in the United States. It is time we level the playing field and protect American jobs here, rather than continuing to export them overseas.

SECURITY FENCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I am so sick and tired of listening to the whining about this fence and walls in Israel. First, when I heard the complaining about the wall in Israel, I wondered whether they were complaining about the wall around Jerusalem itself. Walls and fences in the Middle East are as historic as the land itself.

I was just in Germany, and in pretty much every city they have a castle or a walled fort. That is true all over Europe, Austria, and other places. Walls and fences have been there historically, and they were not to keep people from leaving. They were to keep people from getting in. They were built in areas where there were disputed territories, or they would not have needed a wall if people were not going to attack them.

In Rome, we see all sorts of walls in different parts of the Roman Empire. It is a historic tradition in Europe. And, of course, there is the Great Wall of China that goes for thousands of miles and is fairly famous. When we look at our own country, let us say the border with Mexico where we have a fence that goes along the border with Mexico, or let us say gated neighborhoods in the United States, are we suddenly going to ban gated neighborhoods? Is the rule when we want to put a fence around our yard or security system at our house in order to keep people from intruding, are we going to say suddenly we need to unlock our doors and we can put no fences up in our own yards? It is the same basic principle of security and the right to protect your property and the people that live in it that is leading to all this whining about the fence in Israel.

Furthermore, some would add that it is disputed territory. The fact that somebody else has designs on the territory does not mean that you cannot put up a fence. Let us take our border with Mexico. There are some in the country of Mexico that believe that us getting California through a war where we had a clear overt pressure was kind of controversial, not to mention the Gasden Purchase where we more or less forced Mexico to sell us Arizona and New Mexico, or where we pushed settlers into Texas and Texas declared their independence and we did a fast recognition to bring Texas in. There are many Mexicans who do not believe that border is legitimate, but does that mean we do not have a right as a Nation, since we recognize those States, we freely associate and recognize them that way, that we do not have a right to put a fence there to protect ourselves from terrorists, illegal immigrants or drugs? Of course we have that right; and so does Israel have that right.

Since September 2000, Palestinian terrorists have launched more than 18,000 attacks, killing more than 800 Israelis and wounding 5,600. Such a high number of attacks seem inconsistent with the Palestinian Authority's commitment under the Oslo Accords and Road Map to curb terrorist activities. Without a true partner in peace, Israel alone has been left to defend itself.

One of the best methods of protecting the citizens of Israel is a security fence. In the last 3 years, not one of the 122 homicide bombers that killed 454 people in Israel infiltrated from Gaza. Gaza is separated from Israel by a security fence.

Despite this, there has been outrage and wide criticism when they have tried to put a fence at the West Bank. This case, which has now been taken to the court in front of the United Nations, is clearly within Israel's domestic jurisdiction, which demands that a government protects its citizens.

Highlighting this necessity was a bombing of a Jerusalem bus that just killed eight and injured 60. This homicide bombing occurred just before the international court began hearing the case against the fence. The need for additional security and the need for the fence in Israel has never been more clear. I am sick and tired of the whining and hypocrisy of many around the world who have built their own fences, built their own walls for thousands of years, and now want to stop Israel from defending itself.

Shortly after achieving independence in 1948, the newly formed State of Israel was set upon by its Arab neighbors. Despite an overwhelming opposing force, the fledgling country defeated its attackers. Since that time, Israel has been buffeted by harassment and violence in varying degrees of intensity. In each attack, whether by neighboring states or terrorist groups, Israel has admirably safeguarded its people and defended its borders.

While Israel has long worked to protect its people, Palestinian Arabs have only recently shown a willingness to dismantle terrorist networks and confiscate illegal weapons. Unfortunately, whether through complete duplicity or half-hearted enforcement of their commitments, terrorist attacks against Israelis continue. Regrettably, there is no sign of any serious effort on the part of the Palestinian Authority to take any action against terrorists.

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Despite the proven effectiveness of the Gaza security fence, Israel's recent decision to build a similar security fence around the West Bank has been roundly criticized. In an effort to halt the construction of the fence, a suit has been filed in the International Court of Justice. This case is unprecedented in the history of the court. The court was set up to adjudicate international disputes between two members of the United Nations. In this case, the dispute is not between two U.N. members—the Palestinian Authority is not a member of the United States. The actual U.N. member involved, Israel, has not agreed to the hearing.

This case falls squarely within Israel's domestic jurisdiction which demands that the government protect its citizens. Highlighting this necessity was the bombing of a Jerusalem bus that killed 8 and injured 60. This homicide bombing occurred just before the International Court began hearing the case against the fence. The need for additional security and the need for the fence has never been more clear.

Opponents argue that the fence poses undue hardship to Palestinian Arabs by limiting their employment opportunities or separating them from other Arabs and each other. Certainly, the fence poses a hardship to Palestinian Arabs. The extra security will undoubtedly cause difficulties when moving from the West Bank into Israel but the Israeli government has done its best to be as accommodating as possible. In most places, the fence follows the pre-1967 border. Israel has provided passageways for Palestinian Arab farmers to tend their fields, replanted trees uprooted by fence construction, and protected a water reservoir used by West Bank farmers. In recent days, Israel has shortened the fence citing among its considerations the impact on Palestinian Arabs living near the fence.

As obliging as Israel has been in constructing the security fence, Israel should never be forced to sacrifice its security for convenience. Palestinian Arabs tired of Israel's security measures need only demand that their leaders live up to their commitments to rein in terrorist groups based in the West Bank and Gaza.

It is unfortunate that opponents denounce Israel for protecting itself while ignoring the terrorist attacks that precipitated the need for the fence. At $1.6 million per mile, I am sure that Israel would prefer to spend its money elsewhere. Unfortunately, the current level of terrorist activity precludes Israel from doing that.

Israel does not wish harm upon its neighbors. Since its establishment, it has only wished to live in peace. Regrettably, Israel's neighbors have never shared this vision. Relentless attacks have forced the Israelis to take steps that seem punitive but only serve to defend the State of Israel and its citizens.

I applaud Israel's security measures. Israel simply has done what the United States of America does everyday, which is protect its citizens from forces that would harm or destroy them.

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HAITI

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I come to the floor tonight to bring to my colleagues' attention the extreme emergency that the country of Haiti finds itself in with gangs, rebels, renegades, protesters, thugs, drug lords, in combination and in different groups in different parts of the nation of trying to drive out the first duly elected President in the history of Haiti, President Jean-Bertrand Aristide.

There are a number of activities going on here in the Capitol that are intended to move our government and national organizations and international organizations into an effective combination that would allow peace to quickly come to this beleaguered nation where poverty, suffering and misery is so endemic.

I begin my comments with an appeal to the President of the United States, and I quote from a resolution that has been drafted by our colleague from California (Ms. WATERS) which urges the United States to support the principles of democracy and constitutional rule in the Republic of Haiti under which President Jean-Bertrand Aristide was elected and oppose any and all attempts to remove President Aristide from office prior to the completion of his term under the Constitution of Haiti. And that we additionally condemn the violent activities of groups of thugs, former members of Haiti's disbanded army, and paramilitary organizations in Haiti.

This is an appeal to urge the President of the United States to make a statement, to break his silence and to let the world and the people of Haiti know that this country promotes democracy, respects the right to protest, but appreciates that free speech cannot be equated with violence and intimidation.

In addition, we are seeking to invoke the awesome prestige of the United Nations through its Security Council which will be meeting tomorrow. We intend to communicate. Members of Congress, with the Organization of American States to urge that they continue their important work, that CARICOM be invited to offer assurances; in other words, that we pull these international organizations together and make certain that our country does not by its silence give a wink and a nod to the violence that is going on there.

Last of all, we appeal to our distinguished Secretary of State, Colin Powell himself, whose ancestors came from the Caribbean. We thank him for his negotiations by which he attempted to reach agreement, and he extended the time. It was finally at 5 p.m. this evening that the rebel opposition rejected and refused to continue any negotiations. And so now we ask the Secretary of State in his wisdom and judgment to move to a new and higher plane in trying to bring this matter, the differences of other groups and citizens with their President, to a peaceful resolution.

It is very important that we recognize that the United States' role in this is so important since we were prominently involved in bringing a democratic election and a President to Haiti.

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2004 AND THE 5-YEAR PERIOD FY 2004 THROUGH FY 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels on on-budget spending and revenues for fiscal year 2004 and for the five-year period of fiscal years 2004 through 2008. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 501 of the conference report on the concurrent resolution on the budget for fiscal year 2004 (H. Con. Res. 95). This status report is current through February 6, 2004.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 95. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for fiscal years 2004 through 2008, because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the "section 302(a)" allocations made under H. Con. Res. 95 for fiscal year 2004 and fiscal years 2004 through 2008. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. A separate allocation for the Medicare program, as established under section 401(a)(3) of the budget resolution, is shown for fiscal year 2004 and fiscal years 2004 through 2013. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2004 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This table also compares the current level of total discretionary appropriations with the section 302(a) allocation for the Appropriations Committee. These comparisons are needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would branch either the section 302(a) allocation or the applicable section 302(b) suballocation.

The last table gives the current level for 2005 of accounts identified for advance appropriations under section 501 of H. Con. Res. 95. This list is needed to enforce section 501 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2004 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 95

[Reflecting action completed as of February 6, 2004—on-budget amounts, in millions of dollars]

	Fiscal year 2004	Fiscal years 2004–2008
Approriate Level:		
Budget Authority	1,880,555	(1)
Outlays	1,903,502	(1)
Revenues	1,325,452	8,168,933
Current Level:		
Budget Authority	1,875,397	(1)
Outlays	1,894,792	(1)
Revenues	1,330,756	8,375,403
Current Level over (+)/under (−) Appropriate Level:		
Budget Authority	−5,158	(1)
Outlays	−8,710	(1)
Revenues	5,304	206,470

[1] Not applicable because annual appropriations Acts for fiscal years 2005 through 2008 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2004 in excess of $5,158,000,000 (if not already included in the current level estimate) would cause FY 2004 budget authority to exceed the appropriate level set by H. Con. Res. 95.

OUTLAYS

Enactment of measures providing new outlays for FY 2004 in excess of $8,710,000,000 (if not already included in the current level estimate) would cause FY 2004 outlays to exceed the appropriate level set by H. Con. Res. 95.

REVENUES

Enactment of measures that would result in revenue reduction for FY 2004 in excess of $5,304,000,000 (if not already included in the current level estimate) would cause revenues to fall below level set by H. Con. Res. 95.

Enactment of measures resulting in revenue reduction for the period FY 2004 through 2008 in excess of $206,470,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 95.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION, REFLECTJNG ACTION COMPLETED AS OF FEBRUARY 6, 2004

[fiscal years, in millions of dollars]

House Committee	2004		2004–2008 total		2004–2013 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Agriculture:						
Allocation	0	0	0	0	n.a.	n.a.
Current level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Armed Services:						
Allocation	70	34	70	70	n.a.	n.a.
Current level	3,805	347	15,155	12,742	n.a.	n.a.
Difference	3,735	313	15,085	12,672	n.a.	n.a.
Education and the Workforce:						
Allocation	39	47	201	245	n.a.	n.a.
Current level	9	8	9	9	n.a.	n.a.
Difference	−30	−39	−192	−236	n.a.	n.a.
Energy and Commerce:						
Allocation	−170	−170	439	439	n.a.	n.a.
Current level	2,202	963	3,451	3,567	n.a.	n.a.
Difference	2,372	1,133	3,012	3,128	n.a.	n.a.
Financial Services:						
Allocation	0	375	0	1,250	n.a.	n.a.
Current level	−1	−1	−2	−2	n.a.	n.a.
Difference	−1	−376	−2	−1,252	n.a.	n.a.
Government Reform:						
Allocation	−1	0	−3	−1	n.a.	n.a.
Current level	2	2	24	24	n.a.	n.a.
Difference	3	2	27	25	n.a.	n.a.
House Administration:						
Allocation	0	0	0	0	n.a.	n.a.
Current level	1	1	3	3	n.a.	n.a.
Difference	1	1	3	3	n.a.	n.a.
International Relations:						
Allocation	0	0	0	0	n.a.	n.a.
Current level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Judiciary:						
Allocation	19	19	95	95	n.a.	n.a.
Current level	13	13	83	83	n.a.	n.a.
Difference	−6	−6	−12	−12	n.a.	n.a.
Resources:						
Allocation	24	24	522	342	n.a.	n.a.
Current level	28	28	165	165	n.a.	n.a.
Difference	4	4	−357	−177	n.a.	n.a.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION, REFLECTING ACTION COMPLETED AS OF FEBRUARY 6, 2004—Continued

[fiscal years, in millions of dollars]

House Committee	2004		2004–2008 total		2004–2013 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Science:						
Allocation	0	0	0	0	n.a.	n.a.
Current level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Small Business:						
Allocation	0	0	0	0	n.a.	n.a.
Current level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Transportation and Infrastructure:						
Allocation	9,256	0	41,134	0	n.a.	n.a.
Current level	6,425	−2	7,460	−126	n.a.	n.a.
Difference	−2,831	−2	−33,674	−126	n.a.	n.a.
Veterans' Affairs:						
Allocation	0	0	0	0	n.a.	n.a.
Current level	−77	−77	−1	−1	n.a.	n.a.
Difference	−77	−77	−1	−1	n.a.	n.a.
Ways and Means:						
Allocation	20,626	20,054	24,079	23,876	n.a.	n.a.
Current level	17,979	17,960	22,810	22,850	n.a.	n.a.
Difference	−2,647	−2,094	−1,269	−1,026	n.a.	n.a.
Medicare:						
Allocation	0	0	n.a.	n.a.	0	0
Current level	4,100	3,100	n.a.	n.a.	392,000	392,000
Difference	4,100	3,100	n.a.	n.a.	392,000	392,000

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2004—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations Subcommittee	302(b) Suballocations as of July 22, 2003 (H. Rpt. 108–228)		Current level reflecting action completed as of February 6, 2004		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development	17,005	17,686	16,839	17,633	−166	−53
Commerce, Justice, State	37,914	41,009	37,582	40,677	−332	−332
National Defense	368,662	389,221	368,183	388,648	−479	−573
District of Columbia	466	464	542	536	76	72
Energy & Water Development	27,080	27,211	27,255	27,263	175	52
Foreign Operations	17,120	20,185	17,611	20,171	491	−14
Homeland Security	29,411	30,506	29,238	30,007	−173	−499
Interior	19,627	19,400	19,540	19,346	−87	−54
Labor, HHS & Education	138,036	134,766	138,987	135,069	951	303
Legislative Branch	3,512	3,662	3,527	3,603	15	−59
Military Construction	9,196	10,282	9,316	10,247	120	−35
Transportation-Treasury	27,502	71,360	28,116	71,873	614	513
VA-HUD-Independent Agencies	90,034	95,590	90,774	96,404	740	814
Total (Section 302(a) Allocation)	785,565	861,342	787,510	861,477	1,945	135

Statement of FY2005 advance appropriations under section 501 of H. Con. Res. 95 reflecting action completed as of February 6, 2004

[In millions of dollars]

	Budget authority
Appropriate Level	23,158
Current Level:	
Homeland Security Subcommittee:	
Bioshield[1]	2,528
Interior Subcommittee: Elk Hills	36
Labor, Health and Human Services, Education Subcommittee	
Employment and Training Administration	2,463
Education for the Disadvantaged	7,383
School Improvement	1,435
Children and Family Services (head start)	1,400
Special Education	5,413
Vocational and Adult Education	791
Transportation and Treasury Subcommittee	
Payment to Postal Service	37
Veterans, Housing and Urban Development Subcommittee: Section 8 Renewals	4,200
Total	25,686
Current Level over (+)/under(−) Appropriate Level	2,528

[1] This advance appropriation was not on the list of accounts identified for advance appropriations included in the joint explanatory statement of the committee of conference in the conference report to accompany H. Con. Res. 95. Still, since the provision has been enacted, it is included as part of the current level for advance appropriations.

EXTEND BAN ON ASSAULT WEAPONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY of New York. Mr. Speaker, on January 17, 1989, a gunman used a weapon like this one behind me to fire 102 bullets into a crowded elementary school in California. The weapon is the AK–47, and it is very good at what it does. It kills as many people as possible as quickly as possible. Before the shooting stopped, 34 children and teachers had been shot. In less than 2 minutes, the gunman was able to spray the school yard with more than 100 bullets. America was rightly outraged.

On December 7, 1993, another gunman came on a train on the Long Island Railroad. This gunman had large-capacity clips and was able to shoot and kill six people, one of them my husband, and wound 21 people, one of them my son. It was at that time that I decided that I would do whatever I could to reduce gun violence in this country.

We were also having a debate here in Washington on having an assault weapons ban, and I became part of that debate. We were very lucky that when it came up for a vote, it won by one vote.

But there is good news for criminals, gangs and terrorists. Soon they will be able to buy an AK–47 once again. Soon criminals, gangs, terrorists can go into any gun store and buy any kind of assault weapon that they want. The assault weapons ban expires this September 14. Some in Congress wish this issue would just go away, but Americans overwhelmingly support the ban. Even 66 percent of gun owners support the ban. They support it because it worked and because it protected the rights of law-abiding citizens to own handguns, hunting rifles and shotguns. Once again, every major law enforcement agency in the country has endorsed the ban. The Supreme Court has even upheld a stronger version of the ban.

But nothing will get done if President Bush refuses to add his voice to the effort. He has promised to sign a new assault weapons ban if it reaches his desk, but if his leadership is not here, and if he does not tell TOM DELAY to bring the bill up for a vote, it is never going to reach his desk.

I have introduced H.R. 2038, which would renew the ban while closing its most gaping loopholes. I came to Congress to fight for gun safety. I have fought for common-sense, effective gun measures, but too many of my colleagues seem beholden to gun pressure groups. Yet we know the American people want to have assault weapons kept off their streets. We cannot let special interests trump the safety of American families and our police officers.

We have 202 days to renew the ban. Failing to do so would be an outrage, and the American people will demand an explanation in November. But there is something that they can do today. I urge all Americans to contact their Members of Congress and their Senators and tell them we want to keep assault weapons off the street. We have got to band together for the safety of our families, our children and our communities. This is something we can do.

People talk about they never have a voice in government. I happen to know that having a voice in government is very important. Here in this House, how many times have we seen bills pass by one vote? Or fail by one vote? It is up to the American people to get involved in this.

This evening we have heard so many of my colleagues talk about all the things that are going on in this world, budget deficits, medications that cannot get to our patients. These are all serious problems. But allowing assault weapons back onto our streets again to kill our officers, to go into our schools, this is something we can do. This is something where the American people can have their voices heard. We outnumber the NRA. We outnumber those that are trying to stop this.

Since I have been in Congress, I have always tried to uphold the second amendment, but this kind of a gun is only meant for one thing. It is to kill as many people as possible. It is guns like this that we are seeing in Iraq, Israel, Haiti. These are the kind of guns that are used to wipe out people as fast as they can. You are telling me a sportsperson wants these back on the streets again?

Mr. Speaker, I will be back here every single week until the American voices are heard, and I will be here to voice those voices.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise tonight to ask the Bush administration why in the world our country appears to be allowing a violent coup d'etat to occur in Haiti. Through a wink and a nod, our administration is allowing this violence to occur, and we must not stand for it.

The democratically elected President of Haiti could be overthrown any minute. At risk, of course, is the safety of over 8 million lives in Haiti. We cannot play politics with rebels and with thugs. They are trying to change their government through the use of force, not by democratic elections. We do not allow coups to take place in the United States, and we should uphold that standard for neighboring countries, neighboring democracies, especially one in our own hemisphere.

Throughout Haiti's 200 years of independence, it has experienced 32 coups, but it seemed that the tragic cycle ended in 1991 with President Aristide's first Presidential victory. After a coup, the United States helped restore then-exiled President Aristide in 1996, and later he ran and was reelected in the fall of 2001. Tonight as we speak, President Aristide is warding off yet another coup attempt and a potential civil war, and democracy is under fire again in Haiti.

Two weeks ago now I wrote to Secretary Powell and asked the following questions:

One: Does the State Department support the democratically elected Government of Haiti? What practical steps is our government taking to support the democratic process?

Two: Is our country supporting and sanctioning an overthrow of the Aristide government by giving a wink and a nod to the opposition? There are also reports that we are covertly funding the opposition.

Third: Is it true that the Haitian opposition parties and leaders have received USAID funding?

Fourth: We understand the Haitian Government made several requests over the last 2 years for equipment and training of Haiti's police force. Why were these requests never responded to?

Secretary Powell said, and I quote, "We cannot allow thugs and murderers to overthrow the democratically elected government of President Jean-Bertrand Aristide," but now there appears to be a major disconnect between the Bush administration's words and actions. Their rhetoric says one thing, and their actions say something else.

This Friday, prior to the international diplomatic team traveling to Haiti, members of the Congressional Black Caucus asked the administration to act immediately and prevent the rebels from taking over more cities in Haiti. We are awaiting a response to both of these letters.

We are working to protect democracy in Haiti day and night, but unfortunately people in Haiti are still dying as a result of rebel attacks, hunger and the like. The ongoing negotiations to broker a peace plan are failing, and it is not at all a result of President Aristide. President Aristide has shown good faith by accepting the Catholic bishops' plan, the CARICOM plan and now this peace plan.

Haiti is embroiled in violence. Armed rebels are burning down jails and pillaging villages, toting M–16s and M–50s. Haiti only has 3,500 police for over 8 million people. It is only common sense that disarming thugs and murderers and forging a cease-fire go hand in hand.

☐ 2045

The United States cannot sit back and watch a country especially in our own hemisphere spiral further down into a state of turmoil. Bush must show some leadership and speak out against the violence and the disregard for the rule of law in Haiti. President Bush should speak out in support of the democratically elected President of Haiti and provide President Aristide the assistance that he needs to promote peace on the ground, allow free and fair elections to take place, and to uphold the Haitian constitution.

How can we sit back and witness a violent attempt to overthrow a government? Is this part of the Bush administration's regime change policy?

Democracy in Haiti is in grave danger. Turmoil rages on the ground, in the streets, at the university, through the halls of government, and in the homes of Haitians. Haitians are dying, and it is apparent that the hope for peace is diminishing.

If we believe, if we truly believe in the power of democracy and the potential for global peace, we must not turn a blind eye to our neighbor and longtime ally. This is an urgent cry to our administration, specifically President Bush, to formally request a meeting of the United States Security Council with the hope of bringing the world community's resources to bear in support of the government of Haiti.

The United States must stop dragging its feet and answer the call President Aristide made again yesterday. He said, "Should those killers come to Port-au-Prince, you may have thousands of people who may be killed." We need the presence of the international community as soon as possible.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 20, 2004.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Thank you for your Administration's new initiative to resolve the current political crisis in Haiti. The Congressional Black Caucus agrees that we cannot allow "thugs" and "murderers" to overthrow the democratically-elected government of President Jean Betrand Aristide, as Secretary Powell stated on February 17, 2004. Additionally, we are pleased that the United States, France, Canada, CARICOM, and the OAS will meet with the Government of Haiti to discuss how we can work together to secure the country, stop the escalating violence, restore the rule of law, and take steps forward to implement the CARICOM proposal.

There must be an immediate cease-fire, and as these talks move forward, we hope that the United States insists that all parties lay down their arms and stop the violence. Haitians are dying every day, and the United States must do its part to guarantee a cease-fire, uphold democracy, and promote stability in a sovereign nation in our own hemisphere. Members of the Congressional Black Caucus agree that these emergency talks will be critical to ending the current violence.

We respectfully encourage you to invite experienced, independent observers to travel to Haiti to monitor and observe the meeting. Thank you for your attention to this urgent matter. We look forward to working with you to help resolve this crisis.

Sincerely,

Barbara Lee; John Conyers, Jr.; Donald M. Payne; Bobby L. Rush; Sheila Jackson-Lee; Elijah E. Cummings; Maxine Waters; ———; Diane E. Watson; Gregory W. Meeks.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2004.

Hon. COLIN POWELL,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: Thank you for coming to the House International Resources Committee today. While we ran out of time before I could raise my questions in committee, I enjoyed speaking to you afterwards.

As you know, conditions in Haiti are rapidly deteriorating. People are dying, and our own commitment to democracy is under siege. We have a moral and regional obligation to help one of our closest neighbors. Furthermore, Article 17 of the OAS Inter-American Democratic Chapter requires that all OAS nations come to the aid of a democratic government under siege.

I must say, Mr. Secretary, that our failure to support the democratic process and help restore order looks like a covert effort to overthrow a government. There is a violent coup d'etat in the making, and it appears that the United States is aiding and abetting the attempt to violently topple the Aristide Government. With all due respect, this looks like "regime change."

This situation demands sustained U.S. engagement to promote democracy, yet disturbing reports indicate our actions—or inaction—may be making things worse. The opposition is well-funded and well-armed, even though President Aristide's pleas for resources to better train police forces have fallen on deaf ears. Yet, State Department officials have implied that President Aristide's departure could be an option in solving the current crisis. How can we call for democracy in Iraq and not say very clearly that we support democratic elections as the only option in Haiti?

Since I did not have the opportunity to raise the following questions in committee, I would appreciate it if you could provide a written reply so that I might have a better understanding of Administration policy toward Haiti:

1. Does the State Department support the democratically-elected government of Haiti? What practical steps is our government taking to support the democratic process?

2. Is our country supporting and sanctioning an overthrow of the Aristide Government by giving a wink and a nod to the opposition? There are also reports that we are covertly funding the opposition.

3. Does the United States support the CARICOM proposal, and will we work through the OAS to broker a peaceful solution, not an overthrow of the Aristide Government?

4. Is it true that Haitian opposition parties and leaders have received USAID funding?

5. We understand the Haitian government made several requests over the last two years for equipment and training of Haiti's police force. Why were these requests never responded to?

Thank you for your attention,

BARBARA LEE,
Member of Congress.

THE BUSH ECONOMIC PICTURE

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, we have much serious business to attend to on Capitol Hill these days. Many of us on our side of the aisle are deeply concerned about the Bush economic picture, how sad it is for most of America, including my State, which has struggled with very high unemployment for most of the Bush administration. The administration has fallen 1.8 million jobs short of the promises that were made to the Americans and to this Congress to justify the first two massive tax cuts from the Bush administration. There are significant issues to deal with the national government's fiscal health, the guarantees of an extra trillion dollars that was going to be available when the tax cuts were brought forward that the President repeated here in Washington, D.C., and out in the hustings.

Now the administration wants to spend another trillion dollars in the face of hemorrhaging red ink to make these tax cuts that benefit a tiny number of Americans, those who need help the least, make their tax cuts permanent. This is something we could debate here in Washington, D.C.

There appears to be no concern for the millions of Americans who are being caught in the payment of the millionaires tax, the alternative minimum tax, that was inspired because there were a handful of people who were earning $1 million or more in today's dollars that escaped taxation altogether. Congress in its wisdom passed the alternative minimum tax. Now it has turned into a voracious revenue machine for the Federal Government that is taxing 2.4 million American families, and that number is due to quadruple to over 12 million families in just a year; and if nothing is done, it is going to put the tax bite, extra taxes, on 41 million American families who will be subjected to the millionaires tax. But the Bush administration is more concerned about making permanent tax cuts for those who need it the least, as opposed to dealing with the alternative minimum tax. We do not hear any outrage. That is something we should debate on this floor.

Or remember the lockbox where the two candidates for President, was it just 2000, Al Gore and then Governor Bush, were going to lock up the Social Security trust fund to make sure it was available for future generations? Now under the fiscal policies of this administration and his allies in Congress, we are borrowing every cent of the Medicare prescription drug benefit from the Medicare trust fund. That is something that is worth debating.

The tax cut that is being pressed would fund the Social Security deficit three times over and avoid a disaster as the baby boom generation approaches retirement.

This administration has refused to join us in the battle against the Republican leadership to extend unemployment benefits for workers who have had them expire. That is worth debating.

Or the loss of manufacturing jobs across this country. It is fascinating to hear the administration's one concrete proposal to increase the number of manufacturing jobs that I have heard in the last 3 years, and that is to reclassify the people who work at McDonald's, providing the service at those restaurants, that they are somehow going to be manufacturing jobs. They are going to change the definition. That is worth debating too.

But what is it that the administration wants to talk about? Not the false choices in Iraq that have put us in a disastrous situation on the ground and putting young men and women in harm's way, not the deeply flawed policy where we are not following through in Afghanistan. They want to talk about gay marriage.

I would strongly recommend that instead of pursuing something that was brought to us by Republican judges in Massachusetts, we let the States alone debate the real issues and not deal with a Federal constitutional amendment banning same-sex marriage.

HONORING JOHN REDDEN, PASCACK VALLEY'S CITIZEN OF THE YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today to honor a distinguished citizen from the Fifth Congressional District from New Jersey, which I represent. Mr. John Redden has been named Pascack Valley's Citizen of the Year.

John is deserving of such acclamation for his many contributions to his community. He serves on the board of the Pascack Community Services. He has owned a Westwood-based business for over 20 years. And John, who has a wife and three children, has generously given of his time and money to donate to many community organizations. He has used his passion of sports to encourage athletic involvement in the community for having coached both basketball and baseball.

I might add that John is a worthwhile recipient of this award not only for the many contributions but in the way that he undertakes them. He supports his community silently, asking no credit whatsoever for his charity to his community. He supports his hometown organizations simply because he loves his neighbors and the community means so much to him.

I commend John for his dedication to his community, and I ask my colleagues to join me in congratulating him on receiving this prestigious award.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I just returned from Haiti this past weekend. It was the third time I have been there since January 1. And I am on this floor tonight because I want to share in the most straightforward way that I possibly can that it is clear to me that a bloodbath in that country is imminent in spite of the fact that President Jean-Bertrand Aristide has agreed to the peace plan worked out by the international community.

I went down to Haiti this past Saturday to be an observer as the international community, made up of United States, Canada, France, the OAS, CARICOM, and the United Nations, presented a peace plan; and it was a tough peace plan. The plan called for three persons from the international community, these organizations, to select a council of wise persons, of seven wise persons, who would then choose what would end up being a prime minister. First in the plan they offered the President, they said they would give him a name and he would either accept it or reject it. He asked them to give him more than one name. They ended up agreeing to give him two names that he could choose from, and the President accepted the plan. I was there. He accepted the plan.

But the opposition has rejected the peace plan. They have refused to negotiate. They also have sent a signal to groups of thugs and a newly formed army of exiled criminals that they will support the violent overthrow of the democratically elected government of Haiti. These thugs and the newly formed army, made up of exiled former military officers and criminals known as The Front for the Advancement and Progress of Haiti, commonly referred to as FRAPH, have murdered many people in Cap Haitian, and they now control several cities.

For the last couple of days, these crooks, criminals, former military officers have been on television warning that they are on their way to Port-au-Prince. They are now on their way to Port-au-Prince; and if in fact these thugs who are armed with very sophisticated weapons, M–16s, go to that capital and they try to take the palace, there will be a bloodbath. Lavalos, the millions of people who support the President will be there to protect the capital, and this confrontation will end in the loss of many lives.

It is time for the international community to come to the aid of Haiti. It is time for us to understand that we can avoid this bloodbath in Haiti; and it makes good sense to say to the opposition who refuses to come to the table that the game is up; that, in fact, if they want to be obstructionists, we are going to insist that they get out of the way so that we can move with stabilizing Haiti.

We simply cannot stand by and watch this situation unfold and not recognize that a coup d'etat is in progress in Haiti. Immediate international assistance is essential to stop the escalation of violence. The United States should work with the Organization of American States, the nations of the Caribbean community referred to as CARICOM, and other countries to provide assistance to Haiti to stop the violence, disarm the thugs and death squads and protect the Haitian people.

I have been in conversation with the State Department trying to urge them to take some action. I have talked with representation, the ambassadors from Canada, and have on call the ambassador from France. I have talked with the OAS representative, saying to them somebody must take the lead in putting together the assistance to stop this carnage. It is quite unfortunate; and if there is a bloodbath, this country is going to have to take some responsibility in it.

□ 2100

The man that is leading the coup d'etat in Haiti was born in New York and holds an American passport. For the life of me, I do not understand what an American, born in New York, with a passport, is doing starting a coup d'etat in another country. Mr. Andy Arpaid, Jr., not only holds an American passport; he owns 15 factories in Haiti, sweatshops.

Unfortunately, we cannot continue. We will continue this at another time.

AMERICA MUST STAND UP FOR DEMOCRACY IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, over the last several weeks, my constituents have watched the escalating violence in Haiti with increasing alarm. Their alarm is caused not just by the brutality and the chaos of the revolt, but by this seeming lack of resolve of our own United States Government in confronting this threat to democracy in our own backyard.

While the President has responded admirably in dispatching envoys to seek a negotiated solution, I remain concerned that this push for dialogue is not matched by equal resolve to prevent the violent overthrow of a democratically elected government. If the Bush administration turns its back on the democratically elected government of Haiti in this crisis, the President will lose any and all credibility he has on preserving the rule of law.

By now, there should be few illusions about Jean Bertrand Aristide. He is not a paragon of virtue. He deserves an equal share of the blame, along with the legitimate opposition in Haiti, for the political gridlock which has paralyzed Haiti for years and prevented both political maturity and economic growth. But he remains a democratically elected leader, one of the few in Haiti's two violent centuries of independence. To turn our back on him would be to turn our back on the values America was founded upon, the values which have guided our foreign policy from Jefferson through Wilson, through Truman, through Ronald Reagan and Bill Clinton.

Haiti's political deadlock is no excuse for violent hooliganism. The forces creating violence in Haiti today are opponents of democracy. If President Bush fails to support the elected government against violent hooligans, the United States will forfeit its role as the leader in this hemisphere. How can our government lead in advocating for democracy in Cuba when we will not raise our voices for democracy just a few miles away in Haiti?

The President's initial efforts have so far been positive; but I fear that without firm resolve, backed by a credible threat of repercussions, America risks losing her credibility as an advocate for democracy. The President needs to be more forceful in stating that he will not accept the violent overthrow of the Aristide government and that we remain adamant that we will only accept a peaceful, negotiated solution to this crisis.

The President has outlined a bold vision for expanding democracy, freedom, and the rule of law throughout the world. But if the President will not even defend democracy in our own hemisphere, he will expose his vision as little more than empty posturing.

I urge the President to take action to prevent the violent overthrow of the Aristide government and to preserve America's leadership role in fighting for democracy and the rule of law.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise with the Members of the Congressional Black Caucus' Haiti Task Force to urge immediate action to assuage the political crisis that we see in Haiti.

I wrote a letter to Secretary of State Powell dated February 17 urging a more forceful effort to quell insurgents and to maintain democracy and respect for the rule of law in the region. Haiti has long been suffering with dire economic conditions and the devastation of HIV/AIDS. But now, Haiti has reached a state of crisis. To date, more than 60 people have been killed in the rebellion that is quickly escalating to a civil war.

Humanitarian aid and military assistance are needed now given the threat that demonstrators may thwart the delivery of food and other relief items.

I and the other Members of the Congressional Black Caucus have consistently supported an active role for the United States in providing humanitarian and military assistance to Haiti. Many other Members of the House and Senate have expressed a willingness to support more engaged and aggressive peacekeeping activities to prevent a full-scale civil war so close to our border and to head off the large exodus of refugees to our shores that it might precipitate.

Secretary Powell made a statement earlier about Haiti, committing the United States to working toward a political resolution to the situation in Haiti. However, he expressed his concern that the "enthusiasm" does not exist for the United States to take a stronger approach.

It may be necessary to use more forceful means in the short-run to prevent a humanitarian disaster. The United States must act on its commitment to upholding the constitutional process and the rule of law as the optimal way to maintain civil stability and respect for human rights in that region. We should support the proposal adopted by the Caribbean Community (CARICOM) in Nassau as a viable option to restore peace.

As we work with the government of Haiti to explore the role of the international community in averting civil war, we must also start to look beyond the current crisis. For example, Haiti continues to be in dire need of food aid and medical assistance. The current unrest has already set off an exodus of refugees; and uncertainty regarding the timing and fairness of the next elections is further promoting suspicions and instability. The United Nations has great experience in handling such issues. Even as we concentrate on quelling the violence, we must also think in terms of promoting peace and stability in the aftermath.

Operation Iraqi Freedom provides a strong model of what we should not do. Without reliable or corroborated information, we initiated aggressive war efforts and amassed large war-related expenses and lost lives of our brave young men and women. Former United Nations weapons inspector David Kay has testified to the fact that there have not been, nor will there be found any stockpiles of weapons of mass destruction as possessed by Iraq. Nevertheless, our troops have been deployed and stationed in that region since the beginning of the war, and the cost has been tremendous. With the government projected to run one of the largest deficits in history, it is not enough to simply consider the cost of the war today; we must also consider how much money we will be spending on it for years to come. Although the stated cost of the war on April 17 was $34 billion, the actual cost was closer to $47.6 billion, due to the $13.6 billion we will be spending in interest. In addition, the cost of occupation is more accurately stated as $5.46 billion monthly, of which $1.56 billion is interest.

With respect to the situation in Haiti, there has been a cry for assistance by President Aristide. The poorest country in the Western Hemisphere that is celebrating its 200th anniversary of independence from French rule with over 8 million citizens aided by a 4,000-officer police force has requested humanitarian aid and security forces. The U.S. contingency plan to deal with the massive refugee exodus that will soon occur is to send them to Guantanamo, Cuba, which received thousands of Haitian refugees during the last crisis 10 years ago, when a military junta seized power from Aristide.

The exodus will indeed be massive; but we can avoid or at least ameliorate it by taking more forceful action to quell the situation immediately.

FEBRUARY 17, 2004.

Hon. COLIN L. POWELL,
Secretary, Department of State,
C Street NW, Washington, DC.

DEAR SECRETARY POWELL: I am deeply concerned about the escalating violence in Haiti. Haiti has long been suffering with dire economic conditions and the devastation of HIV/AIDS. But now, Haiti has reached a state of crisis. The recent uprising could rapidly degrade into a catastrophic civil war. I respectfully urge you to move immediately to get humanitarian aid and military assistance to the people of Haiti, in order to help bring about some safety and stability.

I understand that you may feel there is no "enthusiasm" at present for sending U.S. troops or police to Haiti to help quell the violence. However, I believe that the political will to address the problem is rising. We Members of the Congressional Black Caucus have long-been supporters of an active role for the United States in providing needed assistance to Haiti. Many other Members of the House and Senate have expressed a willingness to support possible peace-making and peace-keeping activities, to prevent a full-scale civil war so close to our border, and to head off the large exodus of refugees to our shores that it might precipitate.

Furthermore, there seems to be a feeling in the international community and in Haiti itself, that some foreign intervention may now be necessary in Haiti. I hope that you will work with our allies and the United Nations to craft a resolution to this crisis. I am confident that you will exercise your excellent diplomatic skills to craft a political approach to promoting long-term democracy in Haiti. However, please also consider that it may be necessary to use more forceful means in the shortrun to prevent a humanitarian disaster.

Please let me know if you would like to discuss this matter or if I can be of further service.

Sincerely yours,
SHEILA JACKSON-LEE,
Member of Congress.

MORE HEMORRHAGING OF AMERICAN JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I begin this evening by offering the comments of my colleague, the gentlewoman from Cleveland, Ohio (Mrs. JONES), who could not stay with us this evening, but to announce her support of our efforts, or opposition, if you will, to the Central American Free Trade Agreement and her good work on opposing this agreement that will expand NAFTA to Central America and ultimately lead to the quadrupling of low-income workers, the doubling of the size of NAFTA and more hemorrhaging of American jobs.

Mr. Speaker, President Bush last Friday officially notified Congress that he supports the Central American Free Trade Agreement, that he plans to send it to Congress, probably sometime in May, and this body sometime after that will make a decision on whether it wants to pass the Central American Free Trade Agreement.

It just amazes me, Mr. Speaker, that President Bush continues the same very much failed economic policies that he has promoted in this country for the last 3 years.

The Bush economic policies basically are twofold: continued tax cuts for people who need it least, for the most wealthy people in our society. Roughly half the tax cuts have gone to the wealthiest 1 percent of people in this country as we continue to run up huge budget deficits. That is one part of the President's economic recovery program which has led us to a jobless recovery, or, more precisely, Mr. Speaker, a job-loss recovery. One aspect is tax cuts for the wealthiest of Americans as part of his policy for economic recovery.

The other part is to continue to pass trade agreements which have, frankly, shipped jobs overseas. That is why he is asking Congress, because he believes these trade agreements for some reason seem to be helping; but it is pretty clear we have lost lots and lots of manufacturing jobs, to China, Mexico, south of the border, across the ocean, to countries all over the world.

Mr. Speaker, in my State of Ohio, one out of six manufacturing jobs has simply disappeared since President Bush took office. That means that tens of thousands of Ohioans are out of work; literally hundreds of thousands of Americans in manufacturing have been thrown out of work. And it means something else: 30 or 40 years ago when we were in the midst of a recession, you figured most of those jobs, seven out of 10, statistics say, would return, people would get their jobs back. They would have temporary layoffs at a Ford plant, temporary layoffs at a steel mill. Seven out of 10 of those jobs would come back. Three of them would be lost forever. Other jobs might be created during a recovery.

During the Bush recession and recovery, they are predicting now only three of the 10 manufacturing jobs lost will return, and they have not even returned yet. So we have this jobless job-loss recovery, when the President says his tax cuts are working. They may be working for upper-income people who both get the tax cuts and now are seeing the stock market doing a little better, only a little better; but they are not working for Ohioans who have lost jobs. They simply are not working. The promises the President made simply have not been fulfilled.

The front page of The Washington Post today, a newspaper that has been pretty pro-Bush on Medicare, very pro-Bush on Iraq, pretty pro-Bush on a whole host of issues, this newspaper wrote on the front page, talked about the Bush job forecast.

With President Bush, every time he issues a statement, an economic report, every time he introduces legislation on the economy to Congress, he makes predictions. He predicted there would be 3.4 million more jobs in 2003 than there were in 2000.

Now, this prediction was not made before September 11, upon which he blames much of the economic stumbling, economic recession in some places, depression in others in this country. This was a prediction made 2 years ago.

The President said by 2003 there would be 3.4 million more jobs in this country than there were when he took office. You know what? We have actually seen a loss of 1.7 million jobs; 1.7 million fewer jobs today than when President Bush took office.

That is some kind of a record. There has not been a President of the United States for 7 decades that has actually seen a net loss of jobs during his presidency. Herbert Hoover was the last one, and Herbert Hoover obviously paid a political price at the next election; and, more importantly, Herbert Hoover paid a historical price in that he became the President that perhaps managed the economy worse than any President in the last century, until this President, who is kind of competing for the same kinds of records.

The President also predicted a couple of years ago the budget deficit would be down to $14 billion. Well, it turns out that the budget deficit is $521 billion. So he predicted, way after September 11, a couple of years ago, he predicted a 3.4 million jobs increase and a budget deficit of $14 billion. He got a 1.7 million job loss and a budget deficit of $521 billion.

Again, The Washington Post, not exactly a liberal newspaper, a paper that supported President Bush on most of his initiatives, the headline in The Post, "Bush assertion on tax cuts is at odds with IRS data." President Bush runs the IRS; and still his statistics, even according to them, are inaccurate.

Now, we talked earlier about the tax cuts being the mantra. Whenever there are economic problems or whenever there are jobs lost, the President decides to cut taxes. Well, he also talks about trade agreements. Let me talk for a moment, and then my friend, the gentleman from Oregon (Mr. DEFAZIO), is also here and will join us and talk about some of these issues also.

The President has said that he is going to bring the Central American Free Trade Agreement to this Congress. If there is anything obvious to the American people, steelworkers in Ohio, lumber workers in Oregon where the gentleman from Oregon (Mr. DEFAZIO) is, paper mill workers, auto workers in my State, rubber workers in my State, tool and die makers in my State, if there is something obvious to all of them, it is they believe an awful lot of their jobs have been lost overseas, because we have seen this kind of hemorrhaging of jobs, shipping of jobs overseas.

This week I was at a plant, Ohio Screw Products, in Elyria, Ohio, in my district, with Dan Imbrogno, who runs this company. They have about 70 full-time and a handful of temporary workers who punch out bolts and make products to be components in other products of all kinds, including some defense work.

But mostly he has seen a threat of jobs going to China, a threat of jobs going to Mexico, a threat of jobs going further south across the southern border in this country; and he just shakes his head, as do the workers who I met with at this company over lunch on one other visit a few months ago, just shake their heads over American trade policy. Why do we keep passing it? Why do we want to extend NAFTA, clearly a broken trade agreement, to the rest of Latin America? It is not working in Mexico. Why should we double it in size and population and quadruple it in terms of the number of low-income workers?

When we passed NAFTA in this body, the gentleman from Oregon (Mr. DEFAZIO) and I both opposed it in 1993. When we passed that legislation, that agreement, we had a trade surplus with Mexico. Today our trade deficit with Mexico is $25 billion.

Now, President Bush's father, who presided over a similar kind of economic decline, although this one is significantly worse than his father's, but President Bush, Sr., said for every $1 billion in trade, because trade entails usually manufacturing of goods, for every $1 billion in trade, we lose or gain 18,000 jobs. So, in other words, if you have a $1 billion trade surplus, it means you are making a lot of things, selling them overseas, for every $1 billion in sales hiring about 18,000 American workers. If you have a trade deficit, as we have, you see it go the other way.

So we now have a trade deficit with China of over $100 billion, a trade deficit overall around the world of some $400 billion. All you have to do is do the math to see the kind of job loss that brings to our country.

So the answer from President Bush is more tax cuts for the richest people in our country and more trade agreements that hemorrhage jobs, that ship more jobs overseas? It simply does not add up.

In a moment I will yield to the gentleman from Oregon (Mr. DEFAZIO). In a moment I will give some more details about what the Central American Free Trade Agreement actually does to our Nation, to our economy, and especially to manufacturing in my part of the country, where we are seeing these jobs shipped overseas every day, plant closings, layoffs, threats of more plant closings, threats by management to move overseas, so that workers see their wages stagnate or even go down with give-backs, all that happens with these trade policies; yet President Bush says we have got to do more of them because, frankly, I think that helps his investor friends, his major campaign contributors, the people who seem to have the most influence in this administration on economic policy.

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Not working families, union or non-union; not small businesses that are struggling, but the people that have the influence in this administration; not Ohio Screw Products in O'Leary, Ohio, but are the large companies that gain from the trade agreements, they gain profits as they shed workers in this country. Those are the only people that benefit. It is President Bush and his campaign kitty and those companies, those executives and those investors that shift jobs overseas and pad their pockets and make bigger profits and get bigger bonuses.

I yield to my friend, the gentleman from Oregon, who is holding one of his favorite books there that can tell more than I know.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding. This is a must read for every American who is concerned about the future of our country, whether we will continue to be the leading industrial power in the world, whether there will be a future for Social Security, what will the rules of trade be and what are the objectives. This is the economic report of the President.

Now, we have to give the President's Chair of his Board of Economic Advisors, Council of Economic Advisors appointed by the President, full confidence of the President, we have to give him some credit, because he is distressingly honest. In this book on page 229, he talks about the fact that one of the great benefits of trade is that when a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically. Of course he does not deal with the fact that Chinese labor is oppressed and abused, that they have no protections in their workplace. Basically if someone gets their arm torn off operating a machine in China, they drag him away from the machine and put a new worker there, and then, after that, they might tend to some basic first aid before they send that person home or to the graveyard, but there are no benefits or significant health care provided. So they are recommending that the U.S. workers should somehow have to compete with this.

Now, it would be one thing if this was sort of a self-generated thing on the part of China or Mexico or any one of these other countries that are stealing our jobs. But guess what? It is being done with U.S. capital which are being subsidized with our tax cuts. Not only are we borrowing money from the Social Security Trust Fund to give to the wealthiest of Americans in tax cuts, we are also borrowing money, given our deficit situation, to subsidize the largest corporations in the world through OPIC, the Overseas Private Investment Council, and others, to export American jobs.

Now, I mean, I think that is one place where conservatives, who are against government subsidies, and progressives, who are against undermining the U.S. economy and the wage and labor standards of Americans and our standard of living as a whole and our industrial infrastructure, have some grounds for agreement. Let us at least repeal the taxpayer subsidies, the borrowed money that is subsidizing these corporations to export jobs overseas.

But again, Mr. Mankiw, the President's chief economic adviser, in his official report to the American people this year, the economic report of the President, he says, shipping jobs to low-cost countries is the latest manifestation of the gains from trade that economists have talked about for centuries.

Now, we have to wonder what that gain is, how illusory it is, when the American middle class is being devastated by these exports. A few years ago when the gentleman from Ohio (Mr. BROWN) and I opposed NAFTA, they said, oh, you Congressmen, you are like dinosaurs. You want to protect those old, inefficient manufacturing jobs. Do not worry, it will just be the low-skilled jobs that go to Mexico. Well, of course, that was a lie, and what we found out was that most of the major U.S. auto manufacturers were willing to invest in state-of-the-art plants in Mexico to access that cheap labor, and then reimport those vehicles into the U.S. And guess what? The price did not go down for U.S. consumers, but many U.S. families, those who used to be able to buy the product because they worked in the factories, could not afford to buy that product anymore.

But then as things evolved, and the trade deficit began to accelerate over this last decade; when I introduced legislation to establish the U.S. Trade Deficit Review Commission in 1997, the trade deficit was $111 billion. It is almost quaint today. We are talking about $500 billion. We are going to borrow a half a trillion dollars to finance the purchase of goods overseas by Americans. We are going to borrow another $700 billion to run the Government of the United States and to give tax cuts to the wealthiest of Americans. And a substantial amount of this money, almost all of the $500 billion and 40 percent of the $700 billion, is going to come from overseas. We are giving unbelievable leverage to those bastions of democracy like China, who is now the largest holder of U.S. debt, and others who may not have the best interests of the American workers or our economy in mind. But in any case, Mr. Mankiw thinks this is just fine.

Now, the President has tried to back away from this a little bit. He did that famous press event in front of a bunch of boxes which they had to repaint. Actually they said, oh, it was just an overzealous intern from the White House at one of his unbelievable staged press events that cost an average of $400,000 each paid for by the American taxpayers, of course; the boxes, when he went to this one particular plant, all said "Made in China" on them, but he wanted to talk about American jobs; a little embarrassing. So this, of course, intern, with no direction from the political staff at the White House or anybody else, somehow came up with all new labels to run through and label them all "Made in the U.S.," of course another lie.

So what they are doing, Mr. Mankiw is an unbelievably honest man, because he admits that they are exporting jobs, and they think that is good because it makes a few people rich and just impoverishes a majority of the people in this country, and deprives them of their livelihoods, and undermines the industrial and economic might of our country; but the President is trying to pretend that he does not really believe in this stuff, but I guess why is his signature on page 4 if he does not really believe in it? There it is, the President's signature on this report, basically endorsing these policies.

We cannot continue this way. Do we know what that means? Let us break it down a little bit, and then I will yield back to the gentleman. Our current trade deficit, that is the amount of money we are borrowing from overseas to finance the purchase of goods, many of those goods manufactured by formerly U.S.-based corporations that have now seen fit to chase cheap labor and lack of environmental standards and other things overseas, is $1.5 billion a day, Mr. Speaker, $1.5 thousand million a day.

Now, how is that sustainable? That is $1 million per minute of U.S. wealth that is flooding overseas, giving unbelievable leverage to foreign governments over the U.S. dollar.

Just one last point on this, and then I am certain we will get on to other things. What do the economists say? Oh, do not worry, it has always been this way. What will happen is the U.S. dollar will decline, our goods will become cheaper, and then we will begin exporting again. But as I said to a number of these economists, none of whom can answer this question, I said, I understand how that used to work when we made things, but when we do not make things anymore, how does that work? If the dollar gets cheaper, then all of those imported goods we are buying become more expensive. We will see inflation in the United States. We will see the dollar continue to drop. We will see higher interest rates in the United States. We will see the dollar continue to drop.

We are headed toward an incredible economic train wreck here. And the chief engineer, George Bush, who signed this report, thinks it is just fine. Because guess what? A few tens of thousands of people, CEOs, his buddies, his principal campaign contributors, they are all going to make out like bandits. The profits are up. Wall Street's profits are up. We are just having this little problem called a jobless recovery; jobless because those jobs have been exported. The means of the production has been exported. The industrial might of this country has been exported. And I would say to the hawks on that side of the aisle, in fact, you are exporting the capability of defending the United States in the future against adversaries around the world.

With that, I am happy to yield back to the gentleman for a little further discourse on this.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman. We think about this. He mentioned when he introduced his idea to better monitor and study and pay attention to, if you will, focus, on the trade deficit, how it has gone up since 1997. The trade deficit for the entire year of 1992 was smaller than the trade deficit, or was about equivalent in 1992 to the trade deficit for 1 month last month. We had a trade deficit of about $40 billion a dozen years ago. We have a trade deficit in excess of $40 billion a month now. I mean, that is what that means.

But more importantly, as the gentleman from Oregon pointed out, what that really means is that we are continuing to get further and further in debt as a Nation to foreign investors, to investors in other countries. That means that the Chinese, with their $100 billion a year in U.S. currency, the trade surplus they have with our country, the fact that they sell us so much more than we buy from them, the Chinese take that $100 billion and are beginning to buy up a lot of scrap steel in the United States, driving up prices of steel, of scrap for U.S. manufacturers, making it harder for them to compete.

They are also buying energy companies in the United States, again driving up the cost of natural gas for American manufacturers and putting them more and more behind the eightball.

And, as the gentleman from Oregon said, when the worm turns, as economists like to say in their ivory and their traditional economic theory, when the worm turns, and our trade deficit gets so overwhelming that eventually the value of the dollar drops, we begin to produce more to sell to them, our factories are hollowed out. Our factories are not manufacturing things, because so many of them are closed. They are not going to be able to retool just because all of a sudden prices are a bit higher.

But what is disturbing about the economic report that the gentleman mentioned, and then I want to yield to the gentleman from Ohio (Mr. STRICKLAND), who absolutely gets it on these job issues, partly because we live in a State where we have seen our economy devastated by these Bush economic policies, but what is disturbing about the economic report that Mr. Mankiw put out, the President's chief economic adviser, and that President Bush signed, is that they really see nothing wrong with the direction we are going. So what, we have a huge trade deficit. So what, we have a huge budget deficit. Let us keep doing tax cuts that overwhelmingly go to the most privileged; let us keep doing trade agreements that ship jobs overseas, in large part because profits right now are up for major corporations. So if the companies are making money, as the Secretary of Labor Elaine Chao said, if the stock market is going up, then there is really nothing wrong.

What is wrong, as Mr. Mankiw said, outsourcing is a good thing when blue-collar jobs; white-collar jobs, phone operators, computer engineers, computer programmers, when those jobs go overseas, I think there is something wrong with that, and it is mostly because George Bush and Mr. Mankiw have never looked an Akron rubber worker in the eyes, or never looked a paper worker in Oregon in the eye, or never looked a Silicon Valley in California, a computer programmer in the eye and say, yes, outsourcing is a good thing. Sorry about your job. Maybe you can get a job at Wal-Mart, or maybe you can get a job at McDonald's.

Speaking of McDonald's, and then I will yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), in this economic report, something the media have not paid much attention to, and that is these economists, and these are not exactly people who know a lot of people who work in America's factories, but these economists are having a debate inside the Bush administration on how to classify manufacturing. Now, we have lost one out of six jobs in manufacturing in Ohio. We have lost literally well over 2 million jobs nationally in manufacturing, and they are trying to figure out how to define manufacturing.

Well, they are debating whether or not to define the fast food restaurant industry as a service job or a manufacturing job, because, you know, if you work in McDonald's, it is not just like somebody comes up and orders, and you take it off the shelf and give it to them. I am not making this up, it sounds like it, but it is in the Bush administration's book, you have to manufacture these hamburgers. You have to take the bun, you got to unwrap it, so you take the wrapping off, you take it out of the box, unwrap it, put the bun down; then you have to take the hamburger, and you have to chemically change the hamburger, it is a chemical process called cooking, put the hamburger on the grill, and put it on the bun after it is cooked. Then you have to get the cheese, and you might have to chemically alter the cheese because you have to melt the cheese. You put the cheese on the hamburger, and then you add a couple of things. You add a slice of tomato, so that is an extra element in the manufacturing. You put the tomato on, unwrap the lettuce, peel the lettuce off the head, so that may be another manufacturing part. This is pretty complex; almost like making a Ford in Ohio or manufacturing steel or making tires in Akron, Ohio, used to be.

Mr. DEFAZIO. Mr. Speaker, if the gentleman will yield, people are going to think we are making this up. I am not making this up. But let us go to the source. Economic Report of the President, signed on page 4 by President George Bush and endorsed by all of his economic advisers, and it says right here: "When a fast food restaurant," this is page 73, chapter 2, halfway down the page, "When a fast food restaurant sells a hamburger, for example, is it providing a service, or is it combining inputs to manufacture a product?" Well, we can erase that very embarrassing manufacturing job loss that George Bush has provided, the largest manufacturing job loss in the history of the United States, worse than the Great Depression, we can erase that in one fell swoop. All we have to do is turn to page 73 and say, well, of course, as the President's chief economic adviser says, that is manufacturing a product. That is not a service.

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Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, that means if you live in O'Leary, Ohio, and you have worked in what we used to call in this country traditional manufacturing, not "Mc manufacturing" is, I guess, the fast-food restaurant category. I guess there will be two categories of manufacturing, traditional manufacturing and "Mc" manufacturing. It will be M-c, with the arches, manufacturing.

This is not really funny. It is kind of depressing that they would think that this is what we are going to, in the new era, the new Bush era, the new 21st century, that this is what we are going to call manufacturing; that these workers in O'Leary, Ohio, who have been in traditional manufacturing making $12, $14, $16 an hour, with decent health benefits, with a decent retirement, that they will lose their jobs in manufacturing, they will get another job in manufacturing, working at McDonald's for $7 an hour with no benefits, with no health care and no retirement.

Mr. DEFAZIO. Mr. Speaker, if the gentleman would yield, do not forget the farmers and ranchers. I had some cattlemen come to my town hall last week who say, hey, we are next. Not only was Canada a huge threat to our industry and not only are they bringing in stuff that might kill the American people with mad cow disease, but the so-called free trade agreement with Australia, Argentina, other target countries in CAFTA, that is going to kill off the U.S. agriculture people. So we will import the beef that will be probably ground up overseas because that is value added, but then when the frozen patties get here, we will still manufacture them into a finished device which is, i.e., a Big Mac or a Whopper, we do not want to shortchange Burger King here and/or whatever you want to call it, and somehow we will prosper as a Nation by doing this.

I thank the gentleman.

Mr. BROWN of Ohio. Mr. Speaker, the point is that the Bush administration, the Bush's chief economic adviser, Gregory Mankiw, with the President's signature on this economic policy, does not see anything wrong with the direction they want to take this country's manufacturing: huge numbers of loss of jobs, reclassifying, underpaid service jobs with no benefits as manufacturing for political purposes, making excuses, justifying this all in the name of this global economy that helps wealthy investors, i.e., helps Bush contributors but hurts workers in the U.S., hurts farmers in the U.S., hurts ranchers in the U.S., hurts workers in the developing world but helps the wealthy of both countries. It simply does not make sense.

I yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), who has been a real leader in trying to do the right things to restore Ohio's and America's industrial base.

Mr. STRICKLAND. Mr. Speaker, I just want to say to my friends that what they are describing here is almost humorous, talking about the putting together of a hamburger as being a manufacturing activity, but it is serious because it represents deception. It represents an effort, quite frankly, to mislead the American people; and I hope they are listening tonight because this information is coming from the "Economic Report of the President"; and as my colleague said, it has got his name on it. So he is responsible for this charade.

I would like to read just one sentence from page 25, and I hope unemployed steelworkers along the Ohio River, I hope those who work in the pottery and ceramic plants along the Ohio River, on the Ohio and West Virginia side of that great river, I hope they understand what this means: "When a good or a service is produced at lower cost in another country, it makes sense to import it rather than to produce it domestically."

Let me say that nearly everything we make in this country can be produced in another country at a lower cost. I was in Mexico about 2 months ago. I talked to a woman who works for an American company. She works 9½ hours a day, 5 days a week. She showed me her weekly check, $38. Nearly every job in this country can be produced for less cost somewhere else; and the President's report says, "If a good or service is produced at lower cost in another country, it makes sense to import it rather than to produce it domestically." Apparently, they are willing to give up the entire employment base of this country, anything to get it a little cheaper. It is a race to the bottom. It absolutely is a race to the bottom.

I would hope the President would publicly renounce this report, disassociate himself from it, take his name off it. This is a report that is based on the theory of comparative advantage. If you can do it for less cost somewhere else, that is where we ought to do it. Where does it stop?

Mr. DEFAZIO. Mr. Speaker, the gentleman is making an excellent point; but of course, they are following exactly the same rules, are they not? Do we not have a level playing field? Are they not required to provide health and safety, environmental protections, child labor protections? Are we not competing on a level playing field here?

Mr. BROWN of Ohio. The answer to that is pretty obvious; but what is interesting, I remember standing on this floor 10 years ago with David Bonior, who was the real leader on these trade issues in Congress years ago, and they promised in those days with NAFTA that only the good-paying jobs would stay and these low-end, low-wage jobs would go overseas; and over time in Mexico they would begin to have stronger environmental laws, over time they would make higher wages, over time they would have good labor law, worker safety, all of that.

But as the gentleman from Oregon's (Mr. DEFAZIO) questions intimate, obviously these countries are not moving in that direction. In fact, we are seeing our country move in their direction. Our country move in their direction in terms of there are significantly fewer pension systems in this country, good pensions for workers than there were 10 years ago, and particularly fewer than there were in 1973 when this trade debacle really started in this country. That was really a key year in terms of turning the way we did trade.

We have seen our pension system atrophy. We have seen wages stagnate in most of these 30 years. We have seen environmental laws and States played off against States, and the Federal Government played off against the Mexican Government to weaken all these standards. Food safety laws are not as enforced, and clearly our food supply is not as safe as it would be if these trade agreements would actually raise their standards.

Instead of passing a trade agreement with Latin America to raise up their living standard, to raise their wages, to raise their workplace safety conditions, to raise their food safety standards, to raise environmental standards, we are seeing pressure on our government to bring those standards down so that we can compete with these countries. We should compete with them. They should compete with us, but let us raise living standards so ultimately they can buy our products, have a safer environment, have better food safety, have better worker safety and all that.

I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, tomorrow morning Ohio's Governor Taft is going to be here in the capital city meeting with those of us who are Representatives from the State of Ohio.

The State of Ohio has been devastated, absolutely devastated and especially my district that stretches all along the Ohio River, some 330 miles. I have perhaps the poorest, the oldest, and the sickest district in Ohio. I have got lots of veterans. I have got lots of unemployed steelworkers. And what does the President say to them? How can the President come to Ohio and own this statement, "When a good or service is produced at lower cost in another country it makes sense to import it"? What does that mean?

We all have constituents and we are all concerned about our constituents. I am a little parochial in my concern I guess because I have got a lot of constituents who do not have jobs, who have lost jobs. As a result, they have lost health care. They have lost nearly everything they have worked their entire lives for, and we have an administration that is encouraging the outsourcing of jobs to other countries. It buffaloes me. I do not understand what kind of thinking goes into a document like this that is called the "Economic Report of the President."

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, think about this: we have a President who is always at the beck and call of his corporate contributors. When it comes time to pass a Medicare bill, it is written by the insurance and the drug companies. When it comes time to pass Social Security privatization, it is written by Wall Street. When it comes to pass an environmental law, the President gives us a bill written by the chemical companies or the energy companies. Issue after issue after issue.

What we have really seen happen from the gentleman from Ohio's (Mr. STRICKLAND) suggestion, what we have seen is as we pass trade agreements like this, making it harder for us to compete with Chinese workers, with Mexico, with Costa Rica, with El Salvador, one of the things that happens is we have seen a stagnation of U.S. wages and a weakening of food safety, environmental standards, and worker safety standards.

We also see in this body many of my Republican friends, particularly Republican leadership, are trying to pass legislation with the President to cut overtime in the U.S., to cut comp time opportunity in the U.S., to weaken environmental standards in the U.S., to weaken food safety standards in the U.S. So what they are doing internationally is in a lot of ways what they are doing domestically. It really does not cause George Bush or Gregory Mankiw, as chief economic adviser, to lose a lot of sleep that U.S. wages are stagnant, does not cause them to lose a lot of sleep if there is a downward pressure, a pulling down of environmental and worker safety standards, because that is what they are doing domestically.

So when Mr. Mankiw says they can do it cheaper in other countries, that means they have got comparative advantage, so send them overseas. The only way that we are going to compete in this Bush new world is to weaken our environmental standards, which is what they are trying to do anyway; to cut overtime, which is what they are trying to do anyway; to end comp time, which is what they are trying to do anyway; to roll back food safety, environment worker safety, wages, all of that. That is exactly what they are doing domestically.

It is what these trade agreements will do internationally. And who benefits? It is not the workers in Mexico. We have no axe to grind with them. It is not the slave laborers in China or the workers in awful conditions that are not slave labor in China. but the exploited generally, I was going to say young women. but really girls because they are not old enough to be women yet. We have no quarrel with them. They are hurt by these trade agreements just like American workers are hurt; but the investors who fund the Bush campaign and the chemical companies, the drug companies, the insurance companies, they get their legislation through. They love these trade agreements because it means more profits and it means more bonuses for these executives.

I yield to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I come from a State that back when we were fighting NAFTA, I was pretty lonely up there in the Pacific Northwest, and we were told, what is wrong with you, you are going to be a major beneficiary. The State of Oregon on the Pacific Rim, strategically perched just north of Mexico and south of Canada, your State, your people are going to be a big winner, but it turns out that we are one of the top 10 losers under NAFTA.

As the gentleman alluded earlier, lumber and wood products are suffering because of subsidized Canadian lumber and wood products. The paper industry is seeing paper flee overseas to countries that do not observe any environmental practices or controls, and then a number of other more high-tech industries have gone elsewhere.

I sat next to a fellow who worked for Hewlett-Packard on the plane flying home a week ago, Hewlett-Packard in Corvallis. I said, what do you do? He said, I work in the ink jet division. I do engineering, design, and development. I said, God, that is really great. I am glad to see you are still working there. I was worried about those jobs. He said, well, no, actually, he said, my entire division was exported to Bangalore, India, last year. I am just working on a special project here in the United States, but my division is gone. The next design development, the next ink jet technology is going to come from Bangalore, India. He said they can get an engineer there for 8 to $10,000 bucks a year.

Are we telling Americans they should go to college for 4 years, incur $50,000 of debt to get a degree in engineering technology or whatever it is going to cost them to do it, and then they are going to work for $8,000 a year, raise a family, buy a home and all the other things that are a part of the American Dream? These people are killing the American Dream. That is what they are doing.

There are a few people who are going to profit from it, and those are the people that support them; and they are so insulated from it some of them do not even realize what they are doing to destroy our country.

One other point. Sometimes that is not even enough to say to an American, 4-year, 6-year degree, you are going to compete with some guy or woman from Indian who worked for $8,000. Sometimes it is not enought. You know what we also do? We are subsidizing, the American taxpayers, through our taxes, are subsidizing the export of these jobs. Here is a short list:

Motorola laid off 42,900 workers while investing $3.4 billion in China with a $190 million taxpayers subsidy.

□ 2145

In General Electric, 260,000 U.S. workers, while investing $1.5 billion in China, $2.5 billion in corporate subsidies paid for by U.S. taxpayers. Insult to injury. Steal their jobs, destroy the economic future of our country, our kids and our grandkids, and charge us to do it. That is what they are doing to average wage-earning Americans, because most of this is coming out of Social Security wages, out of payroll taxes.

Mr. BROWN of Ohio. Mr. Speaker, I would now yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I thank the gentleman from Ohio for yielding once again to me.

I said a little earlier that I feel kind of parochial in these concerns because each of us represents, I do not know, 630,000 or so men, women and children. I represent people who are desperate for jobs. Now, in a little town that my colleague represents that I think he is familiar with, Salem, Ohio, there is a company, the Elger Company. They make bathroom sinks and wash basins and so on. They decided a few months ago that they would go to China. That means that there are going to be lots of families without a job.

A short time ago, although the company has not really closed the operation in Salem yet, that is going to happen this spring, I got a call from one of the employees there, and they had just gotten a shipment of goods back from China, and they opened up the crates, and guess what they had stamped on the sides of those sinks and so on? "Made in the USA." The mold had not been changed, so they were forced to grind off the "Made in the USA" label. That is just an example.

I guess in China they can make a bathtub or a wash basin or a toilet for less cost than we can do it in Salem, Ohio, where these workers got living-wage jobs, paid taxes, supported their schools, gave to their churches, and cared for their children. They were good, solid, living-wage American jobs. But they can do it for less cost in China, so this administration says, oh, that is where it should be done then. So every worker at the Elger plant in Salem, Ohio, should know, and the community that depends upon those jobs should know, that this administration believes that is the right thing to do. As the President's report says, if it can be done more cheaply somewhere else, that is where it should be done.

If a cheap product is a cheap product or a reduced cost to the consumer is the ultimate good, then maybe what we are doing is the right thing. But if we believe that in this country people and the communities in which they live should have living-wage jobs which enable the workers to pay taxes, to support their schools, to contribute their taxes to the State and to local government, to be a fully functioning taxpayer.

Mr. DEFAZIO. To buy the products.

Mr. STRICKLAND. And to buy the product, absolutely. If what we want is a cheaper pair of blue jeans from Wal-Mart, then maybe we are headed down the right road. But if we want a secure country, with stable families and secure communities, we had better change our way, because we are going to lose the American way of life. We are going to lose the middle class, and we are going to lose the ability to continue to support the infrastructure that makes us uniquely American.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend for those comments.

What is disturbing to me is that in this economic report, as the gentleman from Oregon (Mr. DEFAZIO) said, on page 4, signed by President Bush, this economic report put out by the President just this month says that there is nothing wrong with the way the global economy is operating. He said outsourcing is a good thing.

Mr. Mankiw actually said, as we are seeing some of the most highly-skilled American workers, radiologists, for example, seeing their jobs threatened, Mr. Mankiw says an MRI or an X-ray will be taken that will be e-mailed to perhaps Bangalore, perhaps somewhere else, and read by a physician there who makes some minute percent of whatever the physician makes here, and then it comes back, because those radiologists are not in as much demand today as they once were. He said, well, it is a question of comparative advantage. Perhaps we just need to quit training so many radiologists. They cannot compete. We need to maybe train more general surgeons or more family practice doctors.

Let me do a little tour around the world to show what the gentleman from Oregon said about how there simply are not going to be enough people to buy these goods. If a Nike worker in Oregon loses his job to a Nike worker in China, there is one less consumer to buy cars; one less consumer to buy clothes, because the Nike worker in China is not making much to buy anything.

Let me tell a quick story. About 5 years ago, when Congress was considering the fast track legislation to in those days lay the groundwork to extend NAFTA to Latin America, which President Bush is trying to foist on us, I, at my own expense, flew to McAllen, Texas, rented a car with a couple of friends, drove across the border and went to Reynoso, Mexico. I went to a worker's home who worked at General Electric Mexico, one of the largest employers in Mexico. The home of these workers were about 20 feet by 30 feet. They lived in a one-room shack: dirt floor, no running water, no electricity. When it rained hard, the dirt floor turned to mud. When you walked behind the shack, you saw a ditch of human and industrial waste. Who knows what it was. Children were playing nearby, as children will. The American Medical Association said that area along the border is perhaps the most toxic area in the Western Hemisphere.

Now, as you walked through this neighborhood of these shacks, you could tell where the workers worked because their homes were constructed out of packing material, boxes, wood platforms, crates, whatever, of the company for which they worked or the supplier for the company for which they worked.

We then visited nearby an auto plant. These workers at this GE plant in this home were making about $45 a week and working about 60 hours a week. But we went to this auto plant, and this auto plant in Reynoso, Mexico, 3 miles from the United States of America, looked just like an auto plant in the United States, just like a GM plant in Lordstown, near my colleague's district, or a Ford plant in Avon Lake or Lorain. It was modern. In fact, it was newer than the auto plants in our State mostly. It was modern, it was clean, it was the latest technology, and the workers were productive and hardworking.

There was one difference between the Mexican auto plant and an American auto plant. That difference was there was no parking lot in the Mexican auto plant because the workers do not make enough to buy the cars that they make.

You can go halfway around the world to Malaysia to a Motorola plant, and you will see the workers do not make enough to buy the cell phones they make. You can come back to this hemisphere and go to Haiti and see that the workers do not make it, to a Disney plant, and the workers do not make enough to buy the toys for their children they make. You can go back around the world to China and go to a Nike plant and see the workers do not make enough to buy the shoes which they make.

Now, the lesson is this continued downhill slide with globalization. If we pass a Central America Free Trade Agreement, if Congress passes the Free Trade Area of the Americas, if Congress continues the tax cuts for the wealthy and continues to allow the drug companies and the insurance companies to sit in the Oval Office, with a Vice President who is still on the Halliburton payroll, I might add, at $3,000 a week, allows them to continue to write this legislation, we are going to have a country like Brazil, with a very wealthy group at the top and a bunch of people at the bottom that are not making enough money to buy the shoes and to buy the toys for their kids, and to buy the cars, and to buy the cell phones.

If that is the society we want, then I guess maybe this report says let us keep doing it. But if it is not the society we want, then we need to say no to the Central American Free Trade Agreement, and we need to say no to this economic policy that has caused some of the highest unemployment rates in the country, in Oregon, and has devastated eastern Ohio and northeast Ohio where I live and damn near the rest of the State. We need to say no to that.

Mr. DEFAZIO. Mr. Speaker, if the gentleman will yield, when I lay this out to my constituents, they say, well, certainly the CEOs and others could not support that; they would not want to live in those communities or under those conditions or see those things happen. Well, the fact is today's CEOs, where there is still a manufacturing job, earns 500 times what a worker earns. It is only a couple of decades since the ratio was only 20. They do not live in the same communities. They do not live in the same world. They live on a different planet.

They live behind gates in their mansions with their servants. Now there will be a lot more servants out there for them, and probably the cost of servants will go down, so this will be a great benefit to them. Of course, under Bush we can import those, too, or maybe Americans can work for those low wages. Their kids go to private schools, so they are not worried about what the gentleman from Ohio was talking about, the support for our societal infrastructure, schools and those sorts of things.

They do not really need the police. I guess we have not gone back to private for-profit fire departments yet, that is probably not far away, but they have private security so that we do not find a lot of support from them for police infrastructure or first responders, particularly not with the administration cutting their budgets under the homeland security proposal.

And then when they want to go somewhere, they go to the private country club in their chauffeur-driven limousines. Or if they go further away, they go in private executive jets so they do not even have to deal with the deregulation of the airline industry, the overcrowding and all those sorts of things. But these are true international folks. They are talking about globalization and international trade and all the benefits. There are benefits for them, just not for the masses of America.

Whatever happened to Henry Ford? "My workers are going to be able to afford the product they make." We all did better under that system. We created the envy of the world here in the United States. We created the largest middle class. Everybody did better together. But a few people got greedy, and now they have got their hands on the levers of power, and they simply do not care about the majority. But they might find ways to distract them with wedge issues, social issues, or something else to distract them from the loss of their jobs, the opportunity for their kids, the lack of educational opportunities, or the future of this country.

I do not think the American people are going to be fooled for very long. They are going to demand changes, and we have to bring about changes. This trade policy is one of the most devastating levers of power that they have to wield against the American system, against American workers, and against the wealth of this country, and they are using it ruthlessly.

Mr. BROWN of Ohio. Mr. Speaker, my colleague put his finger right on it when we talk about these workers and the way that they are paid.

The key to our Nation's success, and the gentleman mentioned Henry Ford before, the key to our Nation's success is that workers share in the wealth they create. They are able to do that because we have a democracy. They are able to do that because we have a relatively strong labor union movement. They are able to do that because of mobility of labor, and a whole bunch of reasons in a free society here.

When workers are more productive, as they are in the United States, as they increasingly get more productive, that means their wages should go up. They have not in large part because of the downward pull of these trade agreements. In Mexico, for instance, and I remember David Bonior, the former Democratic whip, talking about this a dozen years ago, as productivity went up in Mexico, wages did not go up with them because they had a government that was authoritarian by and large, because they did not have free trade unions. They had government-controlled, business-controlled trade unions.

So do we want a country like that? Do we want a country where the workers share in the wealth they produce, or do we want a country like a bunch of Wal-Marts, where the workers barely get minimum wage in many cases, rarely have health benefits, and often have to work off the clock while the Wal-Mart family, several members of the Wal-Mart family, rank as some of the richest people in the country? Billions of dollars have accrued to many members of the family, billions and billions, tens of billions to many members of the family, but the workers do not really share in the wealth they produce.

That is a society that I do not think we want. We have seen that this country worked best, as the gentleman from Oregon mentioned, when workers at Ford got paid a wage where they could buy the cars, and workers all across the board were paid a decent livable wage that made an absolute difference in their lives.

I go back, Mr. Speaker, to some of the promises we have seen in this administration's economic policy. Understand again that the foundation of their economic policy is more tax cuts for the wealthiest people in our society and more trade agreements that end up shipping jobs overseas. That is the foundation of their society. It makes the wealthy, the Bush contributors, wealthier; it weakens and dilutes the middle class; and it is particularly hard on families barely making it.

We are going to see more promises in the next 8 months, as we have seen all along. This administration promised 3.4 million jobs. After September 11 they made a promise there would be 3.4 million more jobs in 2003 than there were when he took office. In fact, what we have seen is 1.7 million jobs lost. Again, more tax cuts for the rich and more trade agreements that ship jobs overseas. That is what the economic job loss is all about.

□ 2200

President Bush at the same time said we will have a budget deficit of only $14 billion. In fact, the budget deficit is $521 billion. We see these kinds of promises, and we will see them again. We see it in the new economic report. They promise 2.6 million jobs this year alone. Now they are backing off that. That is 200,000 jobs a month, and we are creating no jobs per month and we are still losing manufacturing jobs. They simply have not lived up to any of their promises. The only promise they live up to is a promise to their corporate contributors that they will continue to do them favors, they will continue to enrich them with their tax policy, and with the new laws they make on the Medicare bill and the Social Security bill and the environmental bills and the energy bills.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN). The gentleman made reference to our former colleague, David Bonior. I remember when NAFTA was passed some 10 years ago; and David Bonior stood on this floor, as did others, and told us the truth. The other side told us what we now know are falsehoods. They told us if we pass NAFTA we are going to create more jobs in America and raise the standard of living of the folks who live in Mexico. They said it is a win/win. We know that manufacturing wage rates have actually declined in Mexico since NAFTA, and we have lost jobs here in this country.

This trade deal is only a part of the overall picture. The gentleman from Ohio (Mr. BROWN) pointed out we have an exploding budget deficit. A Medicare bill was passed at 6 a.m. after arm twisting and deals were made, and perhaps even illegal activities, we do not know for sure, but that is certainly worthy of investigation; and it is being investigated. The fact is we now find out that it is not a $400 billion bill; it is a $534 billion bill, in part because there are no cost savings. There is no way to control the costs of prescription drugs in that bill because of our sellout to the pharmaceutical industry, basically.

But I believe this trade issue is the overarching issue because we cannot deal with our health care problems; we cannot deal with all of the other problems that face us, funding education, prescription drugs for our seniors, caring for our veterans; we just cannot do that unless we solve this trade deal that is bleeding jobs out of this country.

I get discouraged sometimes, and I would like to ask the gentleman from Ohio (Mr. BROWN), what does the gentleman think can be done to reverse this? What is it going to take to reverse this?

Mr. BROWN of Ohio. Mr. Speaker, it is clear that either the President needs to change his mind, or we need to change the President. President Bush came to Richfield, Ohio, on Labor Day, and to his credit, he created a job that day. He said he was going to start a new office called the job of the manufacturing czar. He promised the job, but he has not filled the manufacturing czar's job yet. It is pretty clear when the President's answer to everything is the same tired, trickle-down economics, tax breaks for the wealthiest people and more trade agreements that hemorrhage jobs. If he is not going to change his mind, then this country is pretty clearly going on a different course.

Mr. DEFAZIO. Mr. Speaker, there is one exception to free trade. People have to realize who runs this administration. There is one exception to free trade, and it is for the first time in a trade agreement with Australia. It is a prohibition on the importation or the reimportation of FDA-approved, U.S.-manufactured pharmaceuticals from Australia, not because they are unsafe like the phony baloney they are giving us about Canada, but because they are cheaper there. That is in the trade agreement. What is that doing in the trade agreement if this is not all about big business and multinational corporations? It is not about making things cheaper for American consumers. If it was, why did President Bush insist on prohibiting the reimportation of FDA-approved, U.S.-manufactured drugs from Australia at half the price? It is not about making things less expensive and benefiting our consumers and our society. It is all about benefiting a very privileged few.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Oregon (Mr. DEFAZIO) for their 10 to 15 years of working on these issues.

Mrs. JONES of Ohio. Mr. Speaker, I rise today as a member of the Ways and Means Committee to express my concerns about the Central American Free Trade Agreement. My concerns regarding this agreement cover many issues such as access to U.S. markets for agricultural goods, textiles and apparel, rules giving foreign investors the right to circumvent domestic courts and sue countries in binding arbitration, and the failure of the CAFTA to include enforceable, internationally-recognized, core labor standards.

CAFTA will lead to the expansion of export-oriented factories that are notorious for poor working conditions and exploitive working environments. Central America's textile industry is one of the most developed in the region. Companies that hire mostly women aged 15–25 at low wages and under poor working conditions produce most of the clothing.

One of the poorest groups in the region are women that reside in rural areas. In fact, women are the heads of greater than 8 million rural households. Support for the rural sector in Central America is reflected by the lack of investment in rural infrastructure, financial services and human capital in the region.

CAFTA only exacerbates the problems of the financially vulnerable small and medium sized farms forcing increased impoverishment of rural women.

Additionally, I want to discuss the effect these agreements will have on our trade deficit and how they will harm American workers.

The City of Cleveland in my congressional district currently has an unemployment rate of 13.1 percent. Much of that is due to lost jobs in the manufacturing sector. In fact, Cleveland has lost nearly 72,000 manufacturing jobs in the last four years. Additionally, in the State of Ohio, 18.8 percent of manufacturing job loss can be directly attributed to international trade. I anticipate that the most likely traded item this agreement facilitates will only be more U.S. jobs.

Like NAFTA, the Central American Free Trade Agreement will cause shifts in production from the US that will further engorge the already bloated trade deficit and lead to the loss of more US jobs. Both of these agreements facilitate the shift of U.S. investments while doing little to increase U.S. exports. Even U.S. investors do not escape unscathed, because the agreements contain large loopholes that allow foreign investors to claim rights above and beyond those our domestic investors enjoy. The agreement before us today is taking us down the path of further job losses and I urge my colleagues to oppose this measure.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

IMMIGRATION POLICY

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, it has been an interesting time. I sat listening to our friends on the other side of the aisle decry the effects of outsourcing of jobs, which of course I agree, there is a significant problem. It is interesting to note also that during this entire hour when we have talked about jobs and when we have talked about the fact that American workers, even those that are employed, are making less than they were before, that wage rates have been depressed throughout the country, which is undeniably true for people who are low skilled, and it is also the case for hundreds of thousands of Americans who have been displaced from high-tech jobs because of the number of people who have come into this country under H–1B visas. And it is also true that we are facing a crisis, I think, in our system and in our economy. The economy grows, but jobs do not. Job growth is not there, and the jobs that we are seeing being developed are jobs that by and large are not going to Americans.

Recently California published a study which showed that although there had been a very marginal improvement in job growth in the State, when it was looked at carefully, it was found that those jobs did not go to American citizens. They went to people coming here from foreign countries, aliens, some legal, most not. Those are the people getting the jobs. Interestingly, we did not hear a word in 1 hour of discussion about jobs, and the problems with outsourcing and the rest, not one word was mentioned by the other side during their hour here about the fact that immigration, massive immigration into this country, costs Americans jobs.

It also costs American workers wages because of course this is a supply-demand system; and the more supply there is, the more downward pressure there is on wages, and we see it all of the time throughout the country, but no one talked about that. No one dared mention the word "immigration" in this discussion of 1 hour about jobs. They want to blame it all on President Bush's policy or the administration's policies regarding outsourcing. I am certainly critical of the administration's policy on a number of issues, particularly their immigration policy; but I ask people to be evenhanded in their criticism of what the problem is.

I have had a bill now for over a year, and certainly we will reintroduce, and I will be interested to see how many on the other side of the aisle will sign on. It is a bill that abolishes the H–1B visa program. This is a program where supposedly companies would be able to bring in people for a short period of time with very specific skills, skills that were not available here in the United States, no worker possessed them, they had to go overseas to get them.

Now, we have to think about that. Really and truly, how many people do you think there are in the United States presently employed in the high-tech industry or have been employed in the high-tech industry who would not be able to meet the criteria that we have established for these jobs, these certain high-tech jobs? I suggest very few. I suggest that American citizens are quite capable. I believe that we are producing enough people in our colleges and university system to take the jobs that may be available; but, of course, the difference is American workers were demanding higher pay, and so corporations began to look at H–1B visas to bring in cheap labor. So they forgot about the provision that said you can only bring people into this country under this particular visa status that had special skills and that would go back in a short period of time.

Mr. Speaker, guess what? Nobody has gone back. We have maybe a million people in the country with H–1B visas. Nobody has the slightest idea how many, if any, have gone back home after the 5 years were up that they were supposed to be able to work in the United States. I assure Members most, if not all, of them are still here.

I have a bill to abolish that category. I do not think, no, I am positive there is not a single Member who spoke here for the last hour that is on that bill.

How about the bill to attack the L–1 visas status which is now being used by major corporations to bring people in for the same reason because they will work cheaper? They are higher-skilled people. We are not talking about people working in low-paying jobs. These are highly skilled people, and companies are bringing them into the United States under the L–1 visas status.

Where are these people when we are talking about what is happening to American people because our borders are porous and our immigration policy is dictated by the politics of it and not by the economics of it, at least not the economics of workers in the United States, but certainly the economics of major corporations? In fact, no one disagrees that massive immigration of both legal and illegal workers into this country is a benefit to employers. Cheap labor is a benefit to employers. Cheap labor is cheap to employers. It is not cheap to the rest of us, to the people who pay the taxes for the schools, for the highways, for the housing, for the health care, for the incarceration rates. Those all get passed on to the taxpayer so that there can be a higher profit rate.

I understand that every corporation wants to achieve that; that is their primary goal, and it is under our system appropriate that they should be seeking the best returns possible for their investors. Then is it not, however, the responsibility of this government to try to do what we can to protect to the extent possible, without becoming incredibly protectionist and starting trade wars, but are there not things that we can do in this country to try to protect American workers? It is our responsibility to do so.

Should we not be able to control the flow of immigration into this country, recognizing that that massive flow of immigration has an effect on working Americans, if not taking the jobs, certainly in terms of depressing wage rates? But nowhere in the diatribe that we heard for an hour was there one reference to this phenomenon, to the immigration phenomenon. Why? Why, because, of course, as they accuse the Republicans of being tools of big corporations, big business, they forget that for the most part they are tools of political subgroups that they look to for votes.

□ 2215

It is a political problem we face. It is true that our side of the aisle caters to the business interests who want cheap labor. It is also true that the other side of the aisle caters to the immigration community and looks at them as a source of voters and as a political support base, and they are fearful of ever saying anything that might discourage that political support base.

If you are going to talk about this issue, then you better talk about all of that issue, all of the problems that we confront in this country because of the fact that we have immigration policies and economic policies that are detrimental to American workers.

This issue, the immigration issue, is certainly one that is contentious, certainly one that causes a lot of very, very intense feelings to emanate out of the Members of the body here, and for a long time an issue no one wanted to talk about. I would come to this floor night after night to bring my concerns to the body and to those people who were listening, but it was a lonely struggle.

I am happy to say that things do appear to be changing, that American voices are being heard. Not too long ago, the President of the United States proposed a new immigration plan, one that although he said was not amnesty was, from my point of view and, I think, from the point of view of most people, certainly an amnesty plan for people who would be coming here under some sort of guest worker arrangement, and all those people who are here illegally would be given the ability to stay even though they broke the law of the land coming in here.

There has been a significant response to that proposal. Our office, my office in Denver and the office here in Washington combined over the course of about a day and a half or 2 days received almost 1,000 phone calls after the President made that speech. Nothing that has ever happened in this country, not the war, nothing, no proposal for any initiative ever generated that kind of response. 99.999 percent of the people calling were upset by the proposal, were furious, as a matter of fact, at the President for putting it forward. Some of my colleagues, in fact many of my colleagues, heard the message because their phones rang off the hook also. Their e-mails came in by the hundreds and thousands, something that they did not expect.

I do not think it was something that even the White House expected. I think that they felt the President could make this speech, move on, satisfying a certain constituency, hoping that we would pass the bill eventually in this Congress, and that it would be something of relatively little note. But boy, oh boy, oh boy, were they wrong. People noticed, and they called, and they are still calling.

It is important, I think, for people who listen to this to recognize that their voices can be heard. I know it is simply a frustrating experience to pick up the phone or write a letter to our Congressman. Does anybody really care? Does anybody really read it? Believe me, you were heard. You were heard. So much so that I do not believe the President's plan will even evolve into a piece of legislation that we will see on the floor of the House. If it does, I predict that it will fail. And it should.

There are signs, as I say, that things are changing. Perhaps one of the most incredible things I have read in the recent past that indicates that there has been a change in the attitude of the American people when it comes to the issue of immigration and immigration control, not just a change on the part of the American people, because, frankly, that has been there for quite a while, poll after poll after poll tells us that 70 percent, maybe sometimes 75 percent, of the people in this country say no more illegal immigration. A majority say they want a reduction in legal immigration, until we can get a handle on the problem. And it is a problem.

For the longest time major media outlets would simply ignore that, as well as the Members of Congress, as well as the President of the United States, be he George Bush or Bill Clinton, would ignore the fact that those people were out there and that they were telling pollsters how they felt, because we always assumed we could finesse this; that although people were upset about it, it was not their number one issue, and, by the way, we have this constituency we are trying to grab onto, this huge constituency, this growing number of people coming into this country as immigrants, and they will become voters, and we want to get their votes, and so we certainly cannot attack the whole process that allowed them to come here, legally or illegally. So we figure we can finesse this, and all the people who say in those polls that they are against it, they are going to say it, but that is not their number one issue, so they will let it slide.

How did the major media approach this? Anyone that suggested we need to look at our immigration policy was xenophobic; at best xenophobic, at worst racist. That is the only way the media ever looked at it, because that is the only way they could explain how someone would stand up on the floor of the House or in a State legislature anywhere in the country, a city council or anyplace else and talk about the possibility that massive immigration into this country could be problematic, and that we had to be able to control it, and that we have to know who is coming into this country. We have to know how many, for what purpose and for how long. In order to call ourselves a Nation, that is a requirement, to be able to actually control your borders. That is a requirement.

But the major media would follow the lead of papers like the Wall Street Journal that every single year for years on the Fourth of July would write an editorial saying that borders should be eliminated, they don't matter anymore, they are insignificant, and they just impede the flow of goods and services. And, after all, the only thing that should determine that flow of goods and services and people, the only thing that should determine that is the market. And so borders are irrelevant, they said. They wrote that every year, year after year, on the Fourth of July. All of the major media in this country followed along.

9/11 comes along, a lot of things changed, and one thing that changed was the Wall Street Journal stopped printing that editorial on the Fourth of July. It does not mean they stopped believing it, they just stopped printing it for obvious reasons. But something is happening.

This is a reprint of a cover story in the Los Angeles Times Magazine, January 25, 2004, by a gentleman by the name of Lee Green. This is really an incredible article, incredible because, of course, I think it is very profound, it is certainly well written, it is well documented, but it appeared in the Los Angeles Times.

The Los Angeles Times, I think if it had a logo, if it had a masthead, it would be of the three monkeys with their eyes covered, their ears covered, their mouth covered because they did not want to see, hear or talk about this problem. It did not exist in the Los Angeles Times. Immigration was not a problem for the Los Angeles Times. They could go to their offices, their ivory tower offices, and look out over a sprawling city and think, gee, you know, I'm sure those people down there are having a great time and life is good for them, so as long as I don't have to participate in any of this stuff, as long as I can get home easily, have my limo pick me up, and I don't have to worry about a lot of these kinds of things that the poor trash out there worry about, then we can continue to think about markets as being the only thing that should determine the flow of people.

But, as I say, something happened. And so they agreed to publish this article. I am certainly not going to read it all, but I am going to take excerpts. It starts out:

By birth, by foot, by automobile, from every other State and other country, legally and illegally, people have arrived in California for decades in unrelenting swells, human surf breaking steadily on a vast shore. Occasionally a big set rolls in and harasses State and local officials trying to determine how many new classrooms to build or where to bury the trash, but Californians take it in stride.

You can complain, but what good would it do you? You can complain about winter, too, but it comes anyway. We tolerate endless strip malls, foul air, contaminated runoff, window-rattling boom boxes and the weekend crush at Costco and Home Depot. We remain composed in the face of runaway housing prices, electricity shortages and crowded schools.

But what we suffer even less well than crowded schools, the thing that makes even the most tolerant Californians realize that their cities have become overstuffed, is the endless, miserable, stinking, standing traffic. In Los Angeles, in San Diego, in Sacramento, in the Bay area, freeway traffic sits like an automotive still life, then inches along as we fume in the fumes. On a roadside in San Jose after a fender bender, a driver grabs another driver's small dog, Leo, and throws the helpless animal into oncoming traffic.

This is what it has come to in California. We live in the age of Leo. If projections through 2040 by demographers in the State Department of Finance prove accurate, conditions will only get worse, much worse.

New residents continue to wash over California's borders, but the State is neither attempting to restrain growth nor building adequate infrastructure to accommodate it. And the boat continues to fill. During the last half of the last century, an epoch encompassing most of the baby boom and, a generation later, all of the boom's echoes, the State population grew by more than 24 million. The next 24 million, more than the population of Illinois, Indiana, Iowa and Nebraska combined, will arrive more quickly, inflating the total to nearly 60 million within 36 years. Barring the long overdue mother of all earthquakes, a tightening of Federal immigration policy, which is more unpredictable, by the way, than the earthquake, or the Rapture, California's population, currently at 36 million, likely will double within the lifetime of today's schoolchildren.

A close look at the numbers suggests that the 1990s began a pattern in which California receives more new residents each decade than it did the previous decade. The 2020s will witness the greatest 10-year increase in State history, and the number in the 2030s will be even greater.

Come to California, Governor Arnold Schwarzenegger urged the world more than once in his State of the State Address this month, but most residents are not happy about this trend. Even Senator DIANNE FEINSTEIN isn't happy about the numbers, either. I find them, she says, very distressing, and I'll tell you why. If the growth comes before the ability to handle the growth, what you inevitably will have is a backlash. That's what drove Proposition 187.

The Eagles were right: This could be heaven, or this could be hell, but the more closely you examine California's plight, the more the heaven part looks iffy. No other State has so many residents. Texas ranks second, but with almost 40 percent fewer people. No other State comes close to matching California's annual net population increase. During the next 25 years, the region is projected to grow by 6 million people. This is not exactly a formula for a Golden State.

Immigrants, specifically Latinos who constitute the majority of the State's more than 9 million immigrants, inflate the population not just by coming to California, but by having children once they are here. While the combined birthrate for California's U.S. citizens and immigrants who are not Latino has dropped to replacement level, the birthrate for Latino immigrants from Mexico and Central America averages more than three children per mother.

Changes in Federal policy since 1965 have elevated the number of immigrants legally admitted to the United States annually from a few hundred thousand to more than 1 million in recent years. California has long received far more immigrants, legal and illegal, than has any other State. It worked out well in some respects, cheap labor, ethnic diversity; not so well in others, social welfare costs, increasing poverty. While the costs are significant, the benefits are so vast and varied from critical high-tech expertise to breathtaking multicultural richness that anyone but an unrepentant xenophobe would agree that they are all incalculable, none of which alters the fact that immigration more than any other factor will probably determine how crowded and environmentally unsustainable California becomes in the years ahead. Immigration directly and indirectly accounts for more than two-thirds of the population growth nationwide.

□ 2230

"But DIANE FEINSTEIN says that trying to stem the ever-rising count is not a topic of discussion in the U.S. Senate. Though the Earth's population doubled to 5 billion in a mere 37 years and will more than double again this century, many countries, particularly in Europe, now have low fertility rates, relatively low immigration levels, and are losing population. In sharp contrast, the U.S., at more than 292 million people, the world's third-most populous country behind behemoths China and India, will soon glide past 300 million en route to 400 million before mid-century . . . " "United Nations projections show just eight countries accounting for half of the planet's population increase between now and 2050," and of course the United States is one of them.

I will skip to the end of this here. "Researchers at the Rand Corporation think tank," and the Rand Corporation, by the way, is not known as a conservative think tank by any means, "spotted these troubling trends in 1997 after studying 30 years of economic and immigration data. Rand's review concluded that 'the large scale of immigration flows, bigger families, and the concentration of low-income, low-tax-paying immigrants making heavy use of public services are straining State and local budgets.' " California, a $38 billion deficit. Yes, it is definitely straining local budgets.

"The lifeboat keeps sitting lower, water spilling over the gunwales, provisions stretching thin. Yet we keep taking on more passengers, and nobody's doing much bailing. Is this any way to run paradise?

"Shall we just paint ourselves into an overcrowded corner and then see if we can figure a way out?

"There is more at stake here than mere comfort and convenience. Apply enough stress to any biological system and eventually it falters. 'The economy is inside an environment. The environment is not inside the economy. Which is to say, the laws of nature will ultimately prevail over the laws of economics.' "

He ends by saying, "But if the people entrusted to lead the State are not having this discussion, if they're not grappling with these issues, then who is? That's a fine thing to think about the next time you're stuck in traffic. Which will be soon."

It is a great article, much lengthier, of course, than I was able to state here tonight. But people can all go on line, of course, and pull it up. It is called "Infinite Ingress" by Lee Green for the Los Angeles Times, January 25, 2004. It is a great article.

There are astronomical types of issues to deal with here, enormous problems. Certainly they are issues dealing with the environment. I mean, this piece concentrates on that. What is the impact of massive growth rates in this country? Is it always good? Is growth always good? Some will benefit, it is true. Many will not.

The President mentioned in his speech on immigration that we need to match every willing worker with every willing employer. That is a sentiment I know many of my colleagues even in this House believe in. It is sort of an admirable goal. We can say things like that, and at first glance we would say, sure, that is true, absolutely. What is wrong with that, matching a willing worker with every willing employer?

The one thing that I can tell the Members that strikes me right off the bat that may be wrong with it is this: There are billions of willing workers out there, billions, willing to come, be matched up with millions of employers here in the United States who are quite desirous of obtaining cheaper labor. Do we really mean that? Do we really mean that we will match every willing worker in the world with every willing employer? Do we think that that will not have an impact on our society, on our system? Of course it will. And I do not think we really and truly mean that. At least I hope we do not, because, of course, there is a role for us to play in this body, and that is to control that flow.

We hear all the time that there are all these jobs going begging, all these jobs that Americans will not take. I will tell the Members right now that I believe with all my heart when we have got 5.6 or 5.7 percent unemployment rate in a free economy, there is no such thing as a job an American will not take. It is just a matter of how much one is willing to pay to get the worker. And as long as we continue to import cheap labor, we will be absolved of the desire to actually provide a good job for Americans and will say that the better thing is to just simply have cheaper products coming into our stores. But it does require somebody here to buy those products, and we cannot have an economy that is a two-tiered economy of most folks living at lowest level and some folks at the highest, and that is, I think, a future that comes into view when we think about this kind of world, a world of infinite ingress into the United States.

Something will change. And I will not ask a question. I will tell my colleagues that I do believe that it is true that there are a lot of folks here even in this body, maybe even in the administration, who believe that borders are irrelevant, they are of no consequence, and they impede the flow of goods and services and, yes, people, and that soon we will be able to achieve a new world order in which there are no real borders, or if there are borders between countries, they will be like one that was described by someone I was debating from the Cato Institute, a libertarian think tank here in Washington, who said, yes, we will still have borders, but they will simply be like the borders between Kansas and Colorado and Nebraska, of no real consequence.

That is a world view. It is a world view held by a lot of people. It is not a world view I hold, nor one that I will accept without a lot of fighting, but it is something that a lot of people want to see, and that is why we can see this constant movement toward a world and a country in which the whole concept of citizenship is completely and totally obliterated, where it just does not matter anymore if one is a citizen of the United States, of Mexico, of Canada or anyplace else. They are just a resident of where they happen to be.

We see cities in the United States passing laws, calling themselves sanctuary cities, laws telling people that they really do not need to show us anything except perhaps a utility bill to show that they are a resident and we will let them vote. One of those cities is not too far from here, College Park, Maryland, but they are all over the country. The State of Maine is proposing that the State be the first sanctuary State.

Among other things, we would see these States and cities not cooperate with the INS, with now the Bureau of Immigration Control and Enforcement; not have their police forces, the State patrol and the local police, help the Federal Government enforce immigration laws, not that we do a very good job at it anyway, but they are saying the cities will not be allowed to do that. Four cities in my State have done this, have passed these laws.

What is the end result of this process? It is to achieve a place in which we are simply residents, we are not citizens, that citizenship does not matter; that if one comes here across our borders even without our permission, we will give them free schooling for their children. We do that. If they come here, cross our borders, even without our permission, we will give them access to our health care system. We do that. If they come here, we will give them access to our Social Security system. We are proposing that. Even if they are here illegally, the President is proposing a totalization agreement with Mexico, saying that any Mexican worker who is here, even here illegally, after only six quarters of work would be able to be vested in the United States Social Security system. So we do that. We are proposing that. We are even telling them, as I say, that if they come here even without our permission, they can vote.

So I ask the Members if one can come into this country as an illegal immigrant, an illegal alien, and obtain all of these benefits, then what is the difference between that person and the person who has lived here all of his or her life and is, in fact, an American citizen? What is the difference? None. It does not matter. And that is a goal that a lot of people in this body want. It is not what I believe is an appropriate goal certainly, and one that I certainly will fight in every way I can.

Not too long ago there was a bill on the floor. We were fighting over the budget for the newly created homeland security agency. I think we just had its first year anniversary here a day or so ago. But on the floor of the House when we were creating the budget for this newly created agency, I proposed that no city that passes these plans, these amnesty plans, these sanctuary city policies, would be able to get any funds under that particular grant system, the grants from Homeland Security. I got 122 votes out of 435. Everybody kept saying this is not the time or the place to talk about that, and it got very contentious. It was about midnight on the floor here, and people got very upset, did not want to fight this issue, did not want me to even bring it up, kept saying it was just a divisive issue.

Why is it divisive? What in the world is divisive about it when we simply say, okay, there is already a law, it is already on the books in the Federal Government, we passed it in 1994. It says no State or city can impede the flow of information to the INS or restrict the flow of information from the INS. It is on the books. We have it.

There is one little tiny problem. There is absolutely no penalty for its violation; so States and cities routinely violate it. And when I tried to say let us really take a tiny little penalty, all I was saying at that point in time was they should not be able to get a grant under the homeland security agency if they are passing laws saying that they will not even tell the INS if they have arrested an illegal alien within their city boundaries. We could not pass it. We could not pass that amendment. Of course I will try again, and we will continue to tell as many people as we can about the Members who chose to vote against it, and they will have to explain why.

I would love to actually hear an explanation for opposition to that particular proposal. It is really fascinating, other than to say we simply do not want to alienate our constituency. I have had Members to say to me on the floor, after maybe a little 1-hour thing like this, people say, You are right, Tom. You are right about that, but I am not going to support you on this stuff. I have a huge minority constituency in my district.

And I am saying, so what?

□ 2245

If you think I am right about what I say is happening to this country and the potential for what is going to happen to the country, how can you just so cavalierly say, yes, but I cannot vote for you?

For the last part of this hour, I want to talk a little bit about another aspect of this problem that I think is quite disturbing. It gets to the problem of assimilation, the ability of the United States of America to assimilate huge numbers of people into our society when we are laboring with something else inside the United States. This is not the fault of any immigrant; it is not the fault of massive immigration. It is a result of it, but it is not the fault of it. It is something we are doing to ourselves.

We are becoming wrapped up in, and, really, this has been going on for a number of years, we are becoming wrapped up in this philosophy I sometimes call the cult of multiculturalism. Now, this is not just the multi-culturist philosophy you say simply references the value of diversity and the fact we have many different cultures that we can explore and we can enjoy in this country. That is all true, and I, certainly, as an Italian and the grandson of Italian immigrants, I am well aware of the value added by immigrants coming to this country from all over the world. I am not arguing that.

I am talking about a different kind of multi-culturalism, a different brand of multi-culturalism. This multiculturalism is radical multiculturalism. It says that not only should we enjoy the diversity, but we should make it our universal characteristic. The one thing we should all strive for, and the only thing that is of value as a national goal, is diversity, and that any idea that there is a common set of values, attitudes and ideas that we call America, or, worse yet, Western Civilization, any of these things should be erased from the textbooks, taken out of the discussion in classrooms; that we should encourage children to think of themselves not as Americans, not as Americans, but as part of some sub-group, usually some victimized class seeking a redress for that victimization from those who perpetrated it, mostly those, "those" being the code word for Western Civilization itself.

Textbooks all over the country, we pulled out just a few, and I have on our Web site we have a lot more, but a few things as an example of what I am talking about here. In the textbook "Across the Centuries" used for seventh grade history, the book defines the word "jihad" as "to do one's best to resist temptation and overcome evil."

Does anybody really believe that is the definition of jihad, that a textbook would be given to children in the United States, considering the fact that 9/11 was another example of jihad? "To do one's best to resist temptation and overcome evil."

In 2002, the "New Guidelines for Teaching History" in the New Jersey public schools failed even to mention America's Founding Fathers, the Pilgrims, the Mayflower. These were the guidelines for teaching history. What history? Whose history? Not ours. Because, of course, maybe somebody who read this could not relate to the Pilgrims or the Founding Fathers.

I will tell you that in my life, as I mentioned to you, I am the grandson of immigrants who had a deep love and respect for their home country of Italy, but had absolutely no desire to have themselves or their families attached to that country in any other way than some sort of fond nostalgia and periodically going down to something called the Feast of St. Rocco, believe it or not, and another one called the Feast of St. Anthony. I used to joke about the fact could there really be a St. Rocco. There was, evidently. But that was about it.

But in terms of who we were as individuals, what was our heritage, what was the country we connected to. There was never any doubt in my mind, never any doubt, that my heritage was the Pilgrims, the Founding Fathers. That is what I thought of, because that is what my textbooks taught me, that is what my grandparents taught me, that is what the schools taught me. But we refuse to even mention them in our history textbooks.

In a Prentice Hall history textbook used by students in Palm Beach County High School titled "A World Conflict," the first five pages of the World War II chapter focused almost entirely on topics such as gender roles in the Armed Forces, racial segregation and the war, internment camps and the women in the war effort. That was World War II, okay? That was it.

Gender roles in the Armed Forces. That was the discussion of World War II. Now, it maybe deserves a line, maybe a paragraph, but this is the analysis of World War II in a history textbook?

In Washington State, a teacher substituted the word "winter" for the word "Christmas" in a carol to be sung at a school program so as not to appear to be favoring one faith over another. The lyrics in Dale Wood's "Carol from an Irish Cabin" was changed to read "harsh winds blow down from the mountains and blow a white winter to me."

I was in a school in my district in Colorado not too long ago around Christmastime. I was leaving, and I said "Merry Christmas" to the children I had been talking to in an elementary school. I noticed there was sort of a strange reaction. Some said, "Merry Christmas? Yes, what did he say?" I thought that was weird.

As we were walking out, the teacher said to me, "The principal doesn't really like us using that word." I said, "What word?" "Christmas."

This is a public school in my district. I went back to the school and I yelled, I said, "Hey, Merry Christmas. Merry Christmas." They were all excited that somebody would actually say it; they could be actually allowed to say it in the school. Merry Christmas.

In a school district in New Mexico, the introduction to a textbook called "500 Years of Chicano History in Pictures" states this is why the book was written, "In response to the bicentennial celebration of the 1776 American Revolution and its lies." Its stated purpose is "to celebrate our resistance to being colonized and absorbed by racist empire builders." The book describes defenders of the Alamo as slave owners, land speculators and Indian killers; Davy Crockett as a cannibal; and the 1857 war on Mexico as an unprovoked U.S. invasion.

The chapter headings included "Death to the Invader," "U.S. Conquest and Betrayal," "We Are Now a U.S. Colony in Occupied America," and "They Stole the Lands."

"McDougal's," another textbook, I remember using a McDougal's textbook when I was teaching ninth graders in Jefferson County, Colorado, well, the new McDougal's textbook, "The Americas," that is the name of the textbook, states that the Reagan-Bush conservative agenda limits advances in civil rights for minorities.

This is not an observation, this is not an opinion, this is what the textbook says was the Reagan-Bush administration; and that conservatives' bid to dismantle the Great Society social programs could be compared to "abandoning the Nation." It goes on to include text stating that communism had potentially totalitarian underpinnings. Potentially. This goes on and on and on and on. We have hundreds of examples like this.

Now, why do I bring this up in conjunction with this immigration discussion? Because, I will tell you, it matters. It matters. It matters that we are telling our own children. I went into a school in my own district just a couple of weeks ago, had, again, probably 200, these were high school students, however. They brought them into the auditorium, 200, 250, something like that.

At the end some kid wrote a note to me and said, "What is the most serious problem you think we face in the Nation?" I said, "Let me ask you a question and I can tell you that." I said, "How many people in here believe you live in the best Nation in the world?" And there were maybe two dozen hands, at most, two dozen hands went up, a tenth of the group. A lot of people again very uncomfortable, looking at the teachers on the side of the wall thinking, Gee, I don't know.

I had the distinct impression that a lot of kids wanted to answer yes, but they were afraid to, because what would they say if somebody challenged them? How would they actually defend that statement? So they just did not say a word.

So I said, "Let me ask you, should we be proud of the fact that we are a product of Western Civilization and there are some incredible things Western Civilization has brought to the world, including, among others, the idea that society should be based upon laws and not upon men; that individuals matter more than the collective? These are uniquely Western thoughts, and we can be proud of them, and we should be proud of them. We have all kinds of warts, I know it is true. There are plenty of things we have done wrong. But to only emphasize the worst in America, the worst things that have happened, and even rewrite history to make events even more problematic for us is despicable; and it makes us wonder, it makes children wonder, it makes Americans wonder who they really are and whether this is all really worth it, it seems to me; who are we, where are we going, and how are we going to get there.

Now, if we have a hard time trying to transfer this knowledge to the children that are coming out of our public schools, think how hard it is to transfer that knowledge also to the people who are coming here as immigrants.

many of whom are not coming for the purpose of being an American. Many of them are coming simply for the purpose of getting a better job. The whole concept of integration and assimilation goes out the window when it clashes with or comes in contact with, because it is really not a clash, but comes in contact with this cult of multiculturalism, and that is why it matters. That is why immigration policy fits into this discussion.

We need to rethink the way we teach our children and we need to rethink what we tell immigrants. Instead of telling immigrants that there is no reason for them to integrate into our society, that we want them to stay separate, we want them to keep a separate language in the schools, we want them even to keep their own political associations of the countries from which they came, which now we have almost 10 million people in the country living here with dual citizenship.

I had an interesting conversation with a bishop in Denver, Bishop Gomez, who was arguing with me about this issue, and he said to me at one point, "I don't know why you are worried about the Mexicans who are coming into this country." By the way, I am not worried about "the Mexicans"; I am worried about massive immigration. He says, "But I don't know why you are worried about the Mexicans coming into this country." He said, "They don't want to be Americans." Those were his exact words: "They don't want to be Americans."

They are coming here for a job. They love Mexico. They want to keep their Mexican heritage, their Mexican citizenship. Of course, today it is a lot easier to do so than it was when my parents came from Italy, a land very far away, very difficult to get back and forth. Now, of course, all over the world it is a short hop to wherever it was we may have come from. The world has gotten much smaller, and it is a heck of a lot easier to retain those ties than it was before. He says. "They don't want to be Americans."

I said, "Well, Bishop, of course, that is the problem. To the extent that you are right, to the extent that what you said is true," it is certainly not true for everyone coming, "but to the extent you are right, that is the problem."

That is what is fearful, and that is why we need to think about what we teach children and what we say to immigrants, and that is why we need to get a handle on immigration, reduce even the amount of legal immigrants, and certainly stop the flow of illegal immigrants into the country, until we can in fact get a handle on this problem.

I have a Web site. On our Web site, WWW.House.Gov/Tancredo, you can go there and see a little pop up thing that says "Our Heritage, Our Hope." If you go on that you will see these things that I pulled out of the textbooks, and you will see a resolution that I am going to introduce on the 3rd of March.

□ 2300

I hope that maybe 8 or 10, maybe more, of my colleagues will join me, however many have the guts to do so, and it will be a very simple resolution. It will say that the Congress of the United States wants to encourage all schools in this Nation to produce children who will be able to articulate an appreciation for Western civilization.

Now, one may not think that that should start anything, but I guarantee my colleagues that it will. I guarantee my colleagues it will. I really and truly look with enthusiasm and exhilaration, a certain amount of exhilaration, to that debate; to hearing somebody explain to me why we should not teach children to appreciate Western civilization. Appreciate. I did not say that they had to disparage any other civilization; I just say that they should be able to articulate an appreciation of Western civilization. Do we think that they can do it today? How many do we think could do that today? Do we think that they should be able to? Do we think any child should be able to do that graduating from a public school in the United States, or any school, actually? What would be wrong with having that as a goal? I would love to have this debate. Well, we are going to.

And then I am going to ask State legislatures all over the country; we have now I do not know how many signed up already, but quite a few State legislatures, and simultaneously they are going to introduce a State resolution in their legislatures saying the same thing. Then we are going to ask parents to go to school districts and bring that resolution to their school district and ask the school district to do exactly the same thing. You can go on line, go to Our Heritage, Our Hope page on our Website, and you can get all the information you want, and you can sign up to help us in this endeavor, and I hope you will. I hope everybody will, because I need your help. But this will be a great, great battle for us to enjoin. It is about time we did so.

Mr. Speaker, there is a reason. There is something of value in Western civilization and the Judeo-Christian heritage, and this place we call the United States, which is the greatest example of that heritage. And as I say, I know that there are warts, and I do not mean to ignore them. I am not asking children to be told that there are only wonderful things about Western civilization or about America. I am just asking that they be told the truth, both the bad side and the good side, because today, they will always, I guarantee my colleagues, children will be able to articulate a problem with Western civilization, but I wonder how many can actually stand up today, a high school senior, and be able to effectively say what is good about Western civilization and the country in which they live and be able to defend it. I certainly want that to happen before we get more people here as immigrants, legal or illegal, who are not coming because they do not want to be Americans.

IRAQ WATCH

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for half the remaining time, approximately 27 minutes, as the designee of the minority leader.

Mr. HOEFFEL. Mr. Speaker, I am glad to be back on the House floor with my colleagues, the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Hawaii (Mr. ABERCROMBIE), and I think others will join us, for another installment of Iraq Watch. We have been coming to the floor one evening a week since, I believe, last May to talk about our policies in Iraq, to raise questions about the policies when we do not understand those policies, to suggest alternatives, to try to get information before the Members of the Congress and the members of the general public about what is happening in Iraq.

Before turning to my colleagues for this week's installment of Iraq Watch, let me review a little bit what has been happening, and the last few weeks have been tough weeks for President Bush regarding his policies in Iraq. We know that the chief CIA weapons inspector, Dr. David Kay, returned from Iraq and said that stockpiles of weapons of mass destruction do not exist. He could not find weapons of mass destruction themselves. He doubts that such stockpiles existed before we went to war. He doubts they existed in 2002 or 2003. This, of course, is completely contrary to the White House assertions in the fall of 2002 and in the spring of 2003 that these weapons of mass destruction existed.

The President continued to advocate his case and, in my judgment, hype the situation regarding weapons of mass destruction in the State of the Union Address where he talked about weapons of mass destruction-related program activities. I am still trying to figure out exactly what is a weapons of mass destruction-related program activity, but I can tell my colleagues what it is not. It is not a weapon of mass destruction, because we have not found those in Iraq, according to our chief CIA weapons inspector David Kay.

Then, in his Face The Nation interview recently, the President talked about Dr. Kay's report and said that Dr. Kay came home and, number 1, made an interim report and, number 2, suggested that things were worse in Iraq than we thought.

Well, in fact, may I say to my colleagues, Dr. Kay came back from Iraq not to make an interim report, but to quit. He said he has had enough. He is frustrated. He says he is not getting the support that he thinks the Iraq Study Group should get in order to focus on the search for weapons of mass destruction. He believes those weapons do not exist. And far from saying things were worse over there than he thought, he said we could not find the things that we were told we would find.

Then, the President finally appointed a commission to study the intelligence regarding Iraq and the weapons of mass destruction. And I am glad that he appointed such a commission, but he made two big mistakes, in my judgment. One, he limited the time, or maybe I should say he expanded the time so that the Commission will not complete its work until well after this fall's election. Secondly, he limited the scope of the Commission. He asked them to look into the accuracy of the intelligence gathering. And I agree that accuracy must be reviewed, but he did not ask the Commission to review the use of that intelligence by the White House itself.

Mr. ABERCROMBIE. Will the gentleman yield on that point?

Mr. HOEFFEL. I am delighted to yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman for yielding. On that exact point, if we were just reciting a litany of errors made in the sense of an honest misreading after a genuine inquiry, that would be one thing, but the really shocking evidence to the contrary is now coming out. In fact, we even see reports about where was the press? Why was this taking place? And it turns out the source for much of this information, not just for those in the intelligence agencies, but from those reporting on it, was coming from the same sources.

The general public listening to us might say, well, that is all well and good for you folks in the Congress to be mentioning these things now, to be commenting on it now, but we had no access to that. We were not privy to that kind of inquiry on the basis of a position in the Congress where we could actually ask in depth in closed briefings and hearings as to what the source of this information was. Yet we find now in the Washington Post just 2 days ago a report taken from the London Telegraph on commentary from Ahmad Chalabi. That name has been on this floor previously. The gentleman from Massachusetts (Mr. DELAHUNT) has examined Mr. Chalabi's career in detail. The gentleman from Pennsylvania (Mr. HOEFFEL), I believe, has done the same.

Mr. HOEFFEL. Mr. Speaker, if I may interrupt the gentleman for a moment, I am proud of the fact that last April in one of our very first Iraq Watches, I identified Mr. Chalabi in the words that my grandfather would have used as a four flusher. I have to explain what a four flusher is. A four flusher is a man whose word you cannot accept, and if it was good enough for my grandfather, it is good enough for me.

□ 2310

Mr. ABERCROMBIE. Mr. Speaker, let me explain what Mr. Chalabi admitted to. He is now on the Governing Council. This is the body upon which the United States is presently relying. This is the body upon which the United States is presently conducting policy in terms of their being able to take over on June 30, this arbitrary date that has been set by the Bush administration.

He now lays claim to the following. He was accused of peddling phony tips about Iraq's weapons, the very thing that the gentleman from Pennsylvania (Mr. HOEFFEL) has been speaking of. Again quoting from the Washington Post, he shrugged off charges that he had deliberately misled U.S. intelligence, We are heroes in error.

He told the Telegraph in an interview Wednesday in Baghdad, As far as we are concerned, we have been entirely successful. Our objective has been achieved. That tyrant Saddam is gone and the Americans are in Baghdad. What was said before is not important.

Quoting it now from the Washington Post, not even to the families of all the killed and wounded?

Mr. DELAHUNT. Mr. Speaker, if the gentleman would yield, not even for the American taxpayers that are putting out some $167 billion to date. That is absolutely outrageous.

What I learned this evening, and I find it particularly disturbing, is that Mr. Chalabi was present in this chamber during the State of the Union that was delivered by President Bush back in January and sat with other members of the Iraqi Governing Council in the box where the First Lady was sitting. This is absolutely unacceptable.

Mr. ABERCROMBIE. Mr. Speaker, let me repeat then for those who may be tuning in and trying to get the context here. Let me repeat exactly what Mr. Chalabi said, our champion in Baghdad, the person upon whom is the principal resource apparently for the intelligence that was delivered to the President, delivered to the Congress, and apparently delivered to reporters who were all supposed to be checking sources.

Part of the thing that we need to remind ourselves and remind the public of is that we are dependent upon the professional integrity of journalists as well. We are dependent upon it. We are certainly the object of it often enough. We are dependent on them checking their sources to make sure that they are reliable. Let me repeat what he said.

The reason I want to do that is that this is as cynical and sinister a pronouncement as I have heard in my political lifetime. I am quoting Mr. Chalabi, as reported in the Washington Post, We are heroes in error. As far as we are concerned, we have been entirely successful. Our objective has been achieved. That tyrant Saddam is gone, and the Americans are in Baghdad. What was said before is not important.

Mr. DELAHUNT. I would just like to, if I may, pick up on that point with Mr. Chalabi.

The gentleman from Pennsylvania (Mr. HOEFFEL) described Mr. Chalabi in very unflattering terms, but I think a more apt description of Mr. Chalabi is that he is a convicted felon. When he fled Iraq he ended up in London for a period of time and then went ahead and conducted business, banking business, financial services, in the kingdom of Jordan. There he was charged with embezzlement and a series of other crimes that would constitute in our jurisprudence a felony. He was tried and convicted and was sentenced to 22 years by a Jordanian court. I am sure he would contest that. I am sure that he would proclaim his innocence, but that is a fact, a reality. That is not just simply an unflattering description of an individual.

When the king of Jordan came and visited with Members of the House Committee on International Relations, and I forget if the gentleman from Pennsylvania (Mr. HOEFFEL) was there, but I posed to the king, who has been an erstwhile ally of the United States and his father before him in the region for decades and has cooperated with the United States in terms of the war against terrorism, I asked the king if he had been consulted by the United States Government because I was aware that Mr. Chalabi had been convicted of a serious crime, an embezzlement of some hundreds of millions of dollars. He said, with certain equanimity, No, I was not.

I did not pursue it because I did not want to cause the king any embarrassment, but it was clear to me and others at that meeting that he clearly was displeased, and to think that we turned our back on an ally, who according to newspaper reports, and the truth always outs, was encouraging defectors to provide intelligence that he should have known was false, was false.

If I can pursue for just one more moment, this is dated February 19 and is from the Daily Telegraph in London, a British newspaper obviously. U.S. officials said last week that one of the most celebrated pieces of false intelligence, the claim that Saddam Hussein had a mobile biological weapons laboratory, had come from a major in the Iraqi intelligence service, made available by the INC.

Those watching us tonight should understand that the INC is an anachronism for the Iraqi National Congress which is the creation of Ahmed Chalabi.

U.S. officials at first found the information credible, and the defector even passed a lie detector test, but in later interviews it became apparent he was stretching the truth and had been coached by the INC.

This is a report from a respected British newspaper that segues exactly the reporting that was done in the Washington Post. This is outrageous and to think that this gentleman was in this institution while sitting in the First Lady's box during the State of the Union, meanwhile we had voted, and many in this chamber on both sides of the aisle had voted a difficult vote, cast an extremely hard vote in terms of war and peace based upon false intelligence? Then we are carrying the burden, not just of the war but of the reconstruction.

We are the only Nation, that I am aware of, that when we appropriated the moneys for Iraq did not insist that it be paid back at any point in time. All of the other donors insisted on some sort of a loan arrangement and we did not, and if we really want to pour salt on the wound, this is from the Houston Chronicle, and it is dated February 21. The headline is the United States still paying the source of the tainted intelligence. That is a Knight Ridder outlet. Indulge me for a moment while I read this to my colleagues.

□ 2320

"The Department of Defense is continuing to pay millions of dollars for information from the former Iraqi opposition group that produced some of the exaggerated and fabricated intelligence President Bush used to argue his case for war."

We are paying now. Today.

"The Pentagon has set aside between $3 million and $4 million this year for the information collection program of the Iraqi National Congress led by Ahmed Chalabi, said two senior U.S. officials and a U.S. defense official. They spoke on condition of anonymity because intelligence programs are classified."

Mr. HOEFFEL. If the gentleman will yield, as bad as the situation is that the gentleman from Massachusetts has just described, it could be even worse, the impact of this faulty intelligence on this country. Think back on the military strategy that our Armed Forces used. We all understand that our Armed Forces fought bravely, with great courage. But remember that they rushed to Baghdad because they believed that weapons of mass destruction were there, in large measure because of the representations made by Chalabi and others, and the very false and misleading information that the gentleman from Massachusetts has identified tonight.

Our troops did not protect their flanks. They figured the most important thing they had to do was get to Baghdad and stop any potential use of these weapons of mass destruction against the American troops or the British troops or against the Iraqi citizens; that the key was to get there as quickly as possible. And in that rush, which they successfully did, very bravely and courageously, they left their flanks exposed. The insurgency started, and we began to lose soldiers right away because they were not taking their time, they were not protecting themselves. They thought they had to rush in.

I think you can put onto the heads of these folks that gave us bad information the loss of life, the loss of American life by our brave soldiers whose leaders thought they had to adopt one strategy based upon incorrect information, when it would have been a little safer for our troops to protect the flanks, move more carefully and cautiously, which I am sure they would have done if they were not worried about these weapons of mass destruction that did not exist.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman will continue to yield, the question now then becomes, unless I missed something, this Chalabi is a hired gun. This Chalabi is a creature of the administration. He has no executive authority here. He has no voting power. He does not make recommendations to the President of the United States as an adviser, other than as a hired hand. Where was the verification? This man has a vested interest in getting this country into war in Iraq.

What bothers me, what distresses me is that what he was saying fits very conveniently into the ideology and the philosophy and the foreign policy desires of some of the people who have been most adamant in advocating war with Iraq before the weapons of mass destruction principle was laid down as the foundation for war with Iraq.

It is not as if it is a conspiracy. It is not as if it is a hidden plot. It is not as if it is some diabolical machination taking place in secret. Matter of fact, we have had dialogue. I have had dialogue and discussion personally with those who advocated this, like Mr. Perle, Mr. Kristol, Mr. Boot, Mr. Woolsey, who himself was head of the CIA. They published their articles. They have their books written. They have had this position for some time.

So it is not as if this is something that I have suddenly discovered or others have suddenly discovered and now are shocked. I am not. What shocks me is that people would take ostensible information or intelligence and assume it to be true without checking it out thoroughly, precisely because it fit what they would like it to be.

I know when somebody is telling me something I want to hear, something I would like to be true, something I hope is going to take place, I know that a little bell goes off, a little tremor takes place in me saying, wait a minute, let us make sure that I am not being told something because I want to hear it, because I would like to believe it, because I want it to be so, particularly when the consequences are going to be those of life and death.

When you are making a recommendation and have the authority, particularly as President of the United States, as the Commander in Chief, have the capacity and the authority to act on that recommendation and to make it in turn to the people of this country, then it is incumbent upon you, more than perhaps any other person in this Nation, to be absolutely sure you know what you are talking about, what your sources are and how reliable they are, not just because someone has told you what you want to hear, but because you know it to be factual and the implications to be clear in terms of war and peace.

Mr. DELAHUNT. Mr. Speaker, I know the gentleman has heard the term before, but when we speak of a blind man in a room with deaf mutes, this is an apt description of absolutely what has occurred in this particular case involving this particular individual by the name of Chalabi, Ahmed Chalabi, a convicted felon.

But let me give another possible motive. And again, this is simply a news story that I am reading to my colleagues and to those that are watching here this evening, because I think it is very important that the American people start to understand the dimensions and the magnitude of what occurred here and the absolute need for a thorough transparent presentation of all the facts over an extended period of time to the American people.

This is not about politics. No, it is not. This is about the national security of the United States and how we are viewed by the rest of the world. Our credibility is at risk here. If we perceive another situation that is fraught with peril for our people, and we present intelligence to the rest of the world, who is going to believe us?

Let me suggest another motive. This is from Newsday, a New York paper, and it is dated February 15. "U.S. authorities in Iraq have awarded more than $400 million in contracts to a start-up company that has extensive family and, according to court documents, business ties with Ahmed Chalabi, the Pentagon favorite on the Iraqi Governing Council. The chief architect of the umbrella organization of the resistance, the Iraqi National Congress, Chalabi is viewed by many Iraqis as the hand-picked choice to rule Iraq."

What a disaster that would be. And while we know there are very sensitive negotiations and discussions going on currently between elements in Iraq and between the United Nations, clearly Secretary General Kofi Annan has sent a special representative. He is in the process of reviewing it to make recommendations as to how power is transitioned to the Iraqi people. Yet here we are discussing on the floor of the House tonight the potential of having this particular individual as the hand-picked representative of American interests assuming a role in a future Iraqi Government that clearly, clearly most in the region, my earlier reference to my conversation with King Hussein from Jordan, will find particularly offensive. Clearly there is no support from the Iraqi people.

☐ 2330

Mr. ABERCROMBIE. Mr. Speaker, if I may ask the gentleman from Massachusetts, who did the hand picking? Who did the hand picking? He did not pick himself. Is there someone in the administration, are there a group of people in the administration?

Mr. DELAHUNT. Of course there are people in the administration.

Mr. ABERCROMBIE. Perhaps the gentleman can enlighten me by answering that question.

Mr. DELAHUNT. Let me read from the original story that I discussed; we are still paying for the tainted intelligence. The American taxpayers are going to foot the bill for Ahmed Chalabi to come to the United States and sit in the First Lady's box. Let me read this: "The decision not to shut off funding for the information-gathering effort could become another liability for Bush as the Presidential campaign heats up, and suggests that some within the administration are intent on securing a key role for Chalabi in Iraq's political future." Chalabi, who built close ties to officials in Vice President CHENEY's office, and among top Pentagon officials, is on the Iraqi Governing Council, a body of 25 Iraqis installed by the United States, to help administer the country following the ouster of Saddam Hussein in April.

So here we are. We received false information, as the gentleman indicated in response to the gentleman from Pennsylvania (Mr. HOEFFEL) yielding. He said the Americans are in Baghdad, we got what we want, and he is continuing to get paid. And according to reports from British newspapers, business associates of his just secured more than $400 million of American taxpayer resources for contracts awarded by the CPA, by Paul Bremer.

Mr. ABERCROMBIE. Mr. Speaker, I have never seen a picture or any film of Mr. Chalabi when he was not smiling and when he did not have the smuggest look on his face and when he did not have the demeanor of someone who had pulled off a coup, when he did not have a patronizing attitude towards those doing the interview. I can understand why. He has played us for saps and suckers, and the result is we have dead and wounded, grievously wounded. The result is the sacking of the Treasury of the United States, and the result is that we have had people whose ideological bent in the administration was such that they wanted to go to war using each other, Chalabi using them, them using Chalabi, in the most cynical fashion, the result of which we now see before us.

He said, and I remind Members and those listening to us, what was said before is not important. That which became the justification for what we did is not important. He got what he wanted. Those who wanted to have war with Iraq got what they wanted. They are not paying the price. They are not the ones who have to suffer for the rest of their lives either by having grievous wounds or by having the irretrievable loss of someone that they love as a result of this.

The question for us and the question that we have to ask not just ourselves but the American people are going to have to ask, is, is this going to be allowed? Is this going to be something that we are going to pass off? The fact that the Newsweek cover that the gentleman from Massachusetts (Mr. DELAHUNT) referred to in his remarks just previously could have a headline, "How Dick Cheney Sold the War," the crass indifference of a headline like that in terms of its implications, as if you sell a war, not that you are driven into it, not that necessity forced you to come to that sorry and reluctant conclusion, but rather how you sold the war.

Nothing, I think, could be a commentary more persuasive to me of how this has been manipulated, how this has been maneuvered in a way that discredits this administration, discredits Mr. CHENEY in that role. He has yet to come to grips with it, and the White House and the administration as a whole has yet to come to grips with it, because if my information is correct and the information given to The Washington Post is correct, and this is something that one would have the opportunity to see whether it is correct unless it has changed since its publication on February 22 was that the Web site for the White House, the White House official Web site cites the same false information today. It has not changed since March. I quote from the Web site of the White House as of February 22: "The United Nations and U.S. intelligence sources have known for some time that Saddam Hussein has materials to produce chemical and biological weapons, but has not accounted for them: 26,000 liters of anthrax, enough to kill several million people; 38,000 liters of botulism toxin; 500 tons of sarin mustard and VX nerve agents; and 30,000 munitions capable of delivering chemical agents." And finally: "He recently sought significant quantities of uranium in Africa, according to the British Government."

These are the same lies and the same fabrications, the same prevarications, the same falsehoods, the same misleading directions that took us into this war and continue to be repeated in the face of the knowledge that we know them not to be true.

How could it be that these continue to be repeated? Is it any wonder that Mr. Chalabi laughs at us? Is it any wonder that he adopts a smug disposition when we continue to support him, we continue to pay him, we continue to support the policies that he espoused, and he is able to say what was said before is not important because obviously there are no penalties attached to it?

Mr. HOEFFEL. Mr. Speaker, we have talked quite a bit tonight about Ahmed Chalabi, and rightly so; but he is not apparently the only favorite of the American government involved in positioning themselves for leadership in Iraq.

In today's Roll Call, one of the Hill newspapers, a fascinating front-page story titled "Iraqi Money Flows" detailing how four different Iraqis seeking power in Iraq are paying over $100,000 a month for lobbying costs and public relations costs here in the U.S. capital. It is a million-dollar-plus annual industry.

Mr. ABERCROMBIE. Mr. Speaker, where does the money come from?

Mr. HOEFFEL. Mr. Speaker, I do not have a clue. Ahmed Chalabi and three others listed in the article are paying up to a combined $100,000 a month.

Mr. ABERCROMBIE. Mr. Speaker, if Mr. Chalabi and his cohorts are paying this kind of money, what is the principal source of income that we have already enunciated for Mr. Chalabi and his friends?

Mr. HOEFFEL. The principal source I know of is U.S. Government.

Mr. ABERCROMBIE. In other words, the U.S. taxpayers are paying this guy to in turn pay lobbyists in Washington to advocate his position and influence Members of Congress.

Mr. DELAHUNT. To influence Members of Congress and influence the administration.

☐ 2340

Mr. HOEFFEL. Before we get too carried away with Chalabi, let me just make the point that is in the Roll Call article. There were three others doing this. One of them is the favorite of the CIA to be the new Iraqi leader and a third the favorite of the State Department to be the new Iraqi leader. The gentleman from Massachusetts is right, the Defense Department has long wanted Chalabi to be the new leader of the Iraqi Government.

Mr. DELAHUNT. The convicted felon.

Mr. HOEFFEL. The favorite of the State Department is Adnan Pachachi, who is another member of the current interim government in Iraq as Chalabi is. And, according to Roll Call, the favorite of the CIA is Ayad Allawi, also a member of the Iraqi Governing Council.

We have got a three-headed monster here. The administration itself cannot agree on who should be the next leader of the Iraqi Government. There are three different agencies pushing three different people.

Mr. DELAHUNT. We would hope that that would be the Iraqi people, because if we preach democracy, hopefully we will abide by the decision that the Iraqi people in an election reach on their own. That is a message that I think, and I think we speak for many Members on both sides of the aisle here, that yes, the absolute sine qua non, the essential ingredient to a democracy is to give voice to all of the people, not some selected individuals hand-picked by DICK CHENEY, by the CIA, or by anybody else to run the country for the Iraqis, because if that happens, the American taxpayer is going to end up with a much larger bill than we have already assumed.

Mr. HOEFFEL. The gentleman from Massachusetts is making a lot of sense here, but the situation is made that much worse by the fact we are not just trying to hand-pick the next leader from Washington, but the Bush administration has three different favorites, one from the Defense Department, one from the State Department, one from the CIA.

Mr. ABERCROMBIE. If the gentleman will yield, not having seen the article, does the article go on to elucidate for us who these individuals are who are doing the lobbying? Are there firms here? Are there American firms who are going to come to Members of Congress and advocate on behalf of these individuals our appointees?

Mr. HOEFFEL. Yes. All the firms are identified, the monthly retainers. It is an interesting article. It is a million-dollar industry.

Mr. ABERCROMBIE. Would the gentleman consider submitting that article for the RECORD so that those who want to read the article in the CONGRESSIONAL RECORD subsequent to our discussion tonight will know all of the details?

Mr. HOEFFEL. I will be delighted to do it.

Mr. ABERCROMBIE. Mr. Speaker, I will ask to have the article that the gentleman from Pennsylvania is referring to entered into the RECORD as part of our deliberation.

[From Roll Call, Feb. 24, 2004]

IRAQI MONEY FLOWS

(By Brody Mullins)

Several well-heeled Iraqis who hope to play central roles in Iraq's emerging government have launched lobbying campaigns in Washington to influence the Bush administration and Congress as they work to shape a permanent government in Iraq.

The group of Iraqis, which include three members of the U.S.-created Iraqi Governing Council, are spending as much as $100,000 per month on lobbying firms and public relations agents to press U.S. officials to create a modern, democratic government that is not dominated by Islamic conservatives.

"It's like they are running for president," said one U.S. official of the competing public relations efforts in Washington.

The three Iraqis began their public relations efforts in Washington more than a decade after another Iraqi member of the Iraqi Governing Council—Ahmed Chalabi—began cultivating close ties to now-Vice President Cheney and other key administration officials.

According to forms filed with the Justice Department, Ayad Allawi, a member and former president of the Iraqi Governing Council, has begun an expensive lobbying and public relations effort to press U.S. officials to build a modern democratic government that builds on Iraq's existing foundations.

Allawi has already paid more than $300,000 to Washington from Preston Gates Ellis & Rouvelas Meeds LLP to help open doors on Capital Hill and at the White House.

Allawi also hired a former U.S. ambassador to coordinate his Washington effort and a New York advertising firm that once worked for the Beatles to manage his image in the United States.

The public relations effort, which could top $1 million this year, is funded by Mashal Nawab, an Iraqi-born physician who is a "close friend and admirer" of Allawi, according to the Justice Department forms.

Adnan Pachachi, another member and former president of Iraq's interim government, has also signed up a Washington public relations firm to help him get his message across to the Bush administration and Congress.

F. Wallace Hayes, working on a pro bono basis for now, will write press releases for the 70-year-old Pachachi that "promote democracy in Iraq," according to the Justice Department forms.

Meanwhile, Baqir Jabor, an Iraqi exile appointed by the United States to run Iraq's housing and construction department, has asked former Rep. Bob Livingston (R-La.) and his influential Washington lobbying firm to help arrange a series of meetings with the Bush administration during his upcoming visit to the United States.

Officials at Livingston Group said Jabor is not a formal client of the firm. Other details of Livingston's work with Jabor are not yet available because Jabor first asked Livingston for help only last month.

The new public relations campaigns in Washington come as the Bush administration struggles to complete an interim constitution for Iraq by the end of the month in order to turn control of the government over to Iraq this year.

In the past few days, it has become clear that the United States will fail to meet both deadlines.

Over the weekend, the Kurds in northern Iraq—which comprise 20 percent of the country—rejected key parts of the constitution. Meanwhile, Paul Bremer, the U.S. administrator in Iraq, acknowledged last week that it is unlikely that Iraq will be able to hold an election for at least another year.

By hiring lobbyists in Washington, the Iraqi leaders hope to one day play a central role in the emerging government.

The Iraqis who have hired lobbyists are each former exiles who want the United States to create a democratically elected government.

Iraq's Shiites make up as much as 60 percent of the country and are better organized than their political and ethnic rivals, the Kurds and the Sunnis.

The leader of Iraq's Shiite conservatives, Grand Ayatollah Ali al-Sistani, hopes to schedule quick elections, knowing that he and his allies would dominate the government if elections are held soon.

Allawi, Jabor and Pachachi share another rival in Chalabi. But unlike the Iraqi newcomers to Washington, Chalabi has worked for years in Washington cultivating friendships with key players like Cheney, Paul Wolfowitz and Richard Perle.

Since 1986, Shea & Gardner has represented Chalabi and his Iraqi National Congress in Washington for about $10,000 a month. One of the partners at Shea & Gardner is James Woolsey, the former CIA director.

Chalabi also gets help from Francis Brooke, a political consultant, and Riva Levinson of BKSH & Associates, the Washington firm founded by Charles Black, a long-time ally of President Bush.

Those contacts have paid off: At this year's State of the Union address, Chalabi sat in the VIP box with first lady Laura Bush.

Chalabi also was one of the few Iraqis permitted to meet face to face with Saddam Hussein in his cell in the hours after his capture in late December.

Chalabi has long been considered the favorite of Defense Department officials to lead Iraq's new government.

However, his star appears to be fading as Pentagon officials question some of the military intelligence he provided before the war and as Iraqis increasingly view Chalabi as a pawn for the United States.

Meanwhile, the State Department is thought to favor Pachachi, while the CIA backs Allawi. His main opponent in Washington is thought to be Chalabi, a distant relative.

Though Chalabi and Allawi both oppose an Iraqi government run by Islamics, they split over the structure of a new secular government.

Chalabi would like to rid the country of anything to do with Hussein's Baath Party, while Chalabi—a member of the Baath Party before it was hijacked by Hussein in the 1970s—believes the new government should be built upon the existing foundations.

"There are options available to make use of the civil structures that are available in Iraq rather than throwing everything out," said R. Paul Stimers of Allawi's lobbying firm, Preston Gates.

Allawi, a neuroscientist by training, survived a vicious assassination attempt in the late 1970s when Hussein allies tried to axe him to death in his sleep. He later became a source of important—and sometimes suspect—intelligence information to the CIA.

After the war, he was appointed to the interim Iraqi Governing Council and tapped to take charge of security for the country.

In Washington, Allawia and his British benefactor last fall hired Patrick Theros, a former U.S. ambassador to Qatar, to build his base of support among key Members of Congress and the Bush administration.

Theros runs a consulting firm, Theros & Theros, with his wife and son out of their home in a leafy section of Northwest Washington.

With a total monthly budget that began at $122,000, Allawi brought on New York public

> relations agency Brown Lloyd James Ltd.—a firm that once represented the Beatles—for $12,500 a month.
>
> For lobbying work, Allawi tapped Washington lobbying shop Preston Gates for $100,000 a month, though the firm has since lowered its monthly retainer to less than $50,000.
>
> According to contracts filed with the Justice Department, the firms will help Allawi "gain U.S. government support for his policy suggestions for Iraq" by "explain[ing] his views on the security and political situation in Iraq."
>
> Theros, who is making about $10,000 a month from Allawi, plans to attend "public forums, seminars, events and meetings which represent an opportunity" to express Allawi's ideas.
>
> Allawi's lobbying effort was expected to end this spring when the United States was expected to hand control over the government to Iraq.
>
> But with the prospects of meeting that deadline dim, the lobbying and public relations campaign is expected to continue.

Mr. DELAHUNT. If the gentleman will yield, I think I can answer his question at least in part here. As the gentleman from Pennsylvania just indicated, there are rival camps now that presumably the American taxpayer is supporting in their lobbying efforts in terms of securing more resources and more tax dollars from Congress and the administration. But it would appear that Mr. Chalabi has an advantage. According to the Roll Call edition of today, it reports that unlike the Iraqi newcomers to Washington, Chalabi has worked for years in Washington cultivating friendships with key players like CHENEY, like Vice President DICK CHENEY, Paul Wolfowitz and Richard Perle, all gentlemen that we have heard from during the course of the debate that many in the majority party have described as so-called neoconservatives.

The Roll Call article goes on to indicate that since 1986, Shea & Gardner has represented Chalabi and his Iraqi National Congress in Washington for $10,000 a month. So Mr. Chalabi certainly was an individual of some affluence. Clearly that was the impression that the Jordanians had when they convicted him of embezzling some 300 million American dollars from a significant financial institution in Jordan. But that was $10,000 a month. For your edification, for those of the viewing audience, they should be aware that one of the partners at Shea & Gardner is James Woolsey, the former CIA Director who has been an outspoken advocate for military intervention in Iraq.

Mr. ABERCROMBIE. If the gentleman will yield, I want to make sure I understood really, because I have had some conversations with Mr. Woolsey. They were affable. I considered them informative and straightforward. I just want to make sure. You mean when he was talking to me about these issues, he was part of a firm that was being paid $10,000 a month by one of the individuals, by Chalabi himself?

Mr. DELAHUNT. By Chalabi himself.

Mr. ABERCROMBIE. That was never revealed to me. I must say, and I want it on the record, that I resent that. If I knew that at least, that is okay. I am an adult. I am perfectly capable of differentiating between someone's sincerely held views and business associations they might have. If somebody represents to me that, look, I just want to tell you that we have a business relationship with this person, but I hope you will grant me that I am speaking to you, giving you my best and sincerest personal judgment regardless of my connection, I can accept that, and I would have, surely, because I like to think that I am a person, I hope, of some integrity, and I would do the same. If I have strong views about something, I will certainly tell people the whys and wherefores of it. But as a Member of Congress and having had conversations with Mr. Woolsey concerning some of these issues, not to have that kind of information, I think, is a subterfuge.

I am sorry to say it. It pains me. It pains me to say that. What you just said to me is, in fact, shocking. If people want to be cynical about it or think that I am just making some rhetorical flourish, they can think so, but it is not. I do not conduct my affairs that way. I do not deal with other people that way. I feel personally offended, to tell you the truth, that such a thing could take place. I had no idea that there was that kind of relationship, because I think that might have colored what was said to me.

Mr. DELAHUNT. I would hope, and yet it would appear to be a remote possibility, given all that we know, that Mr. Woolsey was unaware of the representation possibly by another partner.

Mr. ABERCROMBIE. If the gentleman will yield further, Mr. Woolsey has appeared on television numerous times as a commentator. He has been introduced as the former head of the CIA. I have seen him often making commentary and being asked for his perspective, and never once have I heard on any of those television shows, never once, unless I missed it, maybe I tuned in in the middle, maybe there is something that I missed, but I do not believe ever once on any of those shows that any of those hosts ever indicated that he is being paid by a member of the Governing Council, or that his firm is being paid by a member of the Governing Council, and that therefore, at the very least, on the basis of full disclosure that we should know that so that you can take that into account if you think that is pertinent with respect to what he is saying.

I wonder if the hosts of some of these television shows and radio shows and even those newspaper columnists who are quoting Mr. Woolsey are aware or whether they have made the inquiry as to whether or not such a situation exists. What bothers me as a Member of Congress, does this mean that I have to ask every single person that speaks to me, every single person with whom I have a conversation for a list of particulars as to what their associations are before I engage in a conversation or can expect on my part to receive information that is the best judgment of this person rather than the paid retorts and paid-for positions of someone who is in the hire of somebody else?

Mr. DELAHUNT. I share your disappointment. I really do. I find it so incredulous that I will presume that there is some responsible answer why that disclosure was never made.

□ 2350

Maybe this is a question of inaccurate reporting, but this is what appeared today in the Roll Call magazine that is distributed throughout the Capitol building.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield again to me, the newspaper article, again, I am presuming that it is accurate. Does it indicate that this is a current relationship?

Mr. DELAHUNT. Let me read it again, and let me go on because there is more information.

Mr. ABERCROMBIE. Mr. Speaker, I realize I am taking time up here, but I am genuinely upset and shocked by this because I feel personally used. I mean, some of these conversations took place on official trips of the United States Government.

Mr. DELAHUNT. Again, I am reading for the gentleman's benefit and for those who are viewing our conversation here this evening: "Since 1986 Shea & Gardner has represented Chalabi and his Iraqi National Congress in Washington for about $10,000 a month. One of the partners at Shea & Gardner is James Woolsey, the former CIA director.

"Chalabi also gets help from Francis Brooke, a political consultant, and Riva Levinson, the Washington firm founded by Charles Black, a long-time ally of President Bush.

"These contacts have paid off: at this year's State of the Union address, Chalabi sat in the VIP box with the first lady, Laura Bush. Chalabi was also one of the few Iraqis permitted to meet face to face with Saddam Hussein in his cell in the hours after his capture in late December.

"Chalabi has long been considered the favorite of the Defense Department officials to lead Iraq's new government."

Mr. HOEFFEL. Mr. Speaker, there is something else troubling about this. The gentleman from Hawaii (Mr. ABERCROMBIE) is correct and he is right to be personally offended by the lack of disclosure. And it is also clear from this article that a lot of money is being spent to influence the gentleman from Hawaii and me and the gentleman from Massachusetts (Mr. DELAHUNT) and every other Member of Congress, and we have a right to know who is being paid to influence us and what the subject matter is.

But the fact that this article also demonstrates that the Bush administration is pushing three different people to be the next leader of the Iraq government leads to the following question: What does come next in the larger governance question? We know that Paul Bremer has been advocating on behalf of the Bush administration this concept of caucuses, that when the Bush administration leaves Iraq on June 30, at least the civil authority is pulled out, that Paul Bremer has been pushing for caucuses to take the place of direct elections and somehow lead to a representative form of self-government for Iraq.

The problem is none of the Iraqis like that idea. The head of the majority Shiite Muslims do not like that idea. The Kurds do not like that idea. That is not going to happen. What is going to take the place of the American-appointed 25-member group of what most Iraqis think are American puppets, the Iraqi Governing Council, what is going to take their place, particularly if the Bush administration has three different favorites to lead the next government? What comes next? We have got an arbitrary deadline set by the President of June 30 to withdraw the civilian authority, a date that seems more based upon the upcoming election than any ability of the Iraqi people to actually conduct a self-government.

Mr. DELAHUNT. Mr. Speaker, is the gentleman suggesting that there is no exit strategy?

Mr. HOEFFEL. I could not have said it better. There is clearly no exit strategy. In fact, there are three different strategies, if the Roll Call article is correct, about who is supposed to lead the next government, and all of this is supposed to come to fruition by June 30.

Iraq Watch has to come to fruition in 5 minutes tonight. I want to give my two colleagues an opportunity to make any closing comments.

Mr. ABERCROMBIE. Mr. Speaker, I would just like to say in that regard that this is my 30th year in public service. I have made friendships and conducted business, legislative business, and evolved personal relationships over those 30 years with a great number of individuals. I have particularly valued those who are sometimes disparagingly referred to as special interests or lobbyists as if that is seen by many people as a derogatory term or a term of denigration. And I do not see it that way. I want to make it clear in terms of my expressed disappointment with regard to this revelation about Mr. Woolsey; and now I guess I am going to have to wonder about everybody else too that I have a conversation with, I am not trying to keep people from making a living.

It does not bother me any. As I say, I have friends who lobby on behalf of what are called special interests. We all have special interests. We are a multiplicity of special interests. One has only to read the Federalist Papers to understand that. In fact, it can be seen as the bulwark of a democratic republic because we do have factions and many interests competing with one another for attention and for approbation. There is no question about that. The only question to be answered in that is do we know that, do we know who they are and what they are and why they are and so on so we can discern what the difference is?

I have no problem with people who are our friends, personal and otherwise, making their positions known to me or to anyone else in the Congress or anywhere else in public office. What bothers me is when positions are represented to us and we do not know that someone, in fact, is a paid representative, particularly on issues of war and peace, life and death. The folks know and the Speaker knows that I am a member of the Committee on Armed Services and those are the kinds of things we vote on every day, and I think every member there, regardless of party, takes seriously, deadly seriously, I might say without any sense of irony attached to it, take seriously their responsibility.

But we are dependent in the Congress on getting good information. The President of the United States is dependent upon getting good information and making solid judgments based on that information. Anybody who fails to give the best possible information with the fullest knowledge behind it and the resources is undermining the Constitution of the United States and failing their responsibilities as a citizen. In this regard, then, I feel ill used in this process by Mr. Woolsey, and I feel very definitely that the press and the Congress need to make inquiries of everybody who comes before us presenting that information and perspective to us upon which we have to act in matters of life and death. Everybody has to have the fullest inquiry made of them as to what their sources of income are and what their sources of information are, whether they are tainted.

Mr. HOEFFEL. Mr. Speaker, if I can add to the gentleman's comments, specifically about what appeared to be the distortions of information in Iraq. I am not speaking of Mr. Woolsey. I am speaking of the Iraqi Governing Council representatives, Mr. Chalabi and others. I do not want to see them benefit any more than they already have from their relationships if they have misled this country and this government, and I hope that Congress can figure out a way to deny those individuals, if we can show they intentionally misled us, from any further contract with the U.S. Government, benefit from the U.S. Government, promotion by the U.S. Government. If we have been intentionally misled, if we had gone to war in part under their false comments and under false pretenses, and particularly, as I believe happened, there have been additional American deaths because of that faulty information, we need to cut off those relationships and prohibit any further financial relationships with these malfeasors.

I yield to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding. I think what he is saying is what we need is something that does not exist here in Washington at this moment in our history. And that is openness and transparency and accountability, and it is not happening. To think that, and I do not know whether it was the gentleman from Pennsylvania (Mr. HOEFFEL) or the gentleman from Hawaii (Mr. ABERCROMBIE) that mentioned it, they continued to benefit and with an attitude that arrogance is not a suitable adjective. It is far beyond arrogance. And it is time to lay everything out on the table or the American people will lose confidence, not only in the President but in the Congress.

Mr. ABERCROMBIE. Can we conclude, Mr. Speaker, by saying that, at least for the three of us I think I can speak, there will be openness and transparency and accountability on this floor.

Mr. HOEFFEL. Mr. Speaker, I thank my colleagues for their comments. Iraq Watch will be back next week.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KILPATRICK (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of travel problems.

Mr. OSE (at the request of Mr. DELAY) for today on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DEFAZIO) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.
Mr. EMANUEL, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Mr. MEEKS of New York, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. DEAL of Georgia, for 5 minutes, February 25.

Mr. HENSARLING, for 5 minutes, February 25.

Mr. OSBORNE, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, February 25.

Mr. BURTON of Indiana, for 5 minutes, today and February 25.

Mr. SOUDER, for 5 minutes, today and February 25.

Mr. KING of Iowa, for 5 minutes, February 25.

Mr. KIRK, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

Mr. GILCHREST, for 5 minutes, February 25.

Mr. GARRETT of New Jersey, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1786. An act to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act; to the Committee on Education and the Workforce and in addition to the Committee on Energy and Commerce, and the Committee on Ways and Means for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 743. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 523. An act to make technical corrections to laws relating to Native Americans, and for other purposes.

ADJOURNMENT

Mr. HOEFFEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until tomorrow, Wednesday, February 25, 2004, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the fourth quarter of 2003 and the first quarter of 2004, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. PHIL S. ENGLISH, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 18 AND DEC. 21, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Phil S. English	12/18	12/21	Germany	390.42	482.00		6,385.92				6,867.92
Committee total				390.42	482.00		6,385.92				6,867.92

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PHIL S. ENGLISH, Jan. 27, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. AARON H. LEVY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 5 AND JAN. 10, 2004

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Aaron H. Levy	1/8	1/10	UK	478	874.00					478.00	874.00
	1/5	1/8	Israel	4,871	1,092.00			472.00	106.89	5,343.00	1,198.00
Committee total											2,072.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

AARON H. LEVY, Jan. 26, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Bob Goodlatte	12/13	12/14	Germany		241.00		(3)				241.00
	12/14	12/16	Uzbekistan		666.00		(3)				666.00
	12/16	12/18	Kuwait		804.00		(3)				804.00
	12/18	12/19	Italy		461.00		(3)				461.00
Hon. Doug Ose	12/13	12/14	Germany		241.00		(3)				241.00
	12/14	12/16	Uzbekistan		666.00		(3)				666.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Hon. Tom Osborne	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Hon. Sam Graves	12/11	12/13	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/14	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. Dennis Rehberg	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Hon. Leonard Boswell	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Hon. Randy Neugebauer	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Laverne Hubert	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Brent Gattis	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Lynn Gallagher	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Jason Vaillan Court	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Elyse Bauer	12/13	12/14	Germany	....	241.00	....	(3)	....	....	....	241.00
	12/14	12/16	Uzbekistan	....	666.00	....	(3)	....	....	....	666.00
	12/16	12/18	Kuwait	....	804.00	....	(3)	....	....	....	804.00
	12/18	12/19	Italy	....	461.00	....	(3)	....	....	....	461.00
Committee total	....	....	....	....	24,937.00	....	....	....	....	....	24,937.00

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB GOODLATTE, Chairman, Jan. 21, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Kay Granger	10/3	10/5	Canada	....	753.00	....	....	....	....	....	753.00
Commercial airfare	....	....	....	....	....	....	2,210.71	....	....	....	2,210.71
Hon. C.W. Bill Young	10/22	10/23	Spain	....	298.00	....	(3)	....	....	....	298.00
	10/23	10/28	Italy	....	614.00	....	(3)	....	....	....	614.00
Hon. Jim Kolbe	10/22	10/23	Spain	....	298.00	....	(3)	....	....	....	298.00
	10/23	10/28	Italy	....	614.00	....	(3)	....	....	....	614.00
Hon. Rodney Frelinghuysen	10/22	10/23	Spain	....	298.00	....	(3)	....	....	....	298.00
	10/23	10/28	Italy	....	614.00	....	(3)	....	....	....	614.00
David Jolly	10/22	10/23	Spain	....	298.00	....	(3)	....	....	....	298.00
	10/23	10/28	Italy	....	614.00	....	(3)	....	....	....	614.00
Hon. Jim Kolbe	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Scott B. Gudes	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
John Blazey	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. James P. Moran	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. John E. Sweeney	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. Jo Ann Emerson	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. Dave Weldon	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. Charles H. Taylor	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. Tom Latham	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/10	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. Patrick J. Kennedy	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00
Hon. David E. Price	11/8	11/10	Jordan (and Iraq)	....	476.00	....	(3)	....	....	....	476.00
	11/10	11/11	Syria	....	262.75	....	(3)	....	....	....	262.75
	11/11	11/12	Germany	....	241.00	....	(3)	....	....	....	241.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. David Hobson	11/15	11/17	Kuwait		804.00		(3)				804.00
Hon. Robert Aderholt	11/15	11/17	Kuwait		804.00		(3)				804.00
Hon. Steny Hoyer	11/15	11/17	Kuwait		804.00		(3)				804.00
Brian Potts	11/15	11/17	Kuwait		300.00		(3)				300.00
Sarah Young	11/13	11/16	Germany		300.00		(3)				300.00
	11/16	11/18	Italy		1,000.00		(3)				1,000.00
Commercial airfare							4,946.28				4,946.28
Hon. Frank Wolf	12/3	12/7	Jordan (and Iraq)		916.00						916.00
Commercial airfare							6,945.52				6,945.52
John Shank	11/30	12/2	United Kingdom		842.00						842.00
	12/2	12/4	Bulgaria		530.00						530.00
	12/4	12/7	Italy		1,383.00						1,383.00
Commercial airfare							6,131.37				6,131.37
Beverly Aimaro Pheto	11/30	12/2	Hong Kong		822.00						822.00
	12/2	12/4	Thailand		456.00						456.00
	12/4	12/6	Singapore		512.00						512.00
Commercial airfare							7,311.93				7,311.93
Elizabeth A. Phillips	12/3	12/10	Italy		2,100.00						2,100.00
									681.81		681.81
Commercial airfare							5,796.22				5,796.22
Hon. Dave Weldon	11/30	12/2	Zambia		690.00						690.00
	12/2	12/3	Rwanda		201.00						201.00
	12/3	12/4	Kenya		295.00						295.00
Commercial airfare							8,871.06				8,781.06
John Blazey	12/8	12/18	India		2,488.00						2,488.00
Commercial airfare							9,410.00				9,410.00
Hon. Jack Kingston	12/11	12/13	Kuwait (and Iraq)		804.00		(3)				804.00
	12/14	12/14	Germany		191.00		(3)				191.00
Committee total					32,904.00		51,533.09		681.81		85,118.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military airtransportation.

BILL YOUNG, Chairman, Jan. 28, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, OFFICE OF SURVEYS AND INVESTIGATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Thomas K. Baker	10/26	11/1	United Kingdom		1,458.25		7,669.90		247.25		9,375.40
Carroll L. Hauver	10/26	11/1	United Kingdom		1,458.25		7,669.90		232.65		9,360.80
James A. Higham	11/5	11/9	Korea		1,042.50		4,651.52		27.04		5,721.06
William J. McGinnis	11/5	11/9	Korea		1,042.50		4,651.52		39.00		5,733.02
Robert H. Pearre, Jr	11/5	11/9	Korea		1,112.00		4,651.52		117.72		5,881.24
Robert J. Reitwiesner	10/26	11/1	United Kingdom		1,458.25		7,669.90		377.19		9,505.34
Committee total					7,571.75		36,964.26		1,040.85		45,576.86

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

THOMAS K. BAKER

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to Turkey, Kuwait, Iraq, Bahrain, Qatar, Saudi Arabia, and the United Kingdom, October 9–15, 2003:											
Hon. Jim Saxton	10/9	10/10	Turkey		281.00						281.00
	10/10	10/14	Kuwait		1,556.00						1,556.00
	10/11	10/12	Iraq (day trips)								
	10/13	10/13	Bahrain								
	10/13	10/13	Qatar								
	10/14	10/14	Saudi Arabia								
	10/14	10/15	United Kingdom		403.00						403.00
Hon. Jim Turner	10/9	10/10	Turkey		281.00						281.00
	10/10	10/14	Kuwait		1,556.00						1,556.00
	10/11	10/12	Iraq (day trips)								
	10/13	10/13	Bahrain								
	10/13	10/13	Qatar								
	10/14	10/14	Saudi Arabia								
	10/14	10/15	United Kingdom		403.00						403.00
Hon. John M. McHugh	10/9	10/10	Turkey		281.00						281.00
	10/10	10/14	Kuwait		1,556.00						1,556.00
	10/11	10/12	Iraq (day trips)								
	10/13	10/13	Bahrain								
	1/13	1/13	Qatar								
	10/14	10/14	Saudia Arabia								
	10/14	10/15	United Kingdom		403.00						403.00
Hon. Michael Turner	10/9	10/10	Turkey		281.00						281.00
	10/10	10/14	Kuwait		1,556.00						1,556.00
	10/11	10/12	Iraq (day trips)								
	10/13	10/13	Bahrain								
	10/13	10/13	Qatar								
	1/14	1/14	Saudi Arabia								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	10/14	10/15	United Kingdom		403.00						403.00
Hon. John Kline	10/9	10/10	Turkey		281.00						281.00
	10/10	10/14	Kuwait		1,556.00						1,556.00
	10/11	10/12	Iraq (day trips)								
	10/13	10/13	Bahrain								
	10/13	10/13	Qatar								
	10/14	10/14	Saudi Arabia								
	10/14	10/15	United Kingdom		403.00						403.00
Thomas E. Hawley	10/9	10/10	Turkey		281.00						281.00
	10/10	10/14	Kuwait		1,556.00						1,556.00
	10/11	10/12	Iraq (day trips)								
	10/13	10/13	Bahrain								
	10/13	10/13	Qatar								
	10/14	10/14	Saudi Arabia								
	10/14	10/15	United Kingdom		403.00						403.00
William H. Natter	10/9	10/10	Turkey		281.00						281.00
	10/10	10/14	Kuwait		1,556.00						1,556.00
	10/11	10/12	Iraq (day trips)								
	10/13	10/13	Bahrain								
	10/13	10/13	Qatar								
	10/14	10/14	Saudi Arabia								
	10/14	10/15	United Kingdom		403.00						403.00
Visit to Iraq and Kuwait, October 18-19, 2003:											
Hon. Mac Thornberry	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Hon. Vic Snyder	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Hon. Rob Simmons	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Hon. Baron P. Hill	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Hon. Tom Cole	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Hon. Madeline Z. Bordallo	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Hon. Mike Rogers	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Douglas C. Roach	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Debra S. Wada	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Harald O. Stavenas	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Jesse D. Tolleson	10/18	10/19	Kuwait		389.00						389.00
	10/18	10/19	Iraq (day trips)								
Hon. Mac Thornberry	10/18	10/19	Kuwait		389.00						389.00
Visit to El Salvador, December 4-6, 2003: Mr Hugh N. Johnston, Jr.,	12/14	12/6	El Salvador		412.50						412.50
Commercial transportation							923.00				923.00
Visit to Spain, Italy, Syria, Israel, Turkey and Ireland With Codel Cox, December 10–18, 2003:											
Hon. Jeff Miller	12/10	12/11	Spain		357.00						357.00
	12/11	12/12	Italy		922.00						922.00
	12/13	12/14	Syria		268.00						268.00
	12/14	12/15	Israel		362.00						362.00
	12/15	12/17	Turkey		828.00						828.00
	12/17	12/18	Ireland		308.00						308.00
Visit to Kuwait, Iraq and Germany, December 11–14, 2003:											
Hon. Howard P. "Buck" Mckeon	12/11	12/13	Kuwait		804.00						804.00
	12/12	12/13	Iraq (day trips)								
	12/14	12/14	Germany		191.00						191.00
Hon. Frank LoBiondo	12/11	12/13	Kuwait		804.00						804.00
	12/12	12/13	Iraq (day trips)								
	12/14	12/14	Germany		191.00						191.00
Hon. Jim Cooper	12/11	12/13	Kuwait		804.00						804.00
	12/12	12/13	Iraq (day trips)								
	12/14	12/14	Germany		191.00						191.00
John D. Chapla	12/11	12/13	Kuwait		804.00						804.00
	12/12	12/13	Iraq (day trips)								
	12/14	12/14	Germany		191.00						191.00
Jeremiah J. Gertler	12/11	12/13	Kuwait		804.00						804.00
	12/12	12/13	Iraq (day trips)								
	12/14	12/14	Germany		191.00						191.00
Lynn W. Henselman	12/11	12/13	Kuwait		804.00						804.00
	12/12	12/13	Iraq (day trips)								
	12/14	12/14	Germany		191.00						191.00
Visit to Germany, December 13–17, 2003: Ronald S. Phillips.	12/13	12/17	Germany		884.00						884.00
Visit to Bosnia, Kosovo and Austria, December 15-19, 2003:											
William H. Natter	12/15	12/18	Bosnia		518.00						518.00
	12/18	12/18	Kosovo								
	12/18	12/19	Austria		293.00						293.00
Commercial transportation							5,327.02				5,327.02
Visit to Kuwait, Iraq, Bahrain, Afghanistan and Djibouti, December 15–19, 2003:											
Henry J. Schweiter	12/15	12/17	Kuwait		804.00						804.00
	12/16	12/17	Iraq (day trips)								
	12/17	12/19	Bahrain		646.00						646.00
	12/18	12/18	Afghanistan								
	12/19	12/19	Djibouti								
Visit to Kuwait, Iraq and Germany, December 20–23, 2003:											
Hon. Roscoe G. Bartlett	12/20	12/22	Kuwait		800.00						800.00
	12/21	12/22	Iraq (day trips)								
	12/22	12/23	Germany		200.00						200.00
Hon. Gene Taylor	12/20	12/22	Kuwait		800.00						800.00
	12/21	12/22	Iraq (day trips)								
	12/22	12/23	Germany		200.00						200.00
Hon. Phil Gingrey	12/20	12/22	Kuwait		800.00						800.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	12/21	12/22	Iraq (day trips)								
	12/22	12/23	Germany		200.00						200.00
Hon. Loretta Sanchez	12/19	12/22	Kuwait		1,056.00						1,056.00
	12/21	12/22	Iraq (day trips)								
	12/22	12/23	Germany		200.00						200.00
Commercial transportation							1,532.51				1,532.51
Douglas C. Roach	12/20	12/22	Kuwait		800.00						800.00
	12/21	12/22	Iraq (day trips)								
	12/22	12/23	Germany		200.00						200.00
Mary Ellen Fraser	12/20	12/22	Kuwait		800.00						800.00
	12/21	12/22	Iraq (day trips)								
	12/22	12/23	Germany		200.00						200.00
Hugh Brady	12/20	12/22	Kuwait		800.00						800.00
	12/21	12/22	Iraq (day trips)								
	12/22	12/23	Germany		200.00						200.00
Committee total					39,782.50		7,782.53				47,565.03

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DUNCAN HUNTER, Chairman, Jan. 30, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jo Bonner	12/11	12/13	Kuwait		804.00						804.00
	12/12	12/13	Iraq (day trips)								
	12/14	12/14	Germany		191.00						191.00
Committee total					995.00						995.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JIM NUSSLE, Chairman, Jan. 30, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. J. Gresham Barrett	10/18	10/19	Kuwait		389.00		(3)				389.00
	10/18	10/19	Iraq (day trips)				(3)				
Hon. Michael Oxley	11/15	11/15	Jordan				(3)				
	11/15	11/15	Iraq				(3)				
	11/15	11/17	Kuwait		804.00		(3)				804.00
	11/16	11/16	Iraq				(3)				
Hon. Ginny Brown-Waite	11/15	11/15	Jordan				(3)				
	11/15	11/15	Iraq				(3)				
	11/15	11/17	Kuwait		804.00		(3)				804.00
	11/16	11/16	Iraq				(3)				
Committee total					1,997.00						1,997.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

MICHAEL G. OXLEY, Chairman, Jan. 29, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. (3)1, 200(3)

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☑

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB NEY, Chairman, Jan. 20, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David Adams	10/22	10/28	Egypt		969.00		5,906.00				6,875.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Cass Ballenger	10/22	10/29	Venezuela		268.00		(3)				268.00
	11/29	12/1	Venezuela		496.00		2,880.90				3,376.90
Hon. Chris Bell	10/24	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Patrick Brennan	10/22	10/24	Venezuela		496.00		(3)				496.00
	11/29	12/01	Venezuela		496.00		2,496.40				2,992.40
Hon. Steve Chabot	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Jo Ann Davis	10/9	10/13	Italy		1,784.00						1,784.00
	10/13	10/14	Poland		88.00		(3)				88.00
Hon. William Delahunt	10/22	10/24	Venezuela		596.00		(3)				596.00
Hon. Jeff Flake	12/15	12/18	Israel		915.50						915.50
	12/18	12/19			255.00		(3)				255.00
Hon. Elton Gallegly	11/29	11/30	Japan		194.00						194.00
	11/30	12/12	Thailand		2,640.00						2,640.00
	11/29	12/12					[4] 4,902.13				[4] 4,902.13
Kirsti Garlock	12/15	12/19	Greece		928.00		4,625.07				5,553.07
Kristen Gilley	12/15	12/19	Greece		903.00		3,753.04				4,656.04
Hon. Mark Green	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Peter King	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Robert King	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Thomas Lantos	10/23	10/24	Israel		362.00						362.00
	10/24	10/27	Jordan		952.00		(3)				952.00
	10/27	10/28	Turkey		281.00		(3)				281.00
David Lee	12/10	12/11	United Kingdom		742.00						742.00
	12/11	12/13	Austria		486.00						486.00
	12/13	12/17	Turkey		914.00						914.00
	12/10	12/17					[4] 6,912.00				[4] 6,912.00
Jessica Lewis	11/29	12/01	Venezuela		339.00		2,496.00				2,835.00
Noelle Lusane	12/11	12/13	Ghana		416.00		5,909.92				6,325.92
Caleb McCarry	10/22	10/24	Venezuela		481.00		(3)				481.00
Hon. Betty McCollum	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Thaddeus McCotter	12/5	12/7	Italy		922.00		3,612.15				4,534.15
John Mackey	11/10	11/16	Colombia		225.00		1,966.90				2,191.90
	12/10	12/11	United Kingdom		742.00						742.00
	12/11	12/13	Austria		486.00						486.00
	12/13	12/17	Turkey		914.00						914.00
	12/10	12/17					[4] 6,912.00				[4] 6,912.00
Alan Makovsky	10/23	10/24	Israel		362.00						362.00
	10/24	10/27	Jordan		952.00						952.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Gregory Meeks	10/22	10/24	Venezuela		596.00		(3)				596.00
Paul Oostburg-Sanz	10/22	10/24	Venezuela		390.00						390.00
	11/7	11/11	Brazil		605.00		7,069.31				7,674.31
Hon. Donald Payne	12/11	12/13	Ghana		416.00		6,073.42				6,489.42
Patrick Prisco	10/8	10/12	Italy		1,584.00		5,589.09				7,173.09
Hon. Edward Royce	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Jonathan Scharfen	12/10	12/11	United Kingdom		742.00						742.00
	12/11	12/13	Austria		486.00						486.00
	12/13	12/17	Turkey		914.00						914.00
	12/10	12/17					[4] 6,912.00				[4] 6,912.00
Doug Seay	11/21	11/23	United Kingdom		972.26		5,865.30				6,837.56
Thomas Sheehy	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Paula Sheil	11/29	11/30	Japan		194.00						194.00
	11/30	12/12	Thailand		2,640.00						2,640.00
	11/29	12/12					[4] 4,902.13				[4] 4,902.13
Sam Stratman	10/24	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Diane Watson	11/29	12/1	Venezuela		596.00		3,284.40				3,880.40
Hillel Weinberg	10/22	10/28	Egypt		1,002.00		5,906.00				6,908.00
Hon. Robert Wexler	12/2	12/4	Romania		2,160.00						2,160.00
	12/4	12/5	Bulgaria		250.00						250.00
	12/2	12/5					[4] 5,595.27				[4] 5,595.27
Committee total					47,671.76		103,569.43				151,241.19

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Round trip airfares.

HENRY HYDE, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. John Tanner	11/15	11/17	Kuwait		778.00		(3)				778.00
	11/17	11/18	Kuwait		241.00		(3)				241.00
Hon. Mark Foley	12/5	12/7	Italy		872.00		(3)				872.00
Committee total					1,891.00						1,891.00

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BILL THOMAS, Chairman, Jan. 28, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Elizabeth Pryor		09/30	USA				2,501.00				2,501.00
	10/1	10/5	Austria		1,199.00						1,199.00
	10/5	10/17	Poland		2,593.00		3,673.00				6,266.00
	10/17	10/22	Jordan		957.00						957.00
Janice Helwig		10/1	USA				5,568.00				5,568.00
	10/2	12/20	Austria		19,440.00						19,440.00
Ronald McNamara		10/4	USA				5,629.00				5,629.00
	10/5	10/11	Poland		1,503.00		20.00		550.00		2,073.00
	10/11	10/15	Belarus		597.00						597.00
Erika Schlager		10/4	USA				4,142.00				4,142.00
	10/5	10/18	Poland		3,013.00						3,013.00
Janice Helwig		10/5	Austria				1,195.00				1,195.00
	10/5	10/18	Poland		3,009.00						3,009.00
Hon. Christopher Smith		10/8	USA								
	10/9	10/13	Italy		1,784.00						1,784.00
	10/13	10/14	Poland		241.00						241.00
Hon. Benjamin Cardin		10/8	USA				(3)				
	10/9	10/13	Italy		1,784.00						1,784.00
	10/13	10/14	Poland		241.00						241.00
Hon. Joseph Pitts		10/8	USA				(3)				
	10/9	10/13	Italy		1,784.00						1,784.00
	10/13	10/14	Poland		241.00						241.00
Hon. Alcee Hastings		10/9	USA				3,486.00				3,486.00
	10/9	10/13	Italy		1,784.00						1,784.00
Dorothy Douglas Taft		10/8	USA				(3)				
	10/9	10/13	Italy		1,397.00		915.00				2,312.00
	10/13	10/18	Poland		1,239.00						1,239.00
Orest Deychakiwsky		10/8	USA				5,629.00				5,629.00
	10/9	10/10	Poland		526.00		20.00				546.00
	10/11	10/15	Belarus		595.00						595.00
Knox Thames		10/8	USA								
	10/9	10/13	Italy		1,383.00						1,383.00
	10/13	10/14	Poland		200.00						200.00
Chadwick Gore		10/9	USA				2,486.00				2,486.00
	10/9	10/12	Italy		1,183.00						1,183.00
Chadwick Gore		10/17	USA				7,882.00				7,882.00
	10/18	10/23	Jordan		950.00						950.00
Dorothy Douglas Taft		11/4	USA				846.00				846.00
	11/5	11/8	Austria		729.00						729.00
Marlene Kaufmann		11/15	USA				5,590.00				5,590.00
	11/16	11/18	Armenia		551.00						551.00
	11/18	11/21	Austria		486.00						486.00
Janice Helwig		11/29	Austria				267.00				267.00
	11/29	12/3	Netherlands								
Hon. Alcee Hastings		11/28	USA				5,793.00				5,793.00
	11/29	12/2	Netherlands		428.00						428.00
	12/4	12/7	Russia		870.00						870.00
Elizabeth Pryor		11/29	USA				5,827.00				5,827.00
	11/30	12/2	Netherlands		706.00						706.00
	12/2	12/4	Belgium		511.00						511.00
	12/4	12/5	France		587.00						587.00
Dorothy Douglas Taft		11/30	USA				6,953.00				6,953.00
	12/1	12/3	Netherlands		706.00						706.00
	12/3	12/6	Belgium		786.00						786.00
Ronald McNamara		12/2	USA				4,747.00				4,747.00
	12/3	12/9	Russia		1,522.00						1,522.00
John Finerty		12/2	USA				4,601.00				4,601.00
	12/3	12/9	Russia		1,210.00						1,210.00
Committee total					56,735.00		77,770.00		550.00		135,055.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

CHRISTOPHER SMITH, Cochairman, Feb. 2, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON PRINTING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB NEY, Chairman, Jan. 20, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL THOMAS, Chairman, Jan. 26, 2004.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, February 12, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)) ("Act"), I am transmitting on behalf of the Board of Directors of the Office of Compliance the enclosed Second Notice of Proposed Procedural Rule Making for publication in the Congressional Record.

We request that this notice be published in the Congressional Record. The Act specifies that the enclosed Notice be published on the first day on which both Houses are in session following this transmittal. Any inquiries regarding this notice should be addressed to the Office of Compliance, Room LA-200, 110 2nd Street, S.E., Washington, D.C. 20540; 202-724-9250, TDD 202-426-1912.

Sincerely,

SUSAN S. ROBFOGEL,
Chair.

Attachment.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Second Notice of Proposed Amendments to the Procedural Rules.

Introductory statement:

On September 4, 2003, a Notice of Proposed Amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record at S11110, and H7944. As specified by the Congressional Accountability Act of 1995 ("Act") at Section 303(b) (2 U.S.C.1384(b)), a 30 day period for comments from interested parties ensued. In response, the Office received a number of comments regarding the proposed amendments.

At the request of a commenter, for good reason shown, the Board of Directors extended the 30 day comment period until October 20, 2003. The extension of the comment period was published in the Congressional Record on October 2, 2003 at H9209 and S12361.

On October 15, 2003, an announcement that the Board of Directors intended to hold a hearing on December 2, 2003 regarding the proposed procedural rule amendments was published in the Congressional Record at H9475 and S12599. On November 21, 2003, a Notice of the cancellation of the December 2, 2003 hearing was published in the Congressional Record at S15394 and H12304.

The Board of Directors of the Office of Compliance has determined to issue this Second Notice of Proposed Amendment to the Procedural Rules, which includes changes to the initial proposed amendments, together with a brief discussion of each proposed amendment. As set forth in greater detail herein below, interested parties are being afforded another opportunity to comment on these proposed amendments.

The complete existing Procedural Rules of the Office of Compliance may be found on the Office's web site: www.compliance.gov.

How to submit comments:

Comments regarding the proposed amendments to the Rules of Procedure of the Office of Compliance set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.gov), this NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to: Bill Thompson, Executive Director, or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202-724-9250 (voice) or 202-426-1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA-200, Washington, D.C. 20540-1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202-426-1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540-1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104-1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 11 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office of Compliance. The rules of procedure generally establish the process by which alleged violations of the laws made applicable to the Legislative Branch under the CAA will be considered and resolved. The rules include procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. The rules also include the procedures for processing Occupational Safety and Health investigations and enforcement, as well as the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint under all of the statutes applied by the Act, and for appeals of a decision by a hearing officer to the Board of Directors of the Office of Compliance, and for the filing of an appeal of a decision by the Board of Directors to the United States Court of Appeals for the Federal Circuit. The rules also contain other matters of general applicaoility to the dispute resolution process and to the operation of the Office of Compliance.

These proposed amendments to the Rules of Procedure are the result of the experience of the Office in processing disputes under the CAA during the period since the original adoption of these rules in 1995.

How to read the proposed amendments:

The text of the proposed amendments shows [deletions within brackets], *and added text in italic*. Textual additions which have been made for the first time in this second notice of the proposed amendments ***are shown as italicized bold.*** Textual deletions which have been made for the first time in this second notice of the proposed amendments [[are bracketed with double brackets.]] Only subsections of the rules which include proposed amendments are reproduced in this notice. The insertion of a series of small dots (. . . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of stars (* * * * *) indicates that the unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not proposed to be amended, please access the Office of Compliance web site at www.compliance.gov.

PROPOSED PROCEDURAL RULE AMENDMENTS

PART I—OFFICE OF COMPLIANCE

Office of Compliance Rules of Procedure

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and as proposed to be amended in 2004.

TABLE OF CONTENTS

Subpart A—General Provisions

§1.01 Scope and Policy
§1.02 Definitions
§1.03 Filing and Computation of Time
§1.04 Availability of Official Information
§1.05 Designation of Representative
§1.06 Maintenance of Confidentiality
§1.07 Breach of Confidentiality Provisions

Subpart B—Pre-Complaint Procedures Applicable to Consideration of Alleged Violations of Part A of Title II of the Congressional Accountability Act of 1995

§2.01 Matters Covered by Subpart B
§2.02 Requests for Advice and Information
§2.03 Counseling
§2.04 Mediation
§2.05 Election of Proceedings
§2.06 Filing of Civil Action

Subpart C—[Reserved (Section 210—ADA Public Services)]

Subpart D—Compliance, Investigation, Enforcement and Variance Procedures under Section 215 of the CAA (Occupational Safety and Health Act of 1970) Inspections, Citations, and Complaints

§4.01 Purpose and Scope
§4.02 Authority for Inspection
§4.03 Request for Inspections by Employees and Employing Offices
§4.04 Objection to Inspection
§4.05 Entry Not a Waiver
§4.06 Advance Notice of Inspection
§4.07 Conduct of Inspections
§4.08 Representatives of Employing Offices and Employees
§4.09 Consultation with Employees
§4.10 Inspection Not Warranted; Informal Review
§4.11 Citations
§4.12 Imminent Danger
§4.13 Posting of Citations
§4.14 Failure to Correct a Violation for Which a Citation Has Been Issued; Notice of Failure to Correct Violation; Complaint
§4.15 Informal Conferences
§4.16 Comments on Occupational Safety and Health Reports

Rules of Practice for Variances, Limitations, Variations, Tolerances, and Exemptions

§4.20 Purpose and Scope
§4.21 Definitions
§4.22 Effect of Variances
§4.23 Public Notice of a Granted Variance, Limitation, Variation, Tolerance, or Exemption
§4.24 Form of Documents
§4.25 Applications for Temporary Variances and other Relief
§4.26 Applications for Permanent Variances and other Relief
§4.27 Modification or Revocation of Orders

§4.28 Action on Applications
§4.29 Consolidation of Proceedings
§4.30 Consent Findings and Rules or Orders
§4.31 Order of Proceedings and Burden of Proof

Subpart E—Complaints

§5.01 Complaints
§5.02 Appointment of the Hearing Officer
§5.03 Dismissal, Summary Judgment, and Withdrawal of Complaint
§5.04 Confidentiality

Subpart F—Discovery and Subpoenas

§6.01 Discovery
§6.02 Requests for Subpoenas
§6.03 Service
§6.04 Proof of Service
§6.05 Motion to Quash
§6.06 Enforcement

Subpart G—Hearings

§7.01 The Hearing Officer
§7.02 Sanctions
§7.03 Disqualification of the Hearing Officer
§7.04 Motions and Prehearing Conference
§7.05 Scheduling the Hearing
§7.06 Consolidation and Joinder of Cases
§7.07 Conduct of Hearing; Disqualification of Representatives
§7.08 Transcript
§7.09 Admissibility of Evidence
§7.10 Stipulations
§7.11 Official Notice
§7.12 Confidentiality
§7.13 Immediate Board Review of a Ruling by a Hearing Officer
§7.14 Briefs
§7.15 Closing the record
§7.16 Hearing Officer Decisions; Entry in Records of the Office

Subpart H—Proceedings before the Board

§8.01 Appeal to the Board
§8.02 Reconsideration
§8.03 Compliance with Final Decisions, Requests for Enforcement
§8.04 Judicial Review

Subpart I—Other Matters of General Applicability

§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents
§9.02 Signing of Pleadings, Motions and Other Filings; Violations of Rules; Sanctions
§9.03 Attorney's Fees and Costs
§9.04 Ex parte Communications
§9.05 Settlement Agreements
§9.06 Destruction of Closed Files
§9.07 Payments [[of]] pursuant to Decisions or Awards under Section 415(a) of the Act.
§9.0[6]8 Revocation, Amendment or Waiver of Rules

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§1.03 Filing and Computation of Time.

(a) Method of Filing. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. *When specifically authorized by the Executive Director,* ***or by the Board of Directors in the case of an appeal to the Board,*** *any document may also be filed by electronic transmittal in a designated format.* Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. . . . .

Discussion: The electronic filing option is in addition to existing filing procedures, and represents the decision of this agency to begin to explore the process of migration toward electronic filing. In response to comments, the Board has added Board of Directors authorization authority to ensure that the Executive Director cannot unilaterally assume Board authority regarding a matter pending before the Board. Because of limits in available technology, it will remain necessary to designate a particular format for electronic transmittal. Requiring a designated format does not impose an undue burden, since electronic filing is not required. Stipulating a web address and system for confirmation of receipt of electronic transmittal is not appropriate for a formal rule, since all documents will not necessarily be filed at the same address, and not all filing requires proof of receipt. Not including such information also better safeguards the security of document filing.

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or filed by express mail or other forms of expedited delivery in which proof of [[delivery to]] ***date of receipt by*** *the addressee is provided.*

Discussion: Section 1.03(a)(2)(i) permits "other expedited delivery" of documents being filed for which proof of delivery is not required. However, there is no similar provision with regard to certified mail, return receipt requested. Such a service method is specifically required in Sections 2.03(l), 2.04(i), and 5.01(e). Particularly in view of the lengthened time required to process mail through the U.S. Postal Service since 9-11, the Board has determined that additional flexibility in the use of other mail delivery services is also needed as an alternative to certified mail, return receipt requested.

* * * * *

1.05 Designation of Representative.

AMENDMENT DELETED (a) An employee, other charging individual or party, a witness, a labor organization, an employing office, an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney. [[*During the period of counseling and mediation, upon the request of a party, if the Executive Director concludes that a representative of an employee, of a charging party, of a labor organization, of an employing office, or of an entity alleged to be responsible for correcting a violation has a conflict of interest, the Executive Director may, after giving the representative an opportunity to respond, disqualify the representative. In that event, the period for counseling or mediation may be extended by the Executive Director for a reasonable time to afford the party an opportunity to obtain another representative.*]]

Discussion: Upon further consideration, the Board has deleted this proposed amendment. The Board does not agree with the assertion by a commenter that the current version of this rule is in excess of the authority of this Board under the Act.

* * * * *

2.03 Counseling.

(a) Initiating a Proceeding: Formal Request for Counseling. In order to initiate a proceeding under these rules, an employee shall [formally] *file a written* request *for* counseling [from] *with* the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All [formal] requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

Discussion: The purpose of this amendment is to delete the undefined term "formal", and require simply that the request be made in written form. Several commenters suggested that institution of a requirement that the counseling request be in writing would constitute a "waiver" of the statutory requirement of absolute confidentiality in counseling mandated by section 416(a) of the Act. Requiring a written counseling request does not constitute or suggest a "waiver" of confidentiality in any way. Such a waiver may only occur when "the Office and a covered employee . . . agree to notify the employing office of the allegations." 2 U.S.C. 1416(a). The process for such a waiver is set out in the existing Procedural Rules at section 2.03(e)(2), which requires a written waiver form. A written request for counseling is an entirely different document.

. . . . .

(c) When, How, and Where to Request Counseling. A [formal] request for counseling *must be in writing, and* [: (1)] shall be [made] *filed with the Office of Compliance at Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540-1999; [[telephone 202-724-9250;]] FAX 202–426–1913; TDD 202–426–1912,* not later than 180 days after the alleged violation of the Act.[; (2) may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540-1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–426–1912.]

Discussion: This amendment conforms to the requirement that a written request for counseling must be filed with the Office.

. . . . .

(l) Conclusion of the Counseling Period and Notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, *or by personal delivery* ***evidenced by a written receipt.*** The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

Discussion: This amendment reflects the provision of flexibility to the Office in providing notice. In response to comments, we have added the requirement for appropriate documentation in the case of personal delivery. A suggestion that a copy of the end of counseling notice be served on "opposing counsel" would cause a violation of the confidentiality requirement for counseling required by section 416(a) of the Act, and would contradict the non-adversarial nature of counseling.

. . . . .

(m) Employees of the Office of the Architect of the Capitol and the Capitol Police.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when

the Executive Director makes such a recommendation, the following procedures shall apply:

. . . . . .

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules: (A) within [10] *60* days after the expiration of the period recommended by the Executive Director, if the matter has not [[been resolved]] ***resulted in a final decision***; or (B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, ***the employee shall so notify the Office within 20 days after the employee has received service of the final decision resulting from the grievance procedure.*** [[or i]] ***I***f no request to return to the procedures under these rules is received within [[the applicable time period]] ***60 days after the expiration of the period recommended by the Executive Director***, the Office will [[consider the case to be closed in its official files]] ***issue a Notice of End of Counseling, as specified in section 2.04(i) of these Rules.***

Discussion: The amendment reflects the Board's conclusion that controversies referred to agency grievance procedures may be close to disposition at or near the end of the stipulated referral period. In such circumstances, the requirement for a return by the employee to the Office's procedures within 10 days can actually have the effect of disrupting the completion of the grievance process. Therefore, the Board proposes an extension of that time frame to 60 days. The time during which a controversy has been referred to an agency grievance proceeding assumes that there will have been joinder of issues between the employee and the employing office. Certainly, there can be no doubt that the employing office has been placed on notice of the existence of the controversy. The amended proposal ensures that the employee will not be penalized by reason of an employing office's failure to process a grievance in a timely manner by stipulating that the Office will issue an end of counseling Notice to the parties 60 days after the end of the referral period. A commenter's suggestion that the referral time frame unlawfully extends counseling beyond the 30 day maximum period ignores section 401 of the Act, which specifically stipulates that all time during which a matter is referred to the grievance procedures of the Architect of the Capitol or the Capitol Police "shall not count against the time available for counseling or mediation." Issuing a Notice of End of Counseling is preferable to administrative closure of a case, since the closure may penalize an employee who is still waiting for the employing office to issue a final decision.

* * * * *

2.04 Mediation.

. . . . . .

(e) Duration and Extension.

(1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint *written* request of the parties ***or of the appointed mediator on behalf of the parties*** *to the attention of the Executive Director*. The request [may be oral or] *shall be* written and [shall be noted and] filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

Discussion: The amendment assures that an adequate record of such a request be made. In response to comments, the Board has added language allowing the assigned mediator to submit the request on behalf of the parties.

. . . . . .

(i) Conclusion of the Mediation Period and Notice. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, *or will be [hand]* ***personally*** *delivered*, ***evidenced by a written receipt***, and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

Discussion: The purpose of this amendment is to reflect the provision of the flexibility of personal delivery. In response to comments, the Board has also formalized the requirement that proof of delivery be evidenced by a written receipt.

* * * * *

2.06 Filing of Civil Action.

. . . . . .

(c) Communication Regarding Civil Actions Filed with District Court. [(1)] The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act [should simultaneously provide a copy of the complaint] ***shall provide a written notice*** *to the Office* ***that the party has filed a civil action, specifying the district court in which the civil action was filed and the case number.***

Discussion: The Office has the responsibility to be aware of judicial applications and interpretations of the Act. In this regard, see also proposed rule 9.06. In response to comments, the Board has replaced the proposed requirement that a copy of the complaint be provided, with a notice of filing of a civil action. The Office also intends to include notice of this requirement in its Notice of End of Mediation.

AMENDMENT DELETED: [[(2) No party to any civil action referenced in paragraph (1) shall request information from the Office regarding the proceedings which took place pursuant to sections 402 or 403 related to said civil action, unless said party notifies the other party(ies) to the civil action of the request to the Office. The Office will determine whether the release of such information is appropriate under the Act and the Rules of Procedure.]]

Discussion: Upon further consideration, the Board has deleted this proposed amendment.

* * * * *

§4.16 Comments on Occupational Safety and Health Reports. [[The General Counsel will provide to responsible employing office(s) a copy of any report issued for general distribution not less than seven days prior to the date scheduled for its issuance. If a responsible employing office wishes to have its written comments appended to the report, it shall submit such comments to the General Counsel no later than 48 hours prior to the scheduled issuance date. The General Counsel shall either include the written comments without alteration as an appendix to the report, or immediately decline the request for their inclusion. If the General Counsel declines to include the submitted comments, the employing office(s) may submit said denial to the Board of Directors which, in its sole discretion, shall review the matter and issue a final and non-appealable decision solely regarding inclusion of the employing office(s) comments prior to the issuance of the report. Submissions to the Board of Directors in this regard shall be made expeditiously and without regard to the requirements of subpart H of these rules. In no event shall the General Counsel be required by the Board to postpone the issuance of a report for more than five days.]] ***With respect to any report authorized under section 215(c)(1) or 215(e)(2) of the Act that is intended by the General Counsel for general public distribution, the General Counsel shall, before making such general public distribution, first transmit a copy thereof to the responsible employing office(s), together with a notification that the employing office(s) has 10 days within which to submit any written comments that it wishes to be appended in their entirety as an appendix to the report. In the event the General Counsel declines to append to the report timely submitted comments of an employing office, the General Counsel shall not issue the report for general public distribution, and will promptly notify that office in writing of the basis for such declination. Upon written request to the Board of Directors submitted by the employing office within 10 days of the date of notification of declination by the General Counsel, with a copy thereof served on the General Counsel, the Board of Directors shall promptly review the matter, including any submission filed by the General Counsel within 10 days of the employing office's request, and issue a final and non-appealable decision determining the issue of inclusion of the employing office's comments prior to the general public distribution of the report. In no event shall the General Counsel be required by the Board to delay issuance of a report covered by this procedure for more than 15 days after the employing office's request for review is submitted to the Board of Directors.***

Discussion: The proposed amendment, as reworded, provides a mechanism for employing office comments to be appended to reports issued by the General Counsel regarding Occupational Safety and Health inspections. The Board has amended the proposal to clarify further the categories of OSH reports resulting from inspection requests. The Board has extended the time periods within which the dispute resolution procedure takes place. The Board has also added a requirement that any General Counsel declination must be provided in writing to the employing office.

* * * * *

§5.03 Dismissal, Summary Judgment, and Withdrawal of Complaints.

. . . . . .

(d) Summary Judgment. A Hearing Officer may, after notice and an opportunity ***for the parties to address the question of summary judgment,*** *[[to respond.]] issue summary judgment on some or all of the complaint.*

([d]*e*) Appeal. A [dismissal] *final decision* by the Hearing Officer made under section

5.03(a)-(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01. ***A final decision under section 5.03(a)–(c) which does not resolve all of the claims or issues in the case(s) before the Hearing Officer may not be appealed to the Board in advance of a final decision entered under section 7.16 of these rules, except as authorized pursuant to section 7.13 of these rules.***

([e]*f*) . . . . .

([f]*g*) . . . . .

Discussion: Hearing Officers have plenary authority to conduct hearings and make final decisions, including summary judgment, pursuant to section 405 of the Act. The amendments more adequately reflect the existing authority of Hearing Officers. In response to a comment, the Board has included the requirement that the parties be given the opportunity to address the issue. The Board has also addressed the circumstance of a partial disposition of a case.

* * * * *

§7.02 Sanctions

(a) The Hearing Officer may impose sanctions on a party's representative [[for inappropriate or unprofessional conduct]] ***necessary to regulate the course of the hearing.***

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

([a]*1*) Failure to Comply with an Order. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

([1]*a*) . . . . .

([2]*b*) . . . . .

([3]*c*) . . . . .

([4]*d*) . . . . .

Discussion: In response to comments, and upon further consideration, the Board has amended this proposal to better reflect existing statutory authority. Section 556(c)(5) of the Administrative Procedure Act, referenced in section 405(d)(3) of the Act, specifically authorizes a presiding official to "regulate the course of the hearing". The amendment authorizes a Hearing Officer to carry out that responsibility when required by a representative's conduct.

* * * * *

§8.01 Appeal to the Board.

. . . . .

(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a reply brief.

(3) Upon ***written*** *delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any* ***post-petition for review*** *document or submission with the Board* ***in any case in which the Executive Director has not rendered a determination on the merits.*** *Such delegation shall continue until revoked by the Board.*

. . . . .

Discussion: The amendment authorizes the Executive Director to perform the ministerial act of granting extensions of time in which to file documents when specifically authorized to do so by the Board. In response to comments, the Board has required written delegation of authority, and has limited that delegation to submissions after a petition for review has been filed. The Board has also prohibited such a delegation in any case in which the Executive Director has issued a determination on the merits in the underlying proceeding.

* * * * *

§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) Filing with the Office; Number. One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer *or other* ***matter or*** *determination reviewable by the Board* files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office. *The Officer, Hearing Officer, or Board may also [[require]]* ***request*** *a party to submit an electronic version of any submission on a disk in a designated format.*

. . . . .

Discussion: The addition of "other matter or determination reviewable by the Board" is intended to address: collective bargaining representation decisions made pursuant to Part 2422 of the Office of Compliance Rules regarding labor-management relations, negotiability determinations made pursuant to Part 2424 of the same Rules, review of arbitration awards under Part 2425 of the same Rules, determination of bargaining consultation rights under Part 2426 of the same Rules, requests for general statements of policy or guidance under Part 2427 of the same Rules, enforcement of standards of conduct decisions and orders by the Assistant Secretary of Labor for Labor Management Relations pursuant to Part 2428 of the same Rules, and determinations regarding collective bargaining impasses pursuant to Part 2470 of the same Rules. The term "matter" was included by the Board on further consideration, because some of the procedures referenced in the labor-management relations Rules are addressed to the Board in the first instance. Submission by electronic version is in addition to the existing methods for filing submissions. This addition reflects the decision of this agency to begin exploring the process of migration toward electronic filing. Because of limits in available technology, it remains necessary to designate a particular format for electronic disk transmittal. In response to comments, the Board has amended the proposal to allow for a "request" rather than a requirement. The availability of submissions on disk, particularly of lengthy documents, can save the Office time and expense in handling such documents.

* * * * *

§9.03 Attorney's fees and costs.

(a) Request. No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. *All motions for attorney's fees and costs shall be submitted to the Hearing Officer.* [The Board or t] *The* Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion.

. . . . .

Discussion: This amendment clarifies the rules to exclude the filing of motions for attorney's fees with the Board of Directors.

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§9.05 Informal Resolutions and Settlement Agreements.

. . . . .

(b) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. *If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.*

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise [[required]] ***permitted*** *by law.*

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act: Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final and binding decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

Discussion: The Board disagrees with comments that assert the Office has no statutory authority to settle disputes regarding the alleged violation of settlement agreements. Under section 414 of the Act, the Executive Director is clearly given plenary authority to approve all settlement agreements under the Act entered into at any stage of the administrative or judicial process. No settlement agreement can "become effective" unless and until such approval has been given. The Office is concerned that many settlement agreements do not include provisions for disposition of controversies regarding alleged violations of the agreement. Rather than consider initiating a practice of withholding approval of settlement agreements which do not include provisions setting forth dispute resolution procedures, the Office is providing all parties, by notice and rule, the option to include their own dispute resolution provisions, or default to the dispute resolution procedure stipulated in this proposed Rule when they enter into a settlement agreement. The word "permitted" was inserted in place of "required" as a clarification, since in this context a rescission of an approved agreement would rarely, if ever, be required by operation of law.

[[§9.06 Destruction of Closed Files. Closed case files regarding counseling, mediation, hearing, and/or appeal ***to the Board of Directors*** *may be destroyed during the calendar year in which the fifth anniversary of the closure date occurs, or during the calendar year in which the fifth anniversary of the conclusion of all adversarial proceedings in relation thereto occurs, whichever period ends later.]]*

Discussion: The Executive Director and the Board of Directors have been made aware that the Office of Compliance appears to be an agency covered by the requirements of the Federal Records Act (found at Title 44 of the U.S. Code). The Records Act requires that an agency consult with the Archivist of the United States regarding any record destruction program. Therefore, the Executive Director and the Board are withdrawing this proposal at this time, and will issue a new Notice regarding this subject matter after the requirements of the Federal Records Act have been satisfied.

§9.0[7]6 *Payment***s** *[[of]]* ***required pursuant to*** *Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.*

Discussion: This proposed rule reflects the existing procedure for processing payments under section 415(a) of the Act. Since section 415 does not authorize automatic stays of judgments or awards pending appeal, parties are advised to seek such a stay from the appropriate forum. Adding an automatic stay of payment until all appeals have been exhausted would require an amendment of the Act.

*§9.0[6]*7 **Revocation, Amendment or Waiver of Rules.**

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EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6747. A communication from the President of the United States, transmitting Requests from the Judicial Branch for FY 2004: (H. Doc. No. 108—161); to the Committee on Appropriations and ordered to be printed.

6748. A letter from the Under Secretary, Department of Defense, transmitting Approval of Brigadier General Martin E. Dempsey and Brigadier General Barbara G. Fast to wear the insignia of major general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

6749. A communication from the President of the United States, transmitting Report including matters relating to the interdiction of aircraft engaged in illicit drug trafficking, pursuant to Public Law 107—108 22 U.S.C. 2291—4; (H. Doc. No. 108—158); to the Committee on International Relations and ordered to be printed.

6750. A communication from the President of the United States, transmitting a report including matters relating to post-liberation Iraq as consistent with the Authorization for Use of Military Force Against Iraq Resolution of2002 (Public Law 107-243); (H. Doc. No. 108—160); to the Committee on International Relations and ordered to be printed.

6751. A letter from the Chairman, Federal Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period ending September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6752. A letter from the Inspector General, Railroad Retirement Board, transmitting the Board's budget justification for the Office of Inspector General for fiscal year 2005, prepared in compliance with Office of Management and Budget (OMB) Circular No. A-11; to the Committee on Government Reform.

6753. A letter from the Chairman, U.S. Commodity Futures Trading Commission, transmitting the FY 2003 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6754. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Polson, MT. [Docket No. FAA-2003-16207; Airspace Docket No. 03-ANM-10] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6755. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace; Olive Branch, MS, Amendment of Class E Airspace; Memphis, TN [Docket No. FAA-2003-16534; Airspace Docket No. 03-ASO-19] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6756. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cherokee, IA. [Docket No. FAA-2003-16505; Airspace Docket No. 03-ACE-89] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6757. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Hilton Head Island, SC; Correction [Docket No. FAA-2003-16359; Airspace Docket No. 03-ASO-18] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6758. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification and Revocation of Federal Airways; AK [Docket No. FAA-2002-14010; Airspace Docket No. 02-AAL-09] (RIN: 2120-AA66) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6759. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Waverly, IA [Docket No. FAA-2003-16502; Airspace Docket No. 03-ACE-86] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6760. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Oskaloosa, IA. [Docket No. FAA-2003-16500; Airspace Docket No. 03-ACE-84] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6761. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting The Department's final rule — Modification of Class E Airspace; Springfield, MO. [Docket No. FAA-2003-16763; Airspace Docket No. 03-ACE-100] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6762. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; and A300 B4-600, B4-600R, C4-605R Variant F, and F4-600R (Collectively Called A300-600) Series Airplanes [Docket No. 2003-NM-248-AD; Amendment 39-14308; AD 2003-26-10] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6763. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80E1A2 and -80E1A4 Turbofan Engines; Correction [Docket No. 2003-NE-26-AD; Amendment 39-13409; AD 2003-26-11] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6764. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — DOD Commercial Air Carrier Evaluators; Correction [Docket No. FAA-2003-15571; Amdt. Nos. 119-8, 121-298 and 135-88] (RIN: 2120-AI00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6765. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Philadelphia, PA [Docket No. FAA-2003-16282; Airspace Docket No. 03-AEA-06] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6766. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Great Bend, KS. [Docket No. FAA-2003-16080; Airspace Docket No. 03-ACE-72] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6767. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Removal of Class E Airspace; New Port Richey, FL. [Docket No. FAA-2003-16623; Airspace Docket No. 03-ASO-22] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6768. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Beloit, KS. [Docket No. FAA-2003-16749; Airspace Docket No. 03-ACE-93] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6769. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule —

Modification of Class E Airspace; Kingman, KS. [Docket No. FAA-2003-16081; Airspace Docket No. 03-ACE-73] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6770. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Greenfield, IA. [Docket No. FAA-2003-16504; Airspace Docket No. 03-ACE-88] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6771. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Marysville, KS. [Docket No. FAA-2003-16762; Airspace Docket No. 03-ACE-99] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6772. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Tipton, IA. [Docket No. FAA-2003-16501; Airspace Docket No. 03-ACE-85] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6773. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Osceola, IA. [Docket No. FAA-2003-16499; Airspace Docket No. 03-ACE-83] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6774. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Winterset, IA. [Docket No. FAA-2003-16503; Airspace Docket No. 03-ACE-87] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6775. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes [Docket No. 2002-NM-233-AD; Amendment 39-13466; AD 2004-03-22] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6776. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2002-NM-79-AD; Amendment 39-13472; AD 2004--03-28] (RIN: 1220-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6777. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747SP, and 747SR Series Airplanes [Docket No. 2003-NM-84-AD; Amendment 39-13461; AD 2004-03-17] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6778. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directies; Airbus A330-200, A330-300, A340-200, and A340-300 Series Airplanes [Docket No. 2003-NM-223-AD; Amendment 39-13468; AD 2004-03-24] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6779. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330 and A340-200 and -300 Series Airplanes [Docket No. 2001-NM-284-AD; Amendment 39-13469; AD 2004-03-25] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6780. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes [Docket No. 2002-NM-116-AD; Amendment 39-13462; AD 2004-03-18] (RIN: 1220-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6781. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Series Airplanes [Docket No. 2003-NM-154-AD; Amendment 39-13458; AD 2004-03-14] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6782. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A321 Series Airplanes [Docket No. 2003-NM-257-AD; Amendment 39-13446; AD 2004-03-02] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6783. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes [Docket No. 2004-NM-10-AD; Amendment 39-13447; AD 2004-03-03] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6784. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the intent to initiate negotiations for a free trade agreement between the United States and Thailand, pursuant to Section 2104(a)(1) of the Trade Act of 2002; to the Committee on Ways and Means.

6785. A letter from the Chair, Office of Compliance, transmitting Second notice of proposed procedural rule making under Section 303(b) of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C 1384(b); jointly to the Committees on House Administration and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on February 11, 2004, the following reports were filed on February 18, 2004]

Mr. BOEHLERT: Committee on Science. House Concurrent Resolution 189. Resolution celebrating the 50th anniversary of the International Geophysical Year (IGY) and supporting an International Geophysical Year-2 (IGY-2) in 2007-08; with an amendment (Rept. 108–422). Referred to the House Calendar.

Mr. BOEHLERT: Committee on Science. H.R. 1292. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; with an amendment (Rept. 108–423). Referred to the Committee of the Whole House on the State of the Union.

[Filed on February 24, 2004]

Mr. POMBO: Committee on Resources. H.R. 2707. A bill to direct the Secretaries of the Interior and Agriculture, acting through the U.S. Forest Service, to carry out a demonstration program to assess potential water savings through control of Salt Cedar and Russian Olive on forests and public lands administered by the Department of the Interior and the U.S. Forest Service; with amendments (Rept. 108–424, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2391. A bill to amend title 35, United States Code, to promote research among universities, the public sector, and private enterprise; with amendments (Rept. 108–425). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3036. A bill to authorize appropriations for the Department of Justice for fiscal years 2004 through 2006, and for other purposes; with amendments (Rept. 108–426). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 529. Resolution providing for consideration of the bill (H.R. 1997) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes (Rept. 108–427). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. H.R. 2707 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2707. Referral to the Committee on Agriculture extended for a period ending not later than February 24, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RENZI:

H.R. 3817. A bill to ensure that certain areas are eligible for rural housing assistance; to the Committee on Financial Services.

By Mr. SMITH of New Jersey (for himself, Mr. HYDE, Mr. LANTOS, Mr. ROHRABACHER, Mr. BELL, Mr. GREEN of Texas, Ms. ROS-LEHTINEN, Mr. PAYNE, Mr. PITTS, Ms. HARRIS, Mr. DICKS, Mr. SANDERS, Mr. SMITH of Washington, Mr. BAIRD, Mr. FALEOMAVAEGA, and Mr. BROWN of Ohio):

H.R. 3818. A bill to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes; to the Committee on International Relations.

By Mr. BAIRD (for himself, Mr. WU, Mr. NETHERCUTT, Mr. BEREUTER, Mr. LARSEN of Washington, Mr. DICKS, Mr. INSLEE, Mr. MCDERMOTT, Mr. SMITH of Washington, Mr. DEFAZIO, Mr. SOUDER, Mr. POMEROY, Ms. HOOLEY of Oregon, Mr. BLUMENAUER, Mr. WALDEN of Oregon, Mr. GOODE, and Ms. DUNN):

H.R. 3819. A bill to redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes; to the Committee on Resources.

By Ms. DELAURO (for herself and Mr. DINGELL):

H.R. 3820. A bill to protect United States workers from competition of foreign workforces for performance of Federal and State contracts for goods or services; to the Committee on Government Reform.

By Mr. KOLBE (for himself and Mr. STENHOLM):

H.R. 3821. A bill to amend title II of the Social Security Act to provide for individual security accounts funded by employee and employer Social Security payroll deductions, to extend the solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MCCOLLUM:

H.R. 3822. A bill to amend the Animal Health Protection Act to direct the Secretary of Agriculture to establish an electronic nationwide livestock identification system, and for other purposes; to the Committee on Agriculture.

By Mr. PAUL (for himself and Mr. FLAKE):

H.R. 3823. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Belarus; to the Committee on Ways and Means.

By Mr. RENZI:

H.R. 3824. A bill to facilitate the operation, maintenance, and capital improvement of Camp Navajo, Arizona, by the Arizona Army National Guard; to the Committee on Armed Services.

By Mr. STEARNS (for himself, Mr. STUPAK, and Ms. SCHAKOWSKY):

H.R. 3825. A bill to amend title 36, United States Code, to amend the Federal charter of the United States Olympic Committee, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMBO (for himself, Mr. RAHALL, Mr. FALEOMAVAEGA, Ms. BORDALLO, Mr. ABERCROMBIE, Mr. LEACH, Mr. LANTOS, Mrs. CHRISTENSEN, Mr. CASE, Mr. CARDOZA, Mr. KILDEE, Ms. WATSON, Mr. FLAKE, and Ms. MILLENDER-MCDONALD):

H. Con. Res. 364. Concurrent resolution to recognize more than 5 decades of strategic partnership between the United States and the people of the Marshall Islands in the pursuit of international peace and security, and for other purposes; to the Committee on International Relations.

By Mr. EVANS:

H. Con. Res. 365. Concurrent resolution supporting the goals and ideals of National Purple Heart Recognition Day; to the Committee on Armed Services.

By Mr. KILDEE (for himself, Mr. QUINN, and Mr. LEVIN):

H. Con. Res. 366. Concurrent resolution expressing the sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. WOLF, Mr. LANTOS, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. PENCE, Mr. PAYNE, Mr. BROWN of Ohio, Mr. SHERMAN, Mr. COX, Mr. PITTS, Mr. BURTON of Indiana, Mrs. JO ANN DAVIS of Virginia, Mr. GREEN of Wisconsin, Mr. BERMAN, Ms. HARRIS, Mr. KING of New York, Mr. MCNULTY, Mrs. NAPOLITANO, Mr. ROTHMAN, Mr. CAPUANO, Ms. KAPTUR, Mr. HOLT, Mr. CHABOT, Mr. UDALL of New Mexico, Mr. FERGUSON, Mr. SHIMKUS, Mr. TANCREDO, Mr. KIRK, Mr. BURR, Mr. BLUMENAUER, Mr. SOUDER, Mr. FRANKS of Arizona, Mrs. KELLY, Mr. MCGOVERN, Mr. MCKEON, Mr. ANDREWS, Mr. PICKERING, Ms. MCCARTHY of Missouri, Mr. SCHIFF, Mr. AKIN, and Mr. MENENDEZ):

H. Res. 530. A resolution urging the appropriate representative of the United States to the 60th session of the United Nations Commission on Human Rights to introduce a resolution calling upon the Government of the People's Republic of China to end its human rights violations in China, and for other purposes; to the Committee on International Relations.

By Mrs. BIGGERT (for herself, Mr. STRICKLAND, Ms. GINNY BROWN-WAITE of Florida, Mr. MCCOTTER, Mr. OSBORNE, Mrs. CAPITO, Mr. WAXMAN, Mr. HOEFFEL, and Mr. SHAYS):

H. Res. 531. A resolution encouraging increased public awareness of eating disorders and expanded research for treatment and cures; to the Committee on Energy and Commerce.

By Ms. KAPTUR:

H. Res. 532. A resolution expressing the sense of the United States House of Representatives that the United States should adhere to moral and ethical principles of economic justice and fairness in developing and advancing United States international trade treaties, agreements, and investment policies; to the Committee on Ways and Means, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RODRIGUEZ (for himself, Ms. ROYBAL-ALLARD, Ms. LORETTA SANCHEZ of California, Mr. BACA, Mr. HINOJOSA, Mr. SERRANO, Mrs. NAPOLITANO, Mr. GUTIERREZ, Mr. BECERRA, Mr. GONZALEZ, Mr. PASTOR, Ms. SOLIS, and Mr. CARDOZA):

H. Res. 533. A resolution commemorating the 75th Anniversary of the Creation of the League of United Latin American Citizens; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. THORNBERRY.

H.R. 80: Mr. ROTHMAN.

H.R. 117: Mr. BAIRD.

H.R. 173: Mr. SOUDER, Mr. VAN HOLLEN, Ms. HARMAN, and Mr. JOHN.

H.R. 218: Mr. BURNS, Mr. SCOTT of Georgia, Mr. LEWIS of Georgia, Mr. GONZALEZ, Mr. BOEHLERT, Ms. MAJETTE, and Ms. SLAUGHTER.

H.R. 290: Mrs. CHRISTENSEN, Mr. SWEENEY, Mr. MURPHY, and Mr. BERMAN.

H.R. 296: Mr. BROWN of Ohio.

H.R. 300: Mr. JONES of North Carolina.

H.R. 339: Mr. HALL.

H.R. 375: Mrs. JOHNSON of Connecticut.

H.R. 391: Mr. KELLER and Mr. CHABOT.

H.R. 463: Mr. TOWNS, Mr. PAUL, and Mr. SESSIONS.

H.R. 504: Mr. TIBERI, Mr. FRANK of Massachusetts, Mr. BLUMENAUER, Mr. RANGEL, Mr. ENGEL, and Mr. FILNER.

H.R. 584: Ms. SLAUGHTER, Mr. CUMMINGS, and Mr. DUNCAN.

H.R. 714: Mr. GORDON.

H.R. 716: Ms. MILLENDER-MCDONALD.

H.R. 802: Ms. SOLIS.

H.R. 814: Mr. ROTHMAN, Mr. BERMAN, Ms. WATERS, Mr. PALLONE, Mr. JEFFERSON, Mr. LATOURETTE, Mr. LEWIS of Georgia, Mr. BISHOP of Georgia, Mr. MENENDEZ, and Mr. CUMMINGS.

H.R. 847: Mr. FROST and Mr. EMANUEL.

H.R. 852: Mr. WEINER.

H.R. 857: Mr. WELLER, Mr. ROYCE, and Ms. LORETTA SANCHEZ of California.

H.R. 876: Mr. PITTS, Mr. GUTIERREZ, Ms. KILPATRICK, Mr. GILLMOR, Mr. OXLEY, Mr. TURNER of Ohio, Mr. SPRATT, and Mr. CASE.

H.R. 931: Mr. GIBBONS, Mr. TAYLOR of Mississippi, and Mr. QUINN.

H.R. 933: Ms. SLAUGHTER.

H.R. 944: Mr. PETERSON of Minnesota and Mr. GORDON.

H.R. 972: Mr. PETERSON of Minnesota.

H.R. 976: Ms. LEE, Mrs. CHRISTENSEN, Mr. SERRANO, Mr. KUCINICH, Mr. FRANK of Massachusetts, Ms. WATERS, Mrs. LOWEY, and Mr. HASTINGS of Florida.

H.R. 1002: Mr. WEXLER.

H.R. 1029: Mr. GEORGE MILLER of California.

H.R. 1057: Mr. BARTLETT of Maryland, Mr. POMBO, and Mr. WAMP.

H.R. 1083: Mr. CRAMER.

H.R. 1084: Mr. MURPHY.

H.R. 1117: Mr. DEMINT and Mr. TURNER of Ohio.

H.R. 1231: Mrs. BONO.

H.R. 1236: Mr. GARRETT of New Jersey.

H.R. 1267: Mr. CLAY.

H.R. 1336: Mr. BOUCHER, Mrs. MCCARTHY of New York, Ms. LOFGREN, Mr. SWEENEY, Mr. CRENSHAW, Mr. PLATTS, Mr. PUTNAM, and Mr. BRADY of Pennsylvania.

H.R. 1345: Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. LOFGREN, Mr. OBERSTAR, Mr. GORDON, Mr. HASTINGS of Florida, and Mr. FRANK of Massachusetts.

H.R. 1434: Mr. BALLANCE, Mr. BRADY of Pennsylvania, Ms. CARSON of Indiana, and Mr. BELL.

H.R. 1478: Mr. HONDA.

H.R. 1508: Mrs. MCCARTHY of New York.

H.R. 1513: Mr. TIAHRT.

H.R. 1532: Mr. WYNN, Mr. ROYCE, and Mr. RENZI.

H.R. 1563: Mr. PASCRELL and Mrs. BONO.

H.R. 1608: Mr. CALVERT and Mr. EMANUEL.

H.R. 1615: Mr. CAPUANO and Mr. SIMMONS.

H.R. 1655: Mr. FRANK of Massachusetts.

H.R. 1677: Mr. LEWIS of Georgia.

H.R. 1731: Mr. NEY, Mr. HENSARLING, Ms. SCHAKOWSKY, Mr. BURGESS, Mr. SMITH of Texas, and Mr. BAIRD.

H.R. 1736: Mr. JOHN, Mr. FROST, Ms. DELAURO, Mr. BELL, Ms. SLAUGHTER, and Mr. FILNER.

H.R. 1749: Mr. BISHOP of New York.

H.R. 1755: Mr. DEMINT.

H.R. 1758: Mr. GORDON.

H.R. 1793: Mr. AKIN.

H.R. 1918: Mr. GORDON.

H.R. 1919: Mr. MEEHAN.

H.R. 1994: Mr. ANDREWS.

H.R. 2045: Mr. SIMPSON.

H.R. 2107: Mr. RAHALL, Mr. DEUTSCH, Ms. SCHAKOWSKY, Mr. DELAHUNT, Mr. BOUCHER, and Mr. MORAN of Virginia.

H.R. 2133: Mr. DELAHUNT.

H.R. 2137: Mr. DEUTSCH.

H.R. 2198: Mr. RODRIGUEZ and Mr. WEXLER.

H.R. 2246: Mr. BAIRD, Mr. GRIJALVA, and Mr. MCINTYRE.

H.R. 2247: Ms. JACKSON-LEE of Texas, Ms. WATSON, Mr. MEEHAN, Mrs. DAVIS of California, Mr. KUCINICH, and Mrs. MALONEY.

H.R. 2262: Mr. PETERSON of Minnesota.

H.R. 2293: Mr. DEMINT, Mr. NEUGEBAUER, Mr. GINGREY, Mr. HENSARLING, Mr. FEENEY, Mr. BEAUPREZ, Mr. MILLER of Florida, Mr. WILSON of South Carolina, Mr. BRADY of Texas, Mr. JONES of North Carolina, and Mr. NORWOOD.

H.R. 2296: Mr. SOUDER.

H.R. 2318: Mr. BRADY of Pennsylvania and Mr. BURTON of Indiana.

H.R. 2387: Mr. BACHUS and Mr. DELAHUNT.

H.R. 2404: Mr. BURTON of Indiana, Mr. BARTLETT of Maryland, and Mr. EHLERS.

H.R. 2442: Mr. MCNULTY, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. LEWIS of Kentucky, Mr. WEINER, Ms. HOOLEY of Oregon, Mr. BLUMENAUER, Mr. LANTOS, Mr. SABO, Mr. ROTHMAN, Ms. NORTON, Ms. KILPATRICK, Mr. SANDERS, Mr. CUMMINGS, Mrs. LOWEY, Mr. FOLEY, Mr. MICHAUD, Ms. SLAUGHTER, Mr. OWENS, Mr. CLAY, Ms. LOFGREN, Mrs. MALONEY, Mr. CUNNINGHAM, Mr. ENGEL, Mr. RUPPERSBERGER, Mr. PLATTS, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. TOM DAVIS of Virginia, Mr. JEFFERSON, Mr. DICKS, Mr. GORDON, Mr. DINGELL, Mr. SHIMKUS, Ms. HARMAN, Mr. KLECZKA, and Mr. SHAYS.

H.R. 2490: Mr. LANTOS.

H.R. 2494: Mr. VAN HOLLEN.

H.R. 2519: Mr. BRADY of Pennsylvania.

H.R. 2527: Mrs. LOWEY.

H.R. 2540: Mr. OBERSTAR.

H.R. 2601: Mr. ANDREWS, Mr. RANGEL, and Mr. FILNER.

H.R. 2625: Mr. BERMAN and Mr. BRADY of Pennsylvania.

H.R. 2626: Mr. GORDON, Mr. OLVER, and Mr. WHITFIELD.

H.R. 2668: Mr. LEVIN.

H.R. 2700: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2708: Mrs. MALONEY.

H.R. 2711: Ms. CARSON of Indiana.

H.R. 2727: Mr. PRICE of North Carolina and Mr. GONZALEZ.

H.R. 2743: Mr. MILLER of Florida.

H.R. 2797: Mr. BURNS.

H.R. 2821: Mr. ROGERS of Kentucky.

H.R. 2851: Mr. WILSON of South Carolina.

H.R. 2852: Mr. STENHOLM.

H.R. 2866: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2928: Mr. HAYES.

H.R. 2945: Mr. ETHERIDGE and Ms. SLAUGHTER.

H.R. 2959: Mr. RYAN of Wisconsin.

H.R. 2967: Mr. SULLIVAN, Mr. ROTHMAN, Mrs. JO ANN DAVIS of Virginia, Mr. PALLONE, Mr. CARSON of Oklahoma, Mr. LATOURETTE, Mr. LEWIS of Georgia, Mr. DAVIS of Tennessee, Mr. SHERMAN, Mr. SHIMKUS, and Mr. MENENDEZ.

H.R. 2987: Ms. SCHAKOWSKY, Mr. RUSH, and Mr. FILNER.

H.R. 3039: Mr. SWEENEY.

H.R. 3049: Mr. BOUCHER, Mr. MORAN of Virginia, and Mr. OBERSTAR.

H.R. 3073: Mr. KILDEE.

H.R. 3085: Mr. NADLER and Mr. LARSEN of Washington.

H.R. 3090: Mr. FROST.

H.R. 3099: Mrs. WILSON of New Mexico.

H.R. 3103: Mr. GUTKNECHT, Mr. CAPUANO, Mr. GRIJALVA, Ms. KAPTUR, Mr. FRANK of Massachusetts, Mr. PETERSON of Minnesota, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 3111: Mr. CARDOZA, Mr. BOUCHER, Mr. GEORGE MILLER of California, Mr. SCOTT of Georgia, Ms. LORETTA SANCHEZ of California, Mrs. DAVIS of California, Mrs. JOHNSON of Connecticut, Mr. BEREUTER, Ms. DELAURO, Mr. WOLF, Mr. DICKS, Mr. HOEFFEL, Mr. HASTINGS of Florida, Mr. PRICE of North Carolina, Mr. HOUGHTON, Mr. GERLACH, Mr. PAYNE, Ms. MILLENDER-MCDONALD, Ms. HARMAN, Mr. SANDERS, Mr. COSTELLO, Mr. FRANK of Massachusetts, and Mr. OWENS.

H.R. 3173: Mr. GRIJALVA.

H.R. 3238: Mr. LEWIS of Georgia.

H.R. 3246: Mr. ALEXANDER, Mr. COLE, Mr. REHBERG, Mr. BONILLA, Mr. BOUCHER, Mr. GORDON, Mr. BAKER, and Mr. MCINTYRE.

H.R. 3266: Mr. SMITH of Michigan.

H.R. 3270: Mr. MCCOTTER and Mr. SHAYS.

H.R. 3324: Mr. FRANK of Massachusetts and Mr. KLECZKA.

H.R. 3344: Mr. JENKINS, Mr. COSTELLO, Mr. HASTINGS of Florida, Mr. SPRATT, Mr. FATTAH, and Mr. FRANK of Massachusetts.

H.R. 3359: Mr. HINCHEY and Mr. OWENS.

H.R. 3360: Mr. MCDERMOTT.

H.R. 3361: Mr. FARR and Mr. NADLER.

H.R. 3377: Mr. OWENS.

H.R. 3378: Mr. FRANK of Massachusetts, Mr. OLVER, Ms. BORDALLO, Mr. SAXTON, Mr. MARKEY, Ms. MCCOLLUM, and Mr. DEUTSCH.

H.R. 3424: Mr. NADLER, Mr. HOEFFEL, Mr. SCOTT of Georgia, Ms. JACKSON-LEE of Texas, and Mr. DOGGETT.

H.R. 3425: Mr. UDALL of New Mexico and Mr. NADLER.

H.R. 3432: Mr. GORDON.

H.R. 3438: Mr. MICHAUD, Mr. GOSS, Mr. CLAY, and Mr. BISHOP of Georgia.

H.R. 3449: Ms. WATSON.

H.R. 3450: Mr. BOUCHER and Mr. SCHIFF.

H.R. 3473: Mr. GONZALEZ, Mr. BELL, Mr. GARY G. MILLER of California, and Mr. WEINER.

H.R. 3474: Mrs. NAPOLITANO, Mr. BURGESS, Mr. BILIRAKIS, Mr. RENZI, Mr. SOUDER, Mr. MOORE, Mrs. MUSGRAVE, Mr. BARTLETT of Maryland, Mr. CHANDLER, Mr. HERGER, and Mr. DAVIS of Tennessee.

H.R. 3484: Mr. FERGUSON.

H.R. 3527: Mr. SPRATT.

H.R. 3550: Mr. ORTIZ.

H.R. 3572: Ms. KILPATRICK, Ms. NORTON, and Ms. MILLENDER-MCDONALD.

H.R. 3574: Mr. PEARCE, Mr. ENGLISH, Ms. HARMAN, Mr. BACHUS, and Mr. HERGER.

H.R. 3579: Mr. PAUL, Mr. BOEHLERT, Mr. HINCHEY, Ms. WATERS, Ms. LEE, Mr. ANDREWS, Mr. FILNER, Ms. NORTON, and Mr. OTTER.

H.R. 3582: Mr. BOUCHER.

H.R. 3622: Mr. FATTAH.

H.R. 3635: Ms. MAJETTE, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. CLAY, Mr. WATT, Ms. LEE, Mr. OWENS, Mr. PAYNE, Mr. LEWIS of Georgia, Ms. JACKSON-LEE of Texas, Mr. DAVIS of Illinois, Ms. CARSON of Indiana, Mr. FATTAH, Ms. WATSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RUSH, Mr. TOWNS, and Mr. WYNN.

H.R. 3672: Mr. JACKSON of Illinois, Mr. LARSON of Connecticut, Mr. CONYERS, Ms. ROYBAL-ALLARD, Mr. POMEROY, Mr. WYNN, Mr. LARSEN of Washington, Ms. DELAURO, Mr. LAMPSON, Mr. KENNEDY of Rhode Island, Mr. COSTELLO, Mr. CLAY, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Ms. BERKLEY, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. BOUCHER, Mr. SNYDER, Mr. MARSHALL, Mr. FILNER, Mr. MOLLOHAN, Mr. SKELTON, Ms. HOOLEY of Oregon, Mr. MCGOVERN, Mr. ABERCROMBIE, Mrs. CHRISTENSEN, Ms. BALDWIN, and Ms. DEGETTE.

H.R. 3673: Ms. CARSON of Indiana, Mr. RAHALL, Mr. DEUTSCH, Mr. CONYERS, Mr. KUCINICH, Mr. ROTHMAN, and Mr. CUMMINGS.

H.R. 3695: Mr. PASCRELL.

H.R. 3712: Mr. CASE, Mr. OWENS, Mr. STARK, Ms. BORDALLO, Mr. MCINTYRE, and Mr. ACEVEDO-VILÁ.

H.R. 3717: Mr. WICKER, Mr. COLE, Mr. CRAMER, Mr. WELDON of Florida, Mr. PRICE of North Carolina, Mr. BRADLEY of New Hampshire, Mr. HASTINGS of Washington, Mr. MILLER of Florida, Mr. BOOZMAN, Mr. HOLDEN, Mr. KIRK, Mr. HALL, Ms. MAJETTE, Mr. PUTNAM, Mr. LATOURETTE, Mr. WAMP, Mr. ADERHOLT, Mr. MURPHY, Mr. SESSIONS, Mr. WILSON of South Carolina, Mr. BONNER, Mr. SMITH of New Jersey, and Ms. ROYBAL-ALLARD.

H.R. 3719: Mrs. JONES of Ohio, Mr. UDALL of Colorado, Mr. WU, Mr. MATSUI, Mr. HASTINGS of Florida, Mr. ENGEL, Ms. JACKSON-LEE of Texas, Ms. SCHAKOWSKY, Mr. FRANK of Massachusetts, Mr. BLUMENAUER, Mr. HINCHEY, Ms. ROYBAL-ALLARD, Mr. MEEKS of New York, Mrs. LOWEY, Mrs. MCCARTHY of New York, and Mr. OWENS.

H.R. 3721: Mr. RAHALL, Mr. OSBORNE, Mrs. WILSON of New Mexico, Mr. MATHESON, and Mr. BURNS.

H.R. 3729: Mr. ACKERMAN, Mr. RANGEL, Mr. FROST, Mr. PALLONE, and Ms. MILLENDER-MCDONALD.

H.R. 3731: Mr. BRADLEY of New Hampshire, Mr. HASTINGS of Florida, Mr. RODRIGUEZ, Ms. DELAURO, Ms. CORRINE BROWN of Florida, Ms. LOFGREN, and Mr. BLUMENAUER.

H.R. 3734: Mr. FALEOMAVAEGA, Mr. OXLEY, Mr. PETERSON of Pennsylvania, Mr. DUNCAN, Mr. CANTOR, and Mr. OSBORNE.

H.R. 3741: Mr. KIND.

H.R. 3743: Mr. LUCAS of Kentucky and Mr. STRICKLAND.

H.R. 3755: Mr. WILSON of South Carolina, Mr. MILLER of Florida, Mr. MICHAUD, Mr. BACHUS, Mr. LEWIS of Georgia, Mr. BISHOP of Georgia, and Ms. MAJETTE.

H.R. 3763: Ms. HARRIS, Mr. RENZI, Mr. GONZALEZ, Mr. PLATTS, Mr. HOYER, Mr. WALDEN of Oregon, Mr. WOLF, Mr. HINOJOSA, Mr. SHIMKUS, Mr. YOUNG of Alaska, Mr. PAYNE, and Mr. GREEN of Texas.

H.R. 3771: Mr. FARR.

H.R. 3778: Mr. SHUSTER, Mr. ENGLISH, and Mr. HOLDEN.

H.R. 3780: Mr. MCGOVERN, Mr. BLUMENAUER, and Mr. FILNER.

H.R. 3787: Mr. BALLENGER, Mr. SMITH of Michigan, Mr. UDALL of Colorado, and Mr. HILL.

H.R. 3791: Mrs. MUSGRAVE and Mr. VITTER.

H.R. 3795: Mr. Case, Mr. RODRIGUEZ, Mr. PAUL, Mr. MCHUGH, and Mr. COSTELLO.

H.R. 3799: Mr. KINGSTON, Mr. PITTS, Mr. BACHUS, Mr. CRAMER, Mr. EVERETT, and Mr. ROGERS of Alabama.

H.R. 3800: Mr. SOUDER and Mr. CRANE.

H.R. 3806: Mr. SHIMKUS.

H.R. 3815: Mr. FRANK of Massachusetts.

H.R. 3816: Mr. SHERMAN and Mr. BOUCHER.

H.J. Res. 22: Mr. BRADLEY of New Hampshire.

H.J. Res. 56: Mrs. BLACKBURN, Mr. NUSSLE, and Mr. HEFLEY.

H.J. Res. 60: Mr. GOODE.

H. Con. Res. 15: Mr. LANTOS, Mr. SAXTON, Ms. ROS-LEHTINEN, Mr. CANTOR, and Ms. HARRIS.

H. Con. Res. 74: Mr. CONYERS.

H. Con. Res. 218: Mr. LANGEVIN and Mr. MILLER of Florida.

H. Con. Res. 241: Ms. LOFGREN.

H. Con. Res. 247: Mr. THOMPSON of California.

H. Con. Res. 275: Mr. WAXMAN.

H. Con. Res. 298: Mr. HALL, Mr. MICHAUD, Mr. MCKEON, Mr. CARDOZA, and Mr. KINGSTON.

H. Con. Res. 304: Mr. GEORGE MILLER of California and Mr. MORAN of Virginia.

H. Con. Res. 310: Mr. RAHALL.

H. Con. Res. 311: Mr. FOLEY.

H. Con. Res. 314: Mr. WEXLER.

H. Con. Res. 324: Mr. SOUDER.

H. Con. Res. 332: Mr. BURNS, Mr. NORWOOD, Mr. LEVIN, Mr. BEAUPREZ, Mr. EVANS, Mr. COX, Mr. TIBERI, Mr. RAMSTAD, Ms. SCHAKOWSKY, Ms. BERKLEY, Mr. NETHERCUTT, Mrs. MCCARTHY of New York, Mr. PLATTS, Mr. PASCRELL, Mr. ISRAEL, Mr. KNOLLENBERG, Mr. NUSSLE, Mr. HERGER, Mr. HEFLEY, Mr. EDWARDS, Mr. BURR, Mr. CANTOR, Mr. WELLER, Mr. CROWLEY, Mr. TURNER of Texas, Mr. GARRETT of New Jersey, Mr. PENCE, Mr. MCHUGH, Mr. KENNEDY of Minnesota, and Mr. AKIN.

H. Con. Res. 343: Mr. VAN HOLLEN.

H. Res. 28: Mr. EVANS, Mrs. MALONEY, Mr. MCNULTY, and Mr. GERLACH.

H. Res. 60: Mr. SHAYS.

H. Res. 103: Mr. SPRATT and Mr. KIND.

H. Res. 140: Mr. TOOMEY and Mr. TIBERI.

H. Res. 389: Mr. FATTAH, Mr. HASTINGS of Florida, Mr. MENENDEZ, and Mr. HOYER.

H. Res. 402: Mr. MOORE.

H. Res. 466: Ms. HARRIS, Mr. LEVIN, Mr. GREEN of Texas, Mrs. CAPPS, and Mr. KUCINICH.

H. Res. 485: Mr. BRADY of Pennsylvania, Mr. CLAY, and Mr. FILNER.

H. Res. 500: Mr. DAVIS of Tennessee and Mr. SMITH of Texas.

H. Res. 510: Mr. FILNER.

H. Res. 514: Mr. ABERCROMBIE.

H. Res. 522: Ms. ESHOO, Ms. WATSON, Ms. CARSON of Indiana, Ms. DELAURO, Mr. JOHN, Mr. ROTHMAN, Ms. BORDALLO, Mr. PAYNE, Mr. MEEKS of New York, Mr. FOLEY, Mr. FROST, Mr. VAN HOLLEN, Mr. GRIJALVA, Mr. ABERCROMBIE, Mr. STARK, Mr. OWENS, and Mr. JENKINS.

H. Res. 524: Mr. GEORGE MILLER of California, Mr. EMANUEL, Mr. HASTINGS of Florida, Mr. GREEN of Wisconsin, Mr. BARTLETT of Maryland, Ms. KAPTUR, Mr. LANTOS, Mr. EVANS, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Ms. MCCARTHY of Missouri, Mr. UDALL of Colorado, Mr. FROST, Mr. FRANK of Massachusetts, Mr. BAIRD, and Mr. CUNNINGHAM.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII. sponsors were deleted from public bills and resolutions as follows:

H.R. 3473: Ms. CORRINE BROWN of Florida.

EXTENSIONS OF REMARKS

DENTON FIRE DEPARTMENT AWARDS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the Denton Fire Department for their nominations of their department employees. For 130 years this fire department has fought to save the lives of citizens of the Denton area. This fire department has 122 firefighters and officers, eight 911 dispatchers, and one RSVP volunteer. It is not the equipment in these stations that makes Denton a safer place; it is the personnel that are hard at work to keep this community safe.

The philosophy of the fire department is that prevention is key to reducing the fire loss of our city. This department is able to maintain its high standards by acting towards arising situations and regulations. These firefighters take a proactive approach of educating citizens about fire safety and life safety through CPR classes and first aid classes. Even with programs in place, the Denton Fire Department strives to continue improvement in the quality of service provided to citizens by aggressively training officers in all areas of expertise. All of our fire department's continuing education programs exceed requirements suggested by the Texas Department of Health. This is proof that our firefighters are above average.

The individuals who work at the Denton County Fire Department are to be commended for their achievements in this past year. Without dedicated individuals the Denton County Fire Department would not serve at the high level it does. Brad Fuller, Brad Lahart, and Mike Tucker received Meritorious Service awards for their hard work and dedication of going beyond the normal job requirements to serve the Denton area. Also, Tim Tarlton's Crew at Station 3 "B" Shift has been awarded the Community Service Award for their methods of getting the message to children about fire safety in public schools. Likewise, Lisa Parker, who serves the Denton Fire Department with a cheerful personality and a positive attitude, has been awarded the EMS Excellence award. Furthermore, Jeff Knoles has been awarded special recognition for serving the Denton community in dual roles as a firefighter and paramedic since 1999.

The fire administration provides the leadership, vision and resources that our personnel need to provide the highest quality service to our citizens. The city staff and fire department employees coordinate efforts to maintain the quality of safety necessary for a city of Denton's size.

Firefighters are a necessary part of public life. Like in any other part of life, there are those who deserve special recognition. The individuals honored here today are some of those individuals.

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CONGRATULATING THE EXPORT-IMPORT BANK ON ITS 70TH ANNIVERSARY

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. OXLEY. Mr. Speaker, today I want to help observe a landmark anniversary for an institution that sustains the jobs of thousands of Americans. February 12, 2004, marked the 70th anniversary of the Export-Import Bank, the official export credit agency of the United States. The Bank will have a celebration of this anniversary in the near future. The Export-Import Bank is an independent U.S. Government agency that creates and sustains American jobs by providing direct loans to buyers of U.S. exports, guarantees to commercial loans to buyers of U.S. products, and insurance products which greatly benefit short-term small business sales.

In an ideal world, export contracts would be won or lost on the basis of the cost and quality of the products being sold. However, as long as foreign export credit agencies provide concessionary financing to companies from their countries, the Export-Import Bank of the United States must "level the playing field" by protecting American exporters. The Export-Import Bank fills the necessary role of creating and sustaining American jobs here in the United States, where they are sorely needed.

Since its founding in 1934, the Export-Import Bank has supported over $330 billion of U.S. exports from businesses large and small. In FY 2003, it supported $14.3 billion in exports. Currently, about 85 percent of Export-Import transactions directly benefit small businesses. This amounts to almost 20 percent of the Bank's financings.

The Export-Import Bank Reauthorization Act was signed into law on June 14, 2002 (Public Law No. 107–189). This Act reauthorized the Export-Import Bank through 2006 and made other appropriate changes to the charter of the Bank. The House Financial Services Committee continues to conduct oversight over the implementation of this Act.

Again, I extend my congratulations to the Export-Import Bank on its 70th anniversary.

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TRIBUTE TO THE NATIVITY OF OUR SAVIOR CHURCH IN PORTAGE, IN, DURING THEIR 40TH ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and enthusiasm that I congratulate the Nativity of Our Savior Church in Portage, IN, as they celebrate their 40th anniversary. During the weekend of September 11, 2004, and September 12, 2004, the Nativity of Our Savior Church will be celebrating their anniversary with an Anniversary Celebration Mass and an All-Parish Anniversary Celebration Family Picnic.

The Catholic faith began in Portage in the 1600's with early settlers and French trappers, and they named the area "New France." In 1882, Joseph Bailly, one of those early settlers, established a trading post which he called "Bailly-Town." This area included a chapel for his family as well as other nearby villagers to worship in. During the early 1960's, the Diocese of Gary purchased the land that is now the Nativity Parish and School.

As the population grew in Portage, Bishop Andrew Grutka along with other parish members, established a larger church, which was called "The Chapel on the Mall" because it was located at the north end of the Portage Shopping Mall. In 1964, this 10′ by 50′ drive-in church was visited by over 450 cars at each Sunday mass. It was in July 1965 that the Nativity of Our Savior Church was officially established with Father Joseph Till as its first pastor. On October 31, 1965, during the Feast of Christ the King, Nativity of Our Savior became a permanent church and it was formally dedicated by Bishop Grutka on Saturday, March 12, 1966.

In September 1975, the Nativity School opened its doors to 95 students in its first year. Since the founding of the Nativity of Our Savior Church in 1964 and the opening of the school in 1975, there have been many influential pastors who have led the congregation. These include: Father Joseph Till, Father William Spranger, Monsignor Carl Mengeling, Monsignor John Morales, Father John Scott, Father Patrick Kalich, and currently Father Walter Rakoczy. Today, the Nativity of Our Savior Church has over 2,200 registered families, over 200 students in their parish school, and over 600 students in their religious education program.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in honoring and congratulating the Nativity of Our Savior Church on their 40th anniversary. They have provided support and guidance for all those in the Portage community, and will continue to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

serve their community through their selfless dedication and commitment.

TRIBUTE TO ELBIE J. HICKAMBOTTOM, SR.

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. SCHIFF. Mr. Speaker, I rise today in solemn remembrance of Elbie J. Hickambottom, Sr., who passed away on the evening of December 31, 2003.

Elbie Hickambottom began his life in Okmulgee, OK, in 1924. In 1925 his family moved to Pasadena, CA, where he grew up and attended Pasadena public schools. As a young adult he attended Pasadena City College and though his education was interrupted by his service in the military, he continued his academic pursuits at USC and completed his BA degree from the University of Omaha.

Mr. Hickambottom served in the U.S. Army during World War II and at 19 years old was one of the youngest first sergeants in Europe. He was recalled by the Army during the Korean war and commissioned as a second lieutenant. After 20 years of distinguished service, he retired in 1967 with the rank of major. During his career, he was awarded many decorations including twice receiving the Medal for Outstanding Service and three times the Army Commendation Medal. Elbie was a past commander of the Pasadena chapter of the Military Order of the World Wars and a recipient of the Pasadena Chamber of Commerce Patriot of the Year Award.

After Elbie's military retirement, he joined the Pasadena Redevelopment Agency in 1967 where he served as director of Relocation and Property Management, managing programs that assisted displaced families and small businesses. He subsequently worked as senior vice president of Municipal Services, Inc. a private redevelopment consulting firm from which he retired in 1985.

In 1979 Mr. Hickambottom was elected to the Pasadena Unified School District Board of Education, where he served until he retired from the board in 1994. A champion for excellence in education and a strong voice for improving academic achievement for all students, particularly for disadvantaged and minority students, Elbie was often the conscience of the school board. He was an active member of the California Coalition of Black School Board Members, where his tenure included holding office on the Executive Board.

A dedicated community volunteer, Elbie participated in many organizations, including the NAACP, the Pasadena Educational Foundation, Young and Healthy, the Pasadena Commission on Children and Youth, Project Day, ROTC, and various other civic groups.

Elbie is survived by his wife of 52 years, Dolores, his children, Ann Marie, Elbie Jr., Leslie and John, sisters Verdia Arnold and Wilmer Lane, niece Robin Foster, sister-in-law Agnes Brumfield, two brothers-in-law, Joseph Arceneaux and Oscar Dupre II, and many other nieces, nephews, cousins, and beloved friends.

I would like to convey my deepest sympathies to Elbie's family and friends, as well as extend my heartfelt thanks for his many contributions to the community. Elbie J. Hickambottom, Sr., will be missed by all who knew him.

KRISTY WICKLIFF AND E9-1-1 INSTITUTE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. BURGESS. Mr. Speaker, I rise today to commend the efforts made by the Enhanced 9–1–1 Institute for their lasting efforts to improve our Nation's 9–1–1 system. The E9–1–1 Institute is committed to educating and informing citizens of the vital role the 9–1–1 service plays in our communities. Since 1968, 9–1–1 has been a means in which to report emergencies. Today, 9–1–1 is a key component to saving lives and property.

The E9–1–1 Institute has included every level of government, corporations large and small in addition to government policy makers, to convey the significance of the 9–1–1 service to all Americans. The institute continues to work very hard to show that every citizen of this country plays a vital role in making this system successful.

The outstanding efforts of E9–1–1 are most evident in a recent event in my district. I am honored to acknowledge Kristy Wickliff a resident of Southlake, Texas, who is being honored by the E9–1–1 Institute for the heroic act of saving her father's life in April of 2003. Kristy, age five at the time, successfully called 9–1–1 and then proceeded to the medicine cabinet where she was able to obtain and administer medication to her father while he was suffering from diabetic shock. Miss Wickliff will receive the Enhanced 9–1–1 Institute's "Citizen in Action" Award on Tuesday, February 24, 2004.

If it were not for the E9–1–1 Institute's dedication to improving the 9–1–1 system or their commitment to education, our ability to save lives and property would be greatly hindered by a lack of communication.

The 9–1–1 service is a necessary part of our daily lives. Like those who have used the service in a time of crisis, the individuals who work to make 9–1–1 a better system deserve to be honored.

CAMPAIGN FINANCE REFORM

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. OXLEY. Mr. Speaker, during the lengthy debate over campaign finance reform, some of us warned that appearances can be deceiving. The McCain-Feingold bill was supposed to empower ordinary voters, who were evidently thought incapable of exercising their own reason during election campaigns. The power shift has actually been to the unelected media and unaccountable special interest groups, mostly liberal, who have concentrated their control over what voters see and hear. Other voices have been muzzled, which is why U.S. Supreme Court Justice Antonin Scalia called the failure to strike down the law "a sad day for freedom of speech."

I commend to your attention this George Will column published in the Washington Post on February 22.

RENDERING POLITICS SPEECHLESS

(By George F. Will)

Two years ago President Bush, who had called it unconstitutional, signed the McCain-Feingold bill—furtively, at 8 a.m. in the Oval Office. The law expanded government restrictions on political speech, ostensibly to combat corruption or the "appearance" thereof. Bush probably signed it partly because the White House, thinking corruptly or appearing to do so, saw reelection advantage in this fiddling with the First Amendment.

And partly because the nation's newspaper editorial writers nearly unanimous in praise of McCain-Feingold. The editorialists' advocacy of McCain-Feingold could appear corrupt: The bill increases the political influence of unregulated newspaper editorializing relative to increasingly restricted rival voices (parties, candidates and their financial supporters).

Last December the Supreme Court found no serious constitutional infirmity in the law because, although the Constitution says Congress shall make "no law" abridging freedom of speech, Congress has broad latitude to combat corruption or its appearance. There is the appearance of corruption when a legislator's views attract contributions from like-minded people, and then he acts in accordance with his and their views.

Today McCain-Feingold itself does not just appear to be corrupting. It is demonstrably and comprehensively so.

Most campaign money is spent on speech—disseminating ideas, primarily by broadcasting. McCain-Feingold's stated premise was that there is "too much" money in politics—hence, it follows, too much speech. McCain-Feingold's prudently unstated premise was that legislators know—and should legislate—the correct quantity of speech about themselves, the proper times for it and certain restrictions on the content of it.

Such legislating may not be corrupt, but it might appear so. And appearances are the essence of ethics, as understood by Washington's ethics industry.

Perhaps the White House embraced McCain-Feingold because it doubled to $2,000 the permissible ceiling on "hard money" contributions crucial to the president's reelection campaign. Also, Republican national committees do better than their Democratic counterparts at raising smaller hard-dollar contributions.

Supposedly, the principal purpose of McCain-Feingold was to ban large "soft money" contributions to the parties ostensibly for "party-building" purposes. The delusional assumption of many McCain-Feingold enthusiasts was that when such contributions were banned, the people who had been eager to exert political influence by such contributions would say "Oh, well" and spend their money instead on high-definition televisions. Or something.

Actually, McCain-Feingold was moral grandstanding by many liberals who had no intention of abiding by its spirit—or its letter, for that matter—any more than they had abided by existing campaign finance law. To compensate for Republican advantages in raising strictly limited hard dollars, Democrats quickly formed a slew of committees technically disconnected from the party but allowed to receive unlimited soft dollars.

Allowed, that is, as long as the committees do not spend money "for the purpose of influencing any election for federal office." Under McCain-Feingold, and for 30 years before it, entities that raise and spend money for that purpose are subject to hard-dollar limits.

McCain-Feingold's ban on large soft-money contributions to political parties has spawned many groups, mostly liberal ones, to receive and spend such contributions as surrogates for the parties—groups such as America Coming Together. Ellen Malcolm, ACT's president, says her group aims to increase voter turnout in 17 states crucial to the presidential election in order "to beat George Bush."

It appears that she intends to influence a federal election. Nothing wrong with that. Citizens are supposed to do that. But liberals have been the prime movers in enacting laws against doing so with soft money, which organizations such as ACT exist to receive.

ACT says it "will coordinate with progressive organizations." But it had better not coordinate with the Democratic Party or candidates. There would be nothing morally wrong with such coordination. It should be a fundamental right—indeed, a civic virtue—for groups such as ACT to coordinate with like-minded political parties. But "coordination" is criminal under McCain-Feingold.

House Republicans are now trying to subpoena records of these Democratic groups, clearly hoping to have a chilling effect on them. This is disgusting—but Democrats deserve it because they have entangled America's core liberty, political speech, in an ever-thickening web of regulations they now are evading.

On Wednesday the Federal Election Commission, which is now in charge of deciding what speech is legal under McCain-Feingold and Supreme Court ambiguities, issued a ruling—many more to follow—of exquisite opacity. The chairman of the Republican National Committee said it "effectively shuts down" groups such as ACT and others. A spokesman for ACT cheerily said the group would continue "to operate robustly and effectively." It is a constitutional obscenity that no one now knows—or, pending many more FEC and court rulings, can know—what political speech is legal in this nation where the First Amendment is no longer even pertinent to protecting such speech.

TRIBUTE TO THE ACCOMPLISHMENTS OF THE BOYS & GIRLS CLUBS OF NORTHWEST INDIANA THROUGHOUT ITS 50 YEARS OF SERVICE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you today to recognize the many accomplishments of the Boys & Girls Clubs of Northwest Indiana throughout its 50 years of service to the Northwest Indiana community. As the citizens of Lake County, Indiana celebrate the 50th Year Jubilee of the Boys & Girls Clubs of Northwest Indiana, we are reminded of the dedication and valiant efforts that have been made to incorporate education and community leadership in the region.

Boys & Girls Clubs of Northwest Indiana began in the early 1950's when Mr. Paul Guist, Mr. Sid Holub, Mr. Robert Salvaggi and several other Gary businessmen decided that the children of Gary needed a place to go, complete with worthwhile activities, to help keep kids from spending time on street corners. Their efforts led to the incorporation of the Steel City Boys Club of Gary, Indiana on August 17, 1954.

The Boys Club was incorporated in 1954 when it operated in the hallways, auditorium, gymnasium and one room in the old Beveridge School in Tolleston. Its official name became Steel City Boys Club. In 1956, another club opened in the Webster School Gym located in Glen Park. This was the year that the organization also became a United Way Agency. An additional club eventually moved into the basement of the Assyrian Church where it remained until a permanent location at 7th and Adams was established through the efforts of Mr. John Will Anderson of the Anderson Company. Through Mr. Anderson's gift, the Old Moose Lodge building at 7th and Adams was purchased in 1965. Mr. Anderson and the Anderson Company donated the money and manpower to see that the building was completely renovated and ready for operation in October, 1967. The New Boys Club facility officially opened on October 23, 1967, appropriately dedicated as the John Will Anderson Boys Club.

Another Boys Club was opened in 1969 in the Salesian Prep School in Cedar Lake, and in November, 1976 that club moved to West 133rd Avenue. In 1982, the new Cedar Lake Club was built on Fairbanks Street where it remains today. In 1973, Katherine House and the East Chicago Boys Club merged to form the East Chicago-Katherine House Boys Club and became a unit of the Steel City Boys Club organization. In 1976, the John Will Anderson Club moved to the former Young Men's Christian Association building on 5th Avenue in Gary where it remains today. In 1977, the Steel City Boys Club corporate name was changed to the Boys Clubs of Northwest Indiana. In March of 1979, the Hammond Boys Club was established in the Miller School of Hessville, and today a new building built in 1994 proudly stands on Calumet Avenue. The Lake Station Club was opened in July of 2001.

In 1988, Boys Clubs of Northwest Indiana officially changed its name to Boys & Girls Clubs of Northwest Indiana—as girls were recognized as official club members. In spite of the Boys & Girls Clubs of Northwest Indiana's growth and changes, their philosophy has never changed—to inspire and enable all young people, especially those from disadvantaged circumstances, to realize their full potential as productive, responsible and caring citizens.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in honoring and congratulating the Boys & Girls Clubs of Northwest Indiana, as well as its staff and community leaders on their 50th anniversary. Their many great accomplishments and service to Lake County, Indiana will forever be cherished and commended.

COMMEMORATING BLACK HISTORY MONTH

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. SCHIFF. Mr. Speaker, as we celebrate Black History Month, I rise to pay tribute to the extraordinary African-American men and women, past and present, who have shaped the rich history of our Nation.

The month of February has been designated as Black History Month to celebrate the remarkable accomplishments of African-Americans throughout history. This year's national theme, "Brown v. Board of Education: 50th Anniversary," commemorates the historic Supreme Court decision declaring that segregation had no place in the laws of a free republic.

Over 50 years ago, in the Midwest town of Topeka, KS, a little girl named Linda Brown rode a bus 5 miles to school each day even though a public school was located only four blocks from her house. The school was not full and the little girl met all of the requirements to attend—except for the color of her skin. It is hard to imagine that merely 50 years ago, public schools across our country were deeply segregated.

A team of brave lawyers from the NAACP would later appear before the Supreme Court to demand the justice contained within our founding principles—to demand equality for young Linda Brown and for all who had been denied the basic right of equality for far too long.

On May 17, 1954, the United States Supreme Court spoke unanimously and with great clarity when it declared that "separate educational facilities are inherently unequal." This decision continues to have an impact on our country today. Just last year, the Supreme Court upheld the core principles of Brown v. Board when it ruled that maintaining diversity in higher education is a compelling governmental interest. I was pleased to join other Members of Congress in filing an amicus brief with the Court expressing our belief that democratic values are enhanced by the interaction between students of diverse backgrounds and indicating our full support for the efforts of universities to create a more vibrant and enriching learning environment.

The decision in Brown v. Board would also forever change the landscape of the struggle for racial justice and equality in the United States and demonstrate the ability of individuals to effect true change. The congressional district that I represent can certainly recognize the ability of individuals to break through color barriers. Growing up in Pasadena in the early to mid–1900s, a young man named Jackie Robinson was an all-around athlete that would later change the sports world. Robinson won letters in football, baseball, basketball, and track at Pasadena's Muir Technical High School and Pasadena Junior College. Soon after, he would become the first athlete at UCLA to play on four varsity teams.

On April 15, 1947, Jackie Robinson would take the field to play for the Brooklyn Dodgers—a pioneer as the first African-American to play major league baseball. Robinson not only opened the door to pro sports for other African-American athletes, but his remarkable accomplishment would help chip away at prejudices in the minds of Americans and jumpstart the process of dismantling existing barriers throughout our society.

In this month of February, let us not only celebrate the accomplishments of those brave Americans who fought for racial justice, but let us work to keep their vision alive by continuing to break down barriers that exist and working to ensure equality of opportunity for all Americans.

GAYLORD ENTERTAINMENT

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Gaylord Entertainment on their successful completion of the marvelous new Gaylord Texan Resort and Convention Center on Lake Grapevine ideally located in Grapevine, TX. The Gaylord Texan Resort and Convention Center will be tremendous venue for performances by local and national entertainers.

The Gaylord Texan will bring more economic stability to an already growing local economy with its creation of 1,300 new jobs and an estimated $23 million in spending annually. The Gaylord Texan team has certainly set high standards for which other businesses will aspire.

Gaylord Entertainment has paired up with the city of Grapevine's Convention and Visitors Bureau and other local businesses to ensure a better quality of life for area residents, and a memorable visit for all those who pass through the front door. Whether it is to enjoy the scenic view of Lake Grapevine, an evening of dining and entertainment or to attend a business seminar, the Gaylord Texan is sure to meet the needs of its visitors.

For many years to come, the Gaylord Texan Resort and Convention Center will receive the international spotlight for its state of the art entertainment facilities, 1,511 guest rooms, relaxing atmosphere, beautiful scenery, and a wide variety of activities to choose from.

We congratulate the efforts made by Gaylord Entertainment for the creation of this spectacular new facility. Best wishes to all who are involved and best of luck in future endeavors. In addition, we add our congratulations on having March 2, 2004, Texas Independence Day also named "Gaylord Appreciation Day" in Texas.

FLORALBA DEL MONTE, FIRST LADY OF DOMINICAN CLASSICAL MUSIC—A SALUTE ON HER 75TH BIRTHDAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. RANGEL. Mr. Speaker, I rise today to salute Dominican concert pianist and piano teacher Floralba Del Monte, the "First Lady of Dominican Classical Music," who has just celebrated her 75th birthday, and who this year also celebrates several professional anniversaries: The 55th anniversary of her debut in the United States at Carnegie Hall; the 50th anniversary of her graduation from the Paris Conservatoire; the 45th anniversary of her appointment to the Piano Faculty at the Santo Domingo National Conservatoire of Music; the 53rd anniversary of her U.S. network television debut on CBS; and the 52nd anniversary of her debut in Washington, DC, at the Dominican Embassy.

Floralba Del Monte was the first Dominican concert pianist who performed in North America, and the first Dominican performer who appeared at world-famous Carnegie Hall in New York, making her professional and U.S. debuts there on June 14th, 1949, performing on this recital the U.S. premiere of the "Sambumbia" or Dominican Rhapsody for Piano by Dominican composer Juan Francisco García, "Father of Dominican Music." In the late 1940s and the early 1950s, she was the first Dominican classical musician who professionally appeared at several of the most prestigious concert halls in New York City, including Carnegie Hall, Town Hall, Steinway Hall, Kauffmann Auditorium and Labor Temple Concert Hall; at important venues such as the International School of Arts, American Women's Union, Fun & Fine Arts Club and the Women's Club of New York; on radio stations and television networks such as NBC, CBS, The Voice of America, WNYC, and WLIB; and at distinguished residences in New York City, performances in which several Dominican piano works were performed for the first time in the U.S. These acclaimed performances established Floralba Del Monte on New York's classical music scene and social circles of the 1950s, the first Dominican performer to make a name for herself in New York.

Floralba Del Monte was the first Dominican performer to appear on U.S. network television, making her debut on CBS on October 1, 1951 as one of the selected artists invited to appear on the Arthur Godfrey Show special that inaugurated coast-to-coast television broadcasting in the United States. During this broadcast, she performed the world première of her own arrangement for three pianos of the popular "Malagueña" by Ernesto Lecuona, starring as the First Piano of the Pan-American Piano Trio. This piano trio was founded by Floralba Del Monte in New York, and made its world début on that historic night, with Del Monte, Peruvian pianist Elvira Román and U.S. pianist Dolores Layko representing the three Americas—Central, South, and North.

Floralba Del Monte was the first Dominican performer who performed in the Nation's Capital, making her debut there on May 16, 1952, in a gala recital at the Dominican Embassy, and giving another recital at the Pan-American Union, in which she offered the Washington, DC, premieres of several Dominican piano works.

Floralba Del Monte is recognized as a pianist of exceptional interpretative force, holding a unique place in the Dominican Republic that consecrates her as one of the most revered Dominican artistic figures in Dominican history. In the Dominican Republic, as the concert pianist of most important legacy, and as the music educator of most influential pedagogical work, her artistic legacy that spans five decades of unprecedented achievements, includes: Performing the Dominican, North American, and European premieres of the most important and difficult piano works of Dominican music literature, distinguishing herself for her fervent patriotism, including Dominican piano works on her appearances in her country and abroad; being the first performer invited by the Dominican Government to give a concert tour in the country; being the mentor of the most important school of piano ever created in the Dominican Republic, a school comprising several generations of accomplished pianists, including winners of international music competitions, whom she taught during a distinguished tenure of more than 40 years as a Piano Faculty member at the Santo Domingo Conservatoire; and being director of the Santo Domingo Conservatoire, whose recently completed tenure of more than a decade is already regarded as the Golden Age of that preeminent Dominican institution. This legacy, deservingly consecrates Floralba Del Monte as the unrivaled "First Lady of Dominican Classical Music."

"SWEET AND SOUR SUBSIDIES"

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, trying to decide what is the greatest hypocrisy in politics is a hard job, but I believe that by sheer dollar volume the support of many who call themselves free market conservatives for the leading aspects of America's agricultural policy qualifies for the prize.

Few areas in public policy in this country are as heavily subsidized by the taxpayers, rigged against consumers, blatantly unfair to poor people in other parts of the world, and contemptuous of the whole notion of competition and free enterprise as American agriculture policy in various of its aspects.

I am frequently puzzled to hear many who declaim their staunch allegiance to free trade, low taxes, no government intervention in the economy, the free market, and unmitigated competition make an implicit exception when the subject is corn, cotton, wheat, peanuts, sugar, or other commodities. Apparently, there are people who believe that the works of Ludwig von Mises and Friedrich Hayek contain an invisible footnote that says that none of this applies to agriculture.

In the February 12 Washington Post, just before we went on our mid-winter break, George Will documented the blatant inconsistency with regard to the sugar program of the U.S., noting correctly that it has once again contributed to the demise of jobs in the United States by people who had been manufacturing candy. I disagree with much of Mr. Will's conservative approach to economic matters, so I do not agree therefore with everything he says in this column. But I salute his intellectual honesty in urging that the conservative economic principles he professes be applied across the board, without the exception for agriculture made by so many others who claim to be his conservative confreres.

[From the Washington Post, Feb. 12, 2004]

SWEET AND SOUR SUBSIDIES

(By George Will)

Saturday, Valentine's Day, sweets will be showered on sweethearts—a bonanza for candymakers. But the very next day all 242 Fannie May and Fanny Farmer chocolate candy stores will be closed.

They and many jobs—625 of them at the firm's 75-year-old Chicago manufacturing plant—are, in part, casualties of that outdated facility, bad business decisions, and high U.S. labor and other costs. But jobs in America's candy industry also are jeopardized by protectionism, which is always advertised as job protection. In this case, the protectionism is an agriculture subsidy—sugar import quotas.

Chicago is no longer Carl Sandburg's wheat stacker and hog butcher, but it remains America's candy capital, home of Tootsie Rolls and many other treats. In 1970, employment by the city's candy manufacturers was 15,000. Today it is under 8,000, and falling.

Alpine Confections Inc. of Utah has bought Fannie May and Fanny Farmer and may continue some products. This is partly because the price of sugar is less important in soft chocolates than in hard candies.

But the end of 2003 brought the end of Brach's production of hard candy on the city's West Side. A decade ago, Brach's employed about 2,300 people. Until recently, many of the remaining Teamster jobs paid $19 an hour. Many signs in the abandoned Chicago facility were in Spanish, Polish and Greek for the immigrant workforce, most of whose jobs have gone to Mexico. Labor is cheaper there, but so is 92 percent of the raw material for hard candy—sugar. By moving outside the United States, Brach's can pay the world market price of sugar, which is one-half to one-third of the U.S. price as propped up by import quotas.

Life Savers, which for 90 years were made in America, are now made in Canada, where labor costs are comparable but the yearly cost of sugar is $10 million less. Chicago's Ferrara Pan Candy Co., maker of Jawbreakers, Red Hots and Boston Baked Beans, has moved much of its production to Mexico and Canada.

Dueling economic studies, few of them disinterested, purport to demonstrate that more American jobs are saved or—much more plausibly—lost because protectionist quotas raise the price of sugar for 280 million Americans. In the life of this republic, in which rent-seeking—bending public power for private advantage—is pandemic, sugar quotas are symptomatic.

It was to a North Dakota radio station that Robert Zoelick, the U.S. trade representative, vowed that he would stand like Horatius at the bridge to block Australian sugar. The quotas can be considered among the bearable transaction costs of democracy, keeping North Dakota's, Minnesota's and other states' growers of sugar beets as well as Florida's, Louisiana's and other states' growers of sugar cane from starving.

Or seceding. Or, heaven forfend, being forced to grow something else. But protectionism is unconservative, unseemly and unhealthy—indeed, lethal.

Unconservative? Protectionism is a variant of what conservatives disparage as "industrial policy" when nonconservatives do it. It is government supplanting the market as the picker of economic winners. Another name for industrial policy is lemon socialism—survival of the unfit.

Unseemly? America has no better friend than Australia. Yet such is the power of American sugar interests that the Bush administration has forced Australia to acquiesce in continuing quotas on its sugar exports to America. That was a price for achieving the not-exactly "free trade" agreement signed last weekend. But look on the bright side: Restrictions on beef imports will be phased out over 18 years.

Is protectionism lethal? Promoted by Democrats hawking their compassion, protectionism could somewhat flatten the trajectory of America's rising prosperity. But protectionism could kill millions in developing nations by slowing world growth, thereby impeding those nations from achieving prosperity sufficient to pay for potable water, inoculations, etc. Developed nations spend $1 billion a day on agriculture subsidies that prevent poor nations' farmers from competing in the world market.

Sugar quotas, although a bipartisan addiction, are worst when defended by Republicans who actually know better and who lose their ability to make a principled argument against the Democrats' protectionist temptation. Fortunately, splendid trouble may be on the horizon.

Last September's collapse of the World Trade Organization's ministerial meeting in Cancun, Mexico, meant that the pernicious "peace clause" was not renewed. For nine years it has prevented the WTO from treating agricultural subsidies as what they obviously are—market distortions incompatible with free trade. For Americans, a fight over that is worth having, and losing.

CAPTAIN JOHN DARRAH

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. BURGESS. Mr. Speaker, I rise today to recognize Captain John Darrah. For the last four years Captain Darrah has served as the president of the Allied Pilots Association (APA), the largest independent pilots' union in the world with more than 11,500 members.

APA serves as the collective bargaining agent for all American Airlines pilots. It devotes more than 20 percent of its dues income to support aviation safety while working to improve benefits, pensions, hours of employment, and working conditions for its members.

During the spring of 2003, the airline industry was distressed. Fears of terrorism, a troubled economy, and the war in Iraq were all causing a weak travel demand.

This trend was especially hard on American Airlines. They announced that they would file for bankruptcy if they could not cut labor costs by $1.8 billion a year. If the pilots, ground workers, or flight attendants unions rejected the concessions package that was offered, the AMR Corp., the parent company of American Airlines, vowed to file Chapter 11.

John Darrah was president of the Allied Pilots Association during this difficult time. He led his union to accept the concessions, staving off bankruptcy for AMR Corp. During the crisis he said, "To willingly take our airline and our company into bankruptcy would not be a better alternative . . . There is no upside to bankruptcy."

As Captain Darrah's term as president of the APA comes to an end, I would like to commend him for the role he played in saving his airline and his company from bankruptcy. He has stood up to harsh criticism, but also saved thousands of jobs. We are proud of his achievements.

AUTHORIZING ISSUANCE OF PROCLAMATION COMMEMORATING 200TH ANNIVERSARY OF CONSTANTINO BRUMIDI

SPEECH OF

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. ISRAEL. Mr. Speaker, I rise today in support of H. Con. Res. 264 to commemorate next year's 200th anniversary of the birth of Constantino Brumidi. I was pleased to join with my colleague, the gentleman from Florida, as an original cosponsor of this resolution.

Constantino Brumidi is known today as the Michelangelo of the United States Capitol building. He is most known for The Apotheosis of George Washington, the painting that depicts our first president's ascension into heaven, that adorns the interior ceiling of the central rotunda.

Brumidi was unknown in America when he began a mural to honor George Washington in 1855 shortly after immigrating to the United States. Over the next 25 years, he also painted the corridors on the first floor of the Senate wing and the first tribute to an African-American in the Capitol by depicting Crispus Attucks's patriotic death that touched off the Boston Massacre in 1770.

Initially, some believed that Brumidi's artistic styles and abilities were more suited to the Vatican and other buildings in Europe, places he contributed works before coming to America. But many historians have noted that Brumidi was the only person capable of painting the Capitol building in the glorious manner befitting the literal crowning achievement of liberty and democracy that it represents. Few in the United States had Brumidi's special talents as a fresco artist that utilized painting with watercolors on wet plaster.

Constantino Brumidi's experience is not unlike the ancestors of more than 26 million Americans of Italian descent that blended their centuries-old traditions with the relatively young history of the United States. Our country is indebted to their time, talents and skills that have beautified our country and inspired great achievements.

Each year, hundreds of Long Island school children gaze upward at Brumidi's work in the

Capitol building's rotunda and sprawling corridors. They see important scenes in American history, from the development of the steam engine to the ending of the Civil War. Brumidi's work not only beautifies the Capitol, but it brings history to life and makes one dream of what the future holds for our great nation.

It is important that Brumidi's contributions and sacrifices are remembered. He is every bit as important to American history as the epic scenes and figures he brought to life. It is my hope that all of my colleagues will join me today in honoring Brumidi's legacy by voting in favor of this resolution.

A PROCLAMATION RECOGNIZING THE RETIREMENT OF STANLEY E. SPRAGUE FROM THE MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. ROYCE. Mr. Speaker, whereas, over the last thirty years, Stanley E. Sprague has represented Orange County in a variety of forms on major water issues.

Whereas, Mr. Sprague joined the Municipal Water District of Orange County in 1972.

Whereas, Mr. Sprague has served as General Manager of the Municipal Water District of Orange County since 1983.

Whereas, the Municipal Water District of Orange County is a wholesale water agency charged with providing imported water to its thirty member agencies.

Whereas, in his role as General Manager of Municipal Water District of Orange County, Mr. Sprague's primary responsibility has been to assure that the present and future water needs of its member agencies are met.

Whereas, the Municipal Water District of Orange County is the second largest member agency of the Metropolitan Water District of Southern California, serving imported water to 2.3 million residents in roughly 80 percent of Orange County, one-third of whom rely solely on imported water.

Whereas, Mr. Sprague has been instrumental in forming partnerships to increase water use efficiency in Orange County.

Whereas, Mr. Sprague has taken a primary role in focusing the CALFED efforts towards meeting Southern California's supply reliability and water quality needs.

Whereas, Mr. Sprague has been involved in providing expert testimony on a myriad of water issues at both the State and Federal level.

Therefore, I join with the entire Orange County Congressional delegation in acknowledging the vital role that Stanley E. Sprague has played in Orange County's water supply, and wish him well upon his retirement from the Municipal Water District of Orange County.

CURRENT STATUS OF RELATIONS BETWEEN THE UNITED STATES AND TAIWAN

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. SESSIONS. Mr. Speaker, in the last ninety years, Taiwan and the United States of America have been allies, partners, and friends. In times of need and turmoil, both countries have always come to each other's aid. In the aftermath of the tragedies of September 11th, 2001 Taiwan immediately offered condolences to the victims of those terrorist attacks, expressed shock over the attacks and condemned such violence. Moreover, to show solidarity with the American people, Taiwan's government ordered flags be flown at half-mast for two days, took every action to protect U.S. citizens on the island, including stepped-up security at the American Institute in Taiwan, and asked all Taiwan offices in the U.S. to cancel their National Day celebrations.

Today Taiwan is under pressure by China. China accuses Taiwan's planned peace referendum as a move toward Taiwanese independence and says it would push Taiwan to the "abyss of war." Such rhetoric is a clear distortion of Taiwan's true intent. In the face of an overwhelming military threat against Taiwan, Taiwanese president Chen Shui-bian in this referendum is asking his voters whether they should buy more anti-missile weapons if China refuses to withdraw missiles targeted at Taiwan and whether Taiwan should open up talks with China about issues of peace.

Taiwan has no intention to provoke China into conflict. It merely aims to avoid war and free its people from the fear that they now face on a daily basis. Taiwan, our ally and friend, is a democracy with a competitive party system and they should have the inherent right to self-determine their own policies and the future of the island without the prospect of fear. I sincerely urge a continuation of peace across the Taiwan straits as well as the good relations between the Taiwanese people and Americans.

HONORING THE SACRAMENTO LIONS CLUB ON THEIR 50TH ANNIVERSARY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. MATSUI. Mr. Speaker, I rise today to honor an organization with a distinguished history of community service to the Capital Region. The Sacramento Senator Lions Club will be celebrating their 50th Anniversary Celebration on March 6, 2004. As the members and friends of the Sacramento Senator Lions Club gather to celebrate this momentous occasion, I ask all my colleagues to join me in saluting one of Sacramento's most important and respected civic groups.

The Sacramento Senator Lions Club was chartered on April 4, 1954 to become a part of the Lions Club, the world's largest service organization. Lions Clubs are non-political, non-sectarian service clubs composed of the community's leading business and professional people. The purpose of a Lions Club is more than good fellowship and club social life. The purpose is to recognize community needs and develop means of meeting them, either through its own effort or in cooperation with other agencies. Lionism is an active and effective medium for national and world service, exerting tremendous influence for national welfare, international amity and human progress socially, culturally and economically. For the past 50 years, the Sacramento Senators Lions Club embodies all of the best qualities that Lionism represents.

The Sacramento Senator Lions Club was the first all Americans of Japanese ancestry in the United States. The Sacramento Senator Lions Club was founded upon the principle that the club should strive to provide its members with the opportunities to collectively serve the community through efforts of fund-raising and hands-on-service projects. Today, the Sacramento Senator Lions Club is a vital service organization that is composed of civic-minded persons of both sexes and many diverse ethnic backgrounds.

The Sacramento Senator Lions Club has a history of community service that stretches beyond Sacramento and across international borders. The Sacramento Senator Lions Club reached a twinning agreement with the Osaka Tezukayama Lions Club of Japan during the International Lions Club in New Orleans in 1977. In recent years, mutual donations have been made to projects in Osaka, Japan. Donations to the Sacramento Senator Lions Club have played a great role in developing the fragrance garden for the visually handicapped and the Japanese garden for children at the Fairytale Town. In addition, the Sacramento Senator Lions Club is also actively involved in helping many other local organizations; Canine Companion for the Blind, City of Hope, My Sister's House for Abused Women, just to name a few. The Sacramento Senator Lions Club commitment to improve the quality of life for people from all different walks of life is truly commendable and admirable.

The Sacramento Senator Lions Club is internationally renowned as one of the most successful and respected Lions Club chapters in the world. The lofty status of the Sacramento Senator Lions Club was confirmed when their member, Kay K. Fukushima, was elected to be the 86th President of the International Association of Lions Club for the year 2002–2003.

Mr. Speaker, as the friends and family of the Sacramento Senator Lions Club gather to celebrate their 50 years of great service to the people of Sacramento, I am honored to pay tribute to one of the Capital Region's most active service organizations. I ask all my colleagues to join me in wishing the Sacramento Senator Lions Club continued success in all its future endeavors.

IN RECOGNITION OF ANNE CISLE MURRAY FOR HER COMMITMENT TO HELPING CHILDREN AT RISK

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mrs. TAUSCHER. Mr. Speaker, I rise to pay tribute to Anne Cisle Murray, whose commitment to helping children at risk is being honored by the Boys Hope Girls Hope organization of Illinois as the 2004 recipient of the Joseph S. Kearney Heart of Gold award.

Boys Hope Girls Hope of Illinois is a privately funded organization that reaches out to children who have shown academic promise, yet live with a family or in a community that has put them at risk. The mission of BHGH is to provide these children with stable home and academic environments and support them in all their endeavors up through college.

Originally from Hamilton, Ohio, Anne Cisle Murray graduated from the University of Notre Dame with a business degree in 1974, a member of the first co-ed graduating class. In 1979 she married Steve Murray with whom she has three children, Tricia, Dan and Mac. Anne's devotion to her family has carried over into her Community through the time and effort she dedicated to the at-risk youth of Illinois. Her accomplishments and hard work as a mother, mentor and organizer in the public service arena will be recognized and commemorated in our nation's capitol today.

Since joining Boys Hope Girls Hope of Illinois, Anne Cisle Murray has served all the executive positions on the organization's Women's Board. In addition to her presence on the Board of Directors and the Marketing Committee, she has also served as President, Vice President, Secretary, Dinner Dance Chairperson and Auction Chairperson.

On a personal level, Anne and her family have been generous to the BHGH organization for many years. Anne reaches out to the community by welcoming young students in the program to her home to facilitate social interaction and familiarity with the other program families. Her general thoughtfulness and care ensure the success of the BHGH program and its participants.

Anne Cisle Murray's determination to enrich the lives of children has made her a priceless member of Boys Hope Girls Hope of Illinois. By investing her time and love of children into this organization, Anne Cisle Murray has helped to make the future brighter for the at-risk children of Illinois.

WQED'S 50TH ANNIVERSARY

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. DOYLE. Mr. Speaker, I rise today to let my House colleagues know about a notable milestone. WQED Multimedia in Pittsburgh is celebrating its fiftieth anniversary this year.

Debuting on April 1, 1954, WQED was the nation's first community-owned television station. At the time, leaders in the Pittsburgh community saw a need for an educational TV station in addition to the already present commercial ones. As station founder Leland Hazard stated, "On this station you will find a children's hour designed to determine whether it is necessary for someone to get killed to entertain young folks." And that is exactly what the station has done. Beginning with Fred Rogers' "Children's Hour," the station has continued to produce wholesome, thoughtful, and nonviolent shows that entertain and educate both young and old.

Which is one of the reasons that, today, WQED Multimedia is one of the most valued Pittsburgh institutions, providing educational, cultural, and informational programming for both local and national audiences.

As the programs WQED produces show, education has always been a priority for the organization. Everyone is familiar, of course, with "Mr. Rogers' Neighborhood," the award-winning children's program, but not everyone knows that WQED has also produced a lot of other high-quality children's educational programs over the years, including "Where in the World is Carmen Sandiego?" and "Once Upon a Classic". In addition, WQED has produced a nationally broadcast science quarterly program entitled "The Infinite Voyage" and a number of National Geographic Specials.

WQED Multimedia is also very involved in cultural promotion and preservation. WQED's radio station broadcasts various types of classical music locally, and it promotes Pittsburgh music nationally and internationally through broadcasts of the Pittsburgh Symphony Orchestra and the River City Brass Band, America's only full time professional brass band. Many of WQED TV 13's programs also seek to promote American culture. In fact, other public broadcasting stations throughout the country have copied the station's program "Things that Aren't there Anymore"—and several of Rick Sebak's programs celebrating American's favorite pastimes, such as "Great Old Amusement Parks" and "A Hot Dog Program," have aired nationally. These programs and many others clearly demonstrate WQED's commitment to telling America's Stories with the American Classics, All-American Documentaries, an American Soundtrack and America's Home Cooking series.

Informing viewers about the world and community is another important goal for WQED Multimedia. One outlet it uses to do this is Pittsburgh Magazine, which informs readers about the interesting people and places in and around the city. Additionally, WQED Multimedia provides an Educational Resource Center for teachers and has a community outreach program that combines the power of the media with community involvement to help inform Pittsburghers of important issues affecting them.

The more than 250 awards that WQED Multimedia has won over the years, including 60 Emmy's and 12 Peabody's, bear witness to the consistently high quality of programs the organization is producing.

Today, over 1,000,000 Pittsburgh households depend upon WQED. It is now the parent company of WQED TV Channel 13, WQED radio Channel 89.3 FM, WQEJ radio Channel 89.7 FM in Johnstown, PITTSBURGH magazine, local and national television and radio productions, www.wged.org, and the WQED Education Resource Center.

Pittsburgh is justifiably proud of WQED Multimedia. Its broadcast, print, and Internet productions educate and entertain millions of Americans across the country. I want to congratulate WQED Multimedia on its 50th anniversary. I hope that WQED's high-quality contributions to our community—and this Nation—will continue for many years to come.

HONORING JULIO AVAEL FOR HIS OUTSTANDING CONTRIBUTION TO THE KEY WEST COMMUNITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to recognize Mr. Julio Avael, Key West City Manager for his significant contribution to the citizens of the city of Key West. As a tribute to his dedication, the Miami-Dade County Office of the Mayor and the Board of County Commissioners have designated Saturday, February 21, 2004, as Julio Avael Day.

During his 8-year tenure as Key West City Manager, Julio has demonstrated a profound commitment to our community. He has been especially instrumental in enhancing the government through implementation of historic preservation projects, neighborhood and park revitalization, and other citywide infrastructure improvements.

Julio's hard work has enabled him to become not only a dynamic city manager, but also an energetic member of the community.

HONORING SHARP HEALTHCARE'S WOMEN'S SYMPOSIUM

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. CUNNINGHAM. Mr. Speaker, I rise today to recognize the 14th Annual Sharp Women's Health Symposium. This year's symposium, scheduled for Saturday, February 28 at the San Diego Convention Center, focuses on women recharging for their health, their family, and their career. The Sharp Women's Health Symposium's mission is to empower women to assume greater personal responsibility for their own health and the health of their families. I offer the following resolution in recognition of the Sharp Women's Health Symposium:

Whereas, since 1989, Sharp HealthCare has hosted a daylong health symposium for women in San Diego and this event is widely recognized as one of the most successful women's health symposiums in the country offer women a day of fun and health education. Since 1989, more than 16,000 women have attended the symposium.

Whereas, the Sharp Women's Health Symposium has become one of the largest women's health events in the country. One of the attractions of this event is keeping the focus on San Diego community and wellness resources. While the event reaches nearly 2,000 women in San Diego, many women travel great distances to attend the symposium because currently, there isn't an event in their geographical area that meets their needs like the symposium does.

Whereas, Sharp recognizes that women have special healthcare needs throughout all stages of their lives. The symposium energizes, inspires and enlightens San Diego women as they invest in their health and their lives. Participants gain new understandings that lead to better decision-making and improved physical and emotional health.

Whereas, women are seeking health and wellness information especially with the trend towards mind-body-spirit medicine. The Sharp Women's Health Symposium was developed to meet the needs of busy women and provide a one-day symposium—a sort of one stop shopping of practical health information.

Whereas, the Sharp Symposium energizes, inspires, and enlightens women to take an interest in their health. The event educates women about their bodies, and hopes that through the knowledge they gain, women will make better decisions regarding their health both physically and emotionally.

Mr. Speaker, I am proud to rise today to congratulate Sharp Healthcare on its continuing success in educating women about healthcare. As a son, a husband, and the father of two daughters who is committed to programs to improve women's health, I applaud Sharp Healthcare for its longstanding efforts to improve the lives of women across the country.

HONORING THE EFFORTS OF TAYLOR ELEMENTARY SCHOOL

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. PORTER. Mr. Speaker, I rise today to recognize Taylor Elementary School of Henderson, NV, for the efforts of its administrators, faculty, students, and community in promoting the importance of reading. Through their participation in the National Reading Is Fundamental Competition, the members of Taylor Elementary School exemplify how our children thrive when given support—both in the classroom and from the surrounding community.

As they work to achieve national recognition for their Reading Is Fundamental efforts, the children and faculty of Taylor Elementary have gained the aid of the entire Henderson community; including high school students, local business men and women, and the mayor of Henderson, Jim Gibson. The importance of reading to these children and their teachers highlights the fact that true breakthroughs in education occur most effectively in the classroom. I ask that my colleagues join me in commending the efforts of those involved and wish Taylor Elementary School all the best of luck in their future endeavors.

INTRODUCTION OF A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO ALLOW A CREDIT AGAINST THE ALTERNATIVE MINIMUM TAX WHERE STOCK ACQUIRED PURSUANT TO AN INCENTIVE STOCK OPTION IS SOLD OR EXCHANGED AT A LOSS

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. GERLACH. Mr. Speaker, I am pleased to rise today to ask for my colleagues' support on a bill I recently introduced. The bill will remedy a great injustice inflicted upon numerous taxpayers as a result of the operation of the Alternative Minimum Tax, AMT, system on the sale of shares of stock acquired by the exercise of incentive stock options, ISOs.

Many companies offer ISOs to reward the innovation and loyalty of their employees. Instead of being a reward, however, this generosity can result in an exorbitant tax burden on the employee. To illustrate, imagine an employee chooses to exercise his or her ISO to purchase 1,000 shares at $10 each when the fair market value of those shares is $100 per share. On paper, the employee just made $90,000. At the end of the tax year, the AMT forces the employee to pay a tax on the $90,000 gain of more than $25,000, based on a taxpayer earning $75,000 per year and supporting a family of four.

ISOs often require an employee to hold shares for a certain period of time. In my illustration, the employee is finally able to sell his shares a year later when, as has been the case many times over during the recent years, the unpredictability of the market forces the stock price down to $40 per share. The employee gains $30 per share for a total gain of $30,000. The employee, however, already paid taxes on a $90,000 gain. The tax liability on a $30,000 gain is just over $9,000—approximately $16,000 less than what was paid in the year the ISOs were exercised. Due to the complicated nature of the AMT tax system, it could take the employee up to 11 years to recover that additional money paid to IRS on a liability that he did not really owe. That is money that our economy badly needs to be reinvested.

My bill will rectify this injustice in our tax system by amending the Internal Revenue Code to allow an immediate refundable credit in the tax year a taxpayer sells his or her shares, when that sale is made at a fair market value which is less than the fair market value used to determine the tax in the year the ISO was exercised. This refundable credit will merely be a return of money that the individual taxpayer paid into the general revenue but which he or she did not actually owe.

I ask all Members to join me in this effort to rectify this unbearable and unjustified tax burden from many middle-income families.

UNCLE ARTHUR AND ORVILLE WRIGHT

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. SIMMONS. Mr. Speaker, earlier this month the media reported that Rover and Opportunity were exploring the Martian surface. Mars is about 35 million miles from Earth, yet man can reach that alien world.

On December 17, 1903, at Kitty Hawk, North Carolina, an equally awe-inspiring event took place. It was there that Wilbur and Orville Wright gave birth to man's ability to fly by successfully testing the first powered, heavier-than-aircraft that achieved sustained flight with a pilot aboard. The first flight was only 120 feet, far less than the distance to Mars, but that single event defined the 20th Century.

In the December 2003 issue of Aircraft Owners and Pilots Association Magazine, I learned, through an article written by my brother, Tom Simmons, that our family has a connection to the Wright Brothers. Our Great Uncle Arthur Ruhl was one of only six journalists in May 1908 to watch the Wright Brothers work with their aircraft at Kitty Hawk. An article about what Uncle Arthur saw appeared in Colliers magazine on May 30, 1908. But this story doesn't end with Uncle Arthur's article. He sent a copy of his story to the Wright Brothers and Orville sent back a warm reply. Emboldened by the inventor's response, and his own curiosity, Uncle Arthur wrote back and asked if he could take a flight. Orville responded that they had so many requests they were limiting their passengers to Army officials.

Undaunted, Uncle Arthur continued his correspondence with Orville Wright. By 1910 the Wright Brothers were exhibiting their aircraft because the public was paying to watch the flights. Who should be covering one of the exhibitions for Colliers Weekly but Uncle Arthur. He was watching Orville Wright train one of his students when the inventor extended the long sought invitation.

Uncle Arthur found the adventure exhilarating. He wrote, "It was now that we seemed, indeed, to be going like the wind—a wonderful sensation, like nothing else, so near to the earth, yet spurning it."

I fly between Washington and my home in Connecticut just about every weekend. Today air travel does not inspire the awe described by Uncle Arthur. But it is an amazing thing—the ability to fly thousands of miles around the world in a matter of hours, or to set foot on a planet that our ancestors looked at every night with amazement and wonder. I can now look at flight through the eyes of my Uncle Arthur; and I will probably never look at the trip between Washington and Connecticut so casually ever again.

HONORING THE JUNIOR LEAGUE OF LUBBOCK

HON. RANDY NEUGEBAUER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. NEUGEBAUER. Mr. Speaker, I rise today to honor and acknowledge the Junior League of Lubbock as they celebrate their 50th Anniversary. Through the course of my life, I have seen the Junior League do amazing things. As their mission statement reads, they were created to be "an organization of women committed to promoting volunteerism, developing the potential of women, and improving our community through the effective action of trained volunteers". As innovative and radical as this mission statement sounded half a century ago, the League stands firm today, backed by a half century of successes.

In February of 1954, the Junior Welfare League of Lubbock was born into the Association of Junior Leagues International. Armed with a charter that was approved on March 15 of the same year, theirs has been a story of untiring determination and commitment. They have, over the past fifty years, been the gateway for several incredible women who have dedicated themselves to the cause of society. The League has consistently helped these women gain invaluable training and leadership skills, while providing for innumerable volunteer opportunities. Moreover, the fundraisers conducted by the organization over past years have borne fruit in the form of approximately three million dollars. This amount has added to the sparkle of the Lubbock community in the form of several outstanding and worthwhile projects. For example, Ronald McDonald House, Safety City, Fire Safety House, Children's Advocacy Center, and Legacy Play Village are just a few of their many noted accomplishments.

In this age and era, one often hears of how the cloud of selfishness and distrust has eclipsed our world. However, looking upon an organization like the Junior Welfare League of Lubbock, one cannot help but experience the light of compassion and giving that motivates it. It is even more impressive when one considers the discipline with which the volunteers work and coordinate. Without doubt, the League has whole-heartedly striven to fulfill the goals that they set when they were first formed.

The 183rd member to join the Association of Junior Leagues International, the Lubbock League is named as one of its finest chapters today. Indeed, it is impossible to imagine Lubbock without its beloved Junior Welfare League. Through their various volunteer projects, the organization has been instrumental in propelling Lubbock's growing prosperity. More importantly, it has served to act as an influential wind wane for the youth, and has repeatedly inspired the community to take up more volunteer projects. The organization's integrity and service-minded approach has endeared it to all the residents of Lubbock, and I am sure that I am not alone when I say that it has become a part of Lubbock history and society.

To dream of social work is not difficult. However, to actually persevere toward implementing that dream is not easy because it takes a lot of dedication, creativity and initiative. And so, when we celebrate 50 years of existence of the Lubbock's Junior Welfare League, we are actually celebrating those qualities and people that have made these 50 years a successful reality.

Mr. Speaker, please join me in extending my hearty congratulations to the Junior League of Lubbock. I applaud them and extend my sincere wishes for all their future endeavors.

HONORING AND RECOGNIZING UNC CHARLOTTE CHANCELLOR EMERITUS DEAN WALLACE COLVARD

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mrs. MYRICK. Mr. Speaker, I would like to honor and recognize UNC Charlotte Chancellor Emeritus Dean Wallace Colvard. On February 24, 2004 he will receive an award that recognizes his lasting impact on our nation. Dr. Colvard, 90, is the 2004 recipient of The Echo Award Against Indifference, given by the Echo Foundation in honor of his lifelong commitment to equity and justice.

Dr. Colvard is best known for his courageous stand against racial discrimination in 1963 as president of Mississippi State University, when he challenged an unwritten state policy and allowed the basketball team to travel to Loyola of Chicago to compete in the NCAA tournament against African American players. Although his team lost, 61–51, Colvard and Mississippi State won national respect for their quest to end segregation—and opened doors of opportunity for future generations.

Forty years later, in 2003, Mississippi State made national news for earning its second trip to the NCAA, and Colvard's actions were chronicled in a Sports Illustrated story looking back on the historic event. To this day, Colvard downplays the significance of his decision, saying he only did what was right.

Dr. Colvard was born in the Appalachian Mountains in Grassy Creek, N.C. in 1913—in a home with no electricity, indoor plumbing or running water. He was the first member of his family to go to college, entering the work-study program at Berea College in Kentucky with $100 in his pocket. Those humble beginnings instilled in him a lifelong commitment to equity and justice.

He went on to earn a Master of Arts degree in animal physiology from the University of Missouri and a doctoral degree in agricultural economics from Purdue University. He has served as superintendent of North Carolina Agricultural Research Stations; professor and head of the animal science department and later, dean of agriculture at North Carolina State College; president of Mississippi State University; and first chancellor of The University of North Carolina at Charlotte. He played an instrumental role in shaping the new university by securing regional and national accreditation for its programs and building a campus to accommodate enrollment that swelled from 1,700 to 8,705 students during his chancellorship.

Dr. Colvard was also instrumental in creating University Research Park and Discovery Place Science Museum in Charlotte, and the North Carolina School for Math and Science in Durham—the nation's first public, residential high school that emphasizes a science and mathematics curriculum. Among Colvard's many honors are the United States Department of the Army Outstanding Civilian Award (1966); the University of North Carolina University Award (1989); the North Carolina Public Service Award, presented by Gov. James Martin (1990); and honorary degrees from Purdue University, Belmont Abbey College, UNC Charlotte and Berea College.

HONORING SARA BERLIN: A YOUNG AND TRULY INSPIRING COMMUNITY LEADER

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to one of Miami's youngest community leaders, 11-year-old Sara Berlin, a 6th grader from Jacobson Sinai Academy Bergman Upper School in Miami. On Friday, February 13, 2004, Sara was honored by community leaders and organizers of "Do The Right Thing of Miami, Inc.", a program under the auspices of the City of Miami Police Department.

Although I have not had the opportunity to meet Sara yet, I feel as though I know her after reading her book about the agonizing plight of Haitian children. I do reserve the utmost respect for her recent and compassionate work.

It is my understanding that Sara was genuinely inspired to write her book after researching the plight of Haitian children and learning about my bill which would allow alien children to be transferred from the Department of Homeland Security to the Office of Refugee Resettlement within 72 hours of apprehension, and to be released from custody and placed into the community with a qualified relative or caretaker within 15 days of such apprehension. I am delighted to know that Sara included me in her book.

Indeed, Mr. Speaker, our quest for simple justice and fairness for newly-arrived Haitians evokes the storied stance of our Nation as the defender of due process and human rights, particularly when the beneficiaries of our action are helpless children.

I am so grateful that Ms. Sara Berlin, a magnificent advocate in her own right, has added her own brave words to ours. We are strengthened yet again by her timely voice to the cause that calls attention to the cruel disenfranchisement of Haitians and their children.

Sarah writes,

> Everyone should help kids. They shouldn't be locked up. Everyone should donate or do something to help out. It is really not fair. Kids should be able to live freely.

With her book on Haiti and specifically Haitian children, we are inspired by a greater appreciation of their struggles. I am moved by the inspiring description written about Sara's work of compassion thus: "I'm proud that Sara has taken an interest in helping others. The feelings she expressed, and the desire to help, are genuine and spontaneous."

I join our community in honoring Sara and her parents, classmates and teachers as they come together at the city of Miami Police Department. It is without a doubt that we will long remember this wonderful day as Sara inspires those of us who continue to care for the voiceless children of the world. We are comforted by her words in articulating their struggles to be free and living in a democratic country like ours.

Indeed, I am privileged to have been encouraged and inspired by her work, and I thank her for giving me the honor of representing her in the U.S. Congress.

IN HONOR OF AMERICA'S FIREFIGHTERS

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. JOHN. Mr. Speaker, Please allow me to extend my thanks and gratitude to a class of extraordinary Americans who put their lives on the line daily for the security of our nation and its citizens—our firefighters. Yesterday marked National Firefighter's Day, and it is important for us to realize that in almost any emergency, the first agency called is the fire department—putting America's firemen and women among our nation's first lines of defense.

Every hour of every day, the 21,000 fire companies across the nation stand ready to answer the call. In my home state of Louisiana, nearly 20,000 firefighters in 592 departments are prepared to encounter any threat. While we may not see these men and women every day, their importance is unquestioned when an emergency arises.

Not only do firefighters provide our citizens with dependability in security, but their record of civic duty is long withstanding. Firefighters dedicate much of their free time to volunteer in their local communities. We've seen them at the grocery stores and intersections, encouraging citizens to "Fill the Boot" to contribute to the Muscular Dystrophy Association, for which they've raised nearly $200 million over the past 50 years. When off-duty, a firefighter will often stop to help a stranded motorist, render aid at an accident, or just stop whatever they are doing to help. Our quality of life in America is better thanks to the services of our law enforcement, first responders and firefighters.

The security role our firefighters retain has evolved beyond just putting out fires. Our firefighters now deal with hazardous material response and medical emergencies. They train to be first responders and paramedics, comprise search and rescue squads to retrieve trapped victims in burning or collapsed buildings, and extract injured persons from car accidents. Some departments also have SCUBA teams and high angle rescuers.

The role of our firefighters changed forever when we witnessed 343 of them give their lives just two years ago. On 9/11, hundreds of firefighters rushed up the stairs of the burning World Trade Center, as everyone else was rushing down and out of the building. They saved thousands with their selfless bravery.

Now, after 9/11, we see more than ever the vital role firefighters play in our nation's security and preparedness. There should be no doubt that our firefighters remain squarely on the front lines of homeland security; and if terrorists strike again, they will be the first ones on the scene risking it all for our well being.

On National Firefighter's Day—and everyday—let's remember to say "thanks" to all of our brave and selfless firefighters.

HONORING THE LIFE OF ESTHER "KITTY" BUHLER BRADLEY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor the life of the late Mrs. Esther "Kitty" Buhler Bradley, widow of General Omar N. Bradley, the last five-star general of the U.S. Army.

Mrs. Bradley was born in New York City and graduated from Manhattan Business College. In the late 1940s, she took a U.S. Government job in Japan and also began freelance writing for the military newspaper Stars & Stripes and the news service United Press. While on an assignment for the United Press in Okinawa, she first met General Bradley. She soon developed a close relationship with General Bradley and secured the rights to his life story, which she hoped to turn into a motion picture.

Upon returning to the United States in the 1950s, Mrs. Bradley found work as a film and television writer under the name Kitty Buhler. Some of her most notable projects were the 1958 Victor Mature film, "China Doll," and two television production series, "The 20th Century Fox Hour" and "My Three Sons."

In 1966, following the death of General Bradley's first wife, Mrs. Bradley and General Bradley were reunited, then married in San Diego.

Although Mrs. Bradley never realized her dream of taking her husband's life story to the big screen, parts of General Bradley's career were chronicled in the 1970 "Patton," starring George C. Scott as General George Patton and Karl Malden as General Bradley. The couple worked closely together, assisting in the making of the film.

For nearly 15 years, the Bradleys lived happily together. Mrs. Bradley not only was a loving wife to the highly respected and admired five-star general but also a successful freelance writer and screenwriter in her own right.

Mr. Speaker, in closing, I would like to pay tribute to the life and work of Mrs. Bradley and express my deepest condolences to all who knew and loved her.

CONGRATULATIONS TO THE HELIAS HIGH SCHOOL MARCHING CRUSADERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. SKELTON. Mr. Speaker, it has come to my attention that the Helias High School Marching Crusaders from Jefferson City, Missouri, have earned first place honors in the SBC/Cotton Bowl's band competition.

Under the direction of Ray Cardwell, the students placed first for middle-sized schools in the field competition, parade and jazz band categories.

Mr. Speaker, the Helias High School Marching Crusaders represented their school and their State with honor and distinction. I am certain that the Members of the House will join me in congratulating them on their fine performance.

TRIBUTE TO BROWNIE TROOP 139 OF SOUTH HAVEN, MICHIGAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to the girls of Brownie Troop 139 of South Haven, Michigan, who have over the last few months sent numerous care packages to our troops serving in Iraq. These young ladies have shown remarkable dedication and devotion to our troops, and I am confident that this great project has been received with gratitude and appreciation from those overseas.

Since the troop began their project, they have collected more than $1,200 worth of items totaling 345 pounds. Some of the items these generous girls have sent include granola bars, playing cards, batteries, hand lotion, boot laces, and of course Girl Scout cookies. Over the holidays, the girls put together special packages to give our troops a sense of home.

Brownie Troop 139 is comprised of Jeanne Lyon, leader of Troop 139; Marilyn Shaefer, co-leader; Stephanie Balke; Maggie Filbrandt; Jessica Overholser; Hannah Lyon; Shelby Murphy; Erin Cooper; and Lauren Montgomery. The magnificent work this troop has done to encourage morale and give support to our troops has been inspiring. It greatly pleases me to honor the great charity these girls have done, and I find their patriotism and selflessness to be deeply moving.

PROTESTING THE U.N. GENERAL ASSEMBLY'S DECISION TO RULE ON THE LEGALITY OF ISRAEL'S SECURITY FENCE

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to protest the U.N. General Assembly's decision to rule on the legality of Israel's security fence.

I have just recently returned from Israel, where I had the opportunity to see firsthand the issues surrounding the security fence. Simply stated, Mr. Speaker, the purpose behind this temporary fence is to protect the Israeli people from suicide bombers and terrorists in a region marked by violence and instability.

However, the issue here today is not the lawfulness of Israel's security fence. It is the appropriateness of bringing such a complicated and political issue before the International Court of Justice (ICJ) in an unbalanced manner.

I am encouraged by the administration's support for Israel before the court and agree that such proceedings could undermine the negotiations already under way between Israel and the Palestinian Authority. I encourage Congress to join the administration in sending a strong message to the U.N. opposing this anti-Israel decision.

A PROCLAMATION HONORING BYRON SPENCER PETERSEN

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. NEY. Mr. Speaker, Whereas, Matt and Wendy Petersen are celebrating the birth of their son, Byron Spencer Petersen; and

Whereas, Byron Spencer was born on the 16th day of February, 2004, and weighed 9 pounds and 6 ounces; and

Whereas, the Petersens have all occasion to celebrate with friends and family as they welcome Byron Spencer into their family;

Therefore, I join with the Members of Congress and their staff in congratulating Matt and Wendy Petersen and wishing Byron Spencer a very happy birthday.

RECOGNIZING JEAN E. SAWITZKY

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Jean E. Sawitzky. Jean will have completed 38 years of loyal and productive work for the United States Postal Service on February 29, 2004.

Jean Sawitzky began her outstanding career at the West Sacramento post office soon after graduating from high school. She worked her way up through the administrative ranks and has served as the Postmaster for Courtland and Clarksburg, California. In addition to running an efficient office, Jean's smile and superior customer service have marked her tenure. She will be missed.–

Jean has also been a very active member of the West Sacramento and Delta communities, serving as a member and leader of numerous civic, church and community-service organizations.

In recent years she has become widely known for the quality and originality of her handmade quilts, and has been honored at the Yolo County and California State Fairs. Jean now teaches this craft to others in northern California.

We are confident that in her retirement years, Jean will find more time to invest in community service and her artistic endeavors. I want to thank Jean for her years of excellent service and wish her well in the active retirement years ahead.

Mr. Speaker, it is appropriate at this time that we recognize Jean E. Sawitzky for her contributions to her community and her service to our Nation.

RECOGNIZING SUE HOLMAN AND SUSAN WEEKS

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize two extraordinary women who have jointly been named the city of Sonoma's 2004 Alcaldesas, or honorary mayors.

For more than 10 years, Sue Holman and Susan Weeks have volunteered countless hours to Sonoma Valley's Meals on Wheels program. They work 5 days a week preparing 2 gourmet meals for housebound residents. A typical weekly fare is pork chops in mushroom sauce, spicy lamb logs, linguini and clams, tamale pie and roast beef. Over the past 10 years, they calculate that they have prepared a quarter of a million meals.

In addition to all of the food preparation, they prepare the menus, shop for groceries, do all of the baking, maintain inventory control and supervise the 90 volunteers who package and deliver the food and assist in the kitchen.

They recognize that many of the people they serve live alone and try to make each day special. Each holiday has a theme meal, and each client receives a personalized present or two at Christmas of Hanukkah and on their birthday, plus a split of wine or champagne.

They are able to maintain a high quality of fare and bolster the spirits of the people they serve while running the only all-volunteer Meals on Wheels program in the State of California.

In recognition of their contributions, the city of Sonoma designated them "los dos Alcaldesas," following a 28-year-old tradition of selecting someone in the community who works selflessly on behalf of others. The Alcalde/Alcaldesa reflects the town's Spanish and Mexican heritage and the "honorary mayors" will preside at all ceremonial functions on behalf of the city.

Susan Weeks settled in Sonoma 18 years ago following an international career that took her to Jerusalem, South Africa and Washington, D.C. In addition to Meals on Wheels, she has also been active in public safety and infrastructure issues, and working with the Verano Springs Association and the Sonoma Valley Citizens Action Committee.

Sue Holman is a retired investment banker who has been in Sonoma 11 years. An animal lover, she was one of the driving forces in the establishment of Sonoma's only dog park.

Mr. Speaker, Susan Weeks and Sue Holman provide an invaluable service to their community, and it is appropriate that we honor them today as Sonoma, California's 2004 Dos Alcaldesas.

HONORING MR. AND MRS. JEREMY AND ANN PAVA—SPRINGFIELD COMMUNITY LEADERS IN SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. NEAL. Mr. Speaker, I rise today to recognize and honor the contributions made by Mr. Jeremy Pava and Mrs. Ann Pava to the Jewish community. Over the courses of their lives, they have contributed greatly through both their service and generosity to the advancement of Jewish causes in New England.

Ann sits on the boards of both the Association of Modern Orthodox Day Schools at Yeshiva University as well as the Jewish Orthodox Feminist Alliance. She also serves as the President of the Jewish Federation of Greater Springfield in Massachusetts. In 1999 Ms. Pava received this same Federation's Young Leadership Award.

Jeremy currently sits on the finance committee of the Heritage Academy and continues to serve as a trustee of the Harold Grinspoon Foundation, as he has done since its inception. In the past, he has been the president of Congregation Kodimoh and the campaign chair for the Young Men's Division of the Jewish Federation of Greater Springfield. In 1999 he received the Kodimoh Brotherhood Humanitarian Award. At present, he also is a managing partner at Aspen Square Management, a real estate investment company in West Springfield.

Alone their actions are more than noteworthy, however, together they have given even more to the Jewish community. They are a founding family, and generous supporters, of the Hebrew High School of New England in West Hartford, which opened in 1996. Additionally, Ann was the founding President. HHNE is the only Jewish high school between New York and Boston, serving families from different observant backgrounds in Springfield, Hartford, and New Haven regardless of their financial situation.

This school has grown significantly since its inception in 1996. This burgeoning school is now pushing the limits of its current location, thanks in no small part to the work of Mr. and Mrs. Pava. They have both contributed immensely to the school's vitality and growth. As a result, they are to be honored at the Hebrew High School's first Annual Scholarship Dinner. The proceeds will go towards a new building to house the school, so that it may continue to grow and serve more members of the Jewish community in New England.

Mr. Speaker, I am proud to pay tribute to two extraordinary people from the Springfield area. Their work for HHNE, Jewish education, and the Springfield community is commendable, and the standard they set for public service is outstanding. People, such as the Pavas, are what make Springfield such a wonderful place to live, and I am personally glad to share this city with them.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

SPEECH OF

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. OBERSTAR. Mr. Speaker, continuing my earlier statement, time is again running out in our effort to reauthorize our Federal highway, public transit, and transportation safety programs. The Transportation Equity Act for the 21st Century (TEA 21) expired on September 30, 2003, and Congress passed a 5-month extension, which expires on February 29. On September 24, during consideration of that extension bill, I stated: "I am afraid . . . we will be back here on this floor once again pleading for another extension of time to keep transportation programs from once again expiring. . . . I do not want to be back on this floor saying again what I said 6 years ago, time is running out."

Well, time is running out and we must again extend the programs. Why? Because ideology, not good policy, is driving this debate.

On November 19, 73 Members of the Committee on Transportation and Infrastructure introduced H.R. 3550, authorizing $375 billion for the highway, transit, and transportation safety programs for the next six years. Today, the bill has 137 cosponsors. The Transportation and Infrastructure Committee was poised to mark up this legislation last week, but the Republican Leadership has delayed its consideration.

Despite the fact that the funding levels included in our bill were derived from the Department of Transportation's highway and transit needs report, the Administration strongly opposes additional infrastructure investment. Last week, the President submitted his Budget to Congress and it flat-lined the highway and transit programs, and did not include one additional dollar for highway and transit investment over the next 6 years.

Why? When our country's economic strength, improve business productivity, and our desire to create a safe, efficient transportation system are all dependent upon increasing investment in our Nation's infrastructure, why does the Administration oppose such investment? It cannot be because of any renewed Republican concern about the size of the deficit—the President proposes $1.2 trillion of new tax breaks that, if enacted, would result in a total of $3.2 trillion of new tax breaks, primarily targeted at the wealthiest Americans, since assuming office in 2001.

When this Administration and the Republican-led Congress have presided over an economy that has seen the number of unemployed workers increase by 2.4 million workers and the construction industry is suffering under a 9.3 percent unemployment rate, why does this Administration oppose infrastructure investment that its own Department of Transportation estimates will create 47,500 jobs and $6.2 billion for every $1 billion of Federal funds invested? I am sure that the 800,000 construction workers who look for work each month would gladly line up for the more than 1.7 million construction jobs this bill will create and sustain over the next six years, including 445,000 jobs this year alone.

Why? Because the Administration and some of the Republican Leadership would rather kneel at the altar of "no new gas taxes" than develop the policy necessary to invest in our Nation's infrastructure. A few days ago, in an interview, President Bush implied that the highway and transit programs were fueling the Federal budget deficit. Nothing could be further from the truth. Nearly all of the expenditures from these programs are funded by the Highway Trust Fund. The Trust Fund is financed by revenues from user fees. It is a "pay-as-you-go" program; outgoing expenditures are tied to incoming revenues; and the revenues may only be used for infrastructure investment.

The Trust Fund is a model of fiscal discipline. The Byrd Amendment serves as an anti-deficiency mechanism that prevents the Trust Fund from over-spending. This system of user fees has been well-tested by decades of experience. It provides a clear and unambiguous way to provide the revenues required to make the necessary improvements to the system.

It is for these reasons that the bipartisan leadership of the Transportation and Infrastructure Committee propose to restore the purchasing power of the gas tax, which was last increased more than a decade ago. Under the Committee's proposal, the gas tax would increase by a nickel and the average commuter would pay only an additional $36 per year. The user fee system has served us well. We should further utilize the strengths of that system to generate the necessary revenues to meet the needs of the transportation system.

Regrettably, the reason we are here today with another extension bill is because Administration ideology and political expediency is trumping good policy. The reauthorization bill is again delayed. As we approach the summer construction season, States will be slow to make the necessary investments during these uncertain times. Good-paying jobs will be lost or never created. Last fall, State transportation officials estimated that an extension bill would mean $2.1 billion in project delays and the loss of more than 90,000 jobs. This extension simply compounds those losses.

Instead, we now face vigorous behind-the-scenes efforts by the Administration and the Republican Leadership to cut the funding levels in our bipartisan bill and develop budget schemes that shift money from one account to another—to increase revenue to the Highway Trust Fund without increasing the user fee. While I will work with all parties to ensure that we find the necessary resources to increase our transportation investment, I will not support smoke-and-mirror proposals that simply further ideological objectives or political expediency, but not the long-term interests of the highway and transit programs.

Faced with these current roadblocks, we must again extend the highway, transit, and transportation safety programs or face a shutdown of both the Department of Transportation agencies and Federal surface transportation funding.

Mr. Speaker, before I close, there is one other very important element of this extension that deserves mention. That element is its continuation of the Disadvantaged Business Enterprises (DBE) program, as that program is set forth in TEA 21. Since enactment of the Surface Transportation Assistance Act of 1982, Congress has included a program to aid socially and economically disadvantaged businesses to successfully compete for transportation construction contracts. Because of this program, we have made impressive strides in increasing the participation of minority- and women-owned businesses in Federally-assisted transportation construction contracts. Today, more than 20,000 DBE's participate in the program. However, as recent evidence demonstrates, there continues to be a compelling need for the DBE program.

The current program is narrowly tailored to allow States to set and refine goals for participation of disadvantaged businesses in Federally-assisted transportation contracts. These goals must be appropriate for the State's population. Further, the current program requires States to try and meet those goals by race-neutral means. It is only when race-neutral means fail to achieve sufficient DBE participation, that race-conscious means may be used.

Indeed, as recent data provided by the States have shown, the lasting effects of discrimination are such that the overwhelming majority of States must continue to use race-conscious means to try and achieve their participation goals. For example, my home state of Minnesota established a goal for 2002 of 10.3 percent DBE participation in Federally-assisted transportation construction contracts. Minnesota officials determined that only 2.6 percent of this goal could be achieved with race-neutral means and 7.7 percent would need to be met using race-conscious means. Despite its good-faith effort to achieve this self-imposed goal, Minnesota was only able to achieve 6.63 percent DBE participation.

Minnesota's experience demonstrates two important facts about the program. First, as courts throughout the country have found, the DBE program is truly one of setting goals; it is not a quota system. States must make a good-faith effort to achieve its goal. Second, the goal setting required by the DBE program is crucial to increasing participation of DBE's in Federally-assisted transportation contracts. In Minnesota state-funded transportation contracts, where there was no DBE goal established, DBE participation was only 4.42 percent.

By extending this program today, we specifically reaffirm the government's compelling interest in ensuring that States receiving Federal funds for transportation construction make a good faith effort to ensure participation by minority- and women-owned businesses in those construction projects.

Mr. Speaker, I urge my colleagues to support H.R. 3783.

HONORING SUSAN BOOTH FOR HER OUTSTANDING COMMITMENT TO PUBLIC SERVICE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the many gathered to pay tribute to an outstanding member of our community, Susan Booth, as she is honored by the Devon Rotary and named a Paul Harris fellow. The Paul Harris fellow recognition was created in memory of Paul Harris, the founder of Rotary, as a way to show appreciation for contributions to the foundation's charitable and educational program. Every Paul Harris fellow receives a pin, medallion and a certificate when he or she becomes a fellow, identifying the recipient as an advocate of the foundation's goals of world peace and international understanding. The commitment and dedication that Susan has demonstrated is indeed a reflection of all that the Rotary stands for. It is wonderful to see her work so proudly recognized by her community.

Founder of the Archway Foundation, Susan has spent nearly 15 years collecting donations to feed and clothe homeless children in Romania. Inspired by a television program about Romanian orphans abandoned when communism collapsed, Susan, a railroad conductor on a commuter train between Connecticut and New York's Grand Central Station, switched to night shifts so that she could earn a master's degree in social work. Upon completing her degree, Susan went to Bucharest on a week's vacation in search of these Romanian orphans who were living in sewers and abandoned buildings. With only a short list of contacts, Susan was fortunate to find an individual who knew where to look. "In that sewer, I found my life's work," she has said. Indeed, she has dedicated countless hours to her mission.

Operating out of her own home and a post office box, Susan collects clothing and donations and has been awarded hundreds of thousands in charitable grants. Through her hard work and the generosity of her contributors, Archway has been able to purchase two small homes in Romania as well as employ several Romanians. One of the homes is used as a soup kitchen from which volunteers take food out to hundreds of homeless children every week and provide groceries to squatter families who take refuge in abandoned buildings.

It is not often that you find an individual with such dedication and commitment. Susan's good work has touched the lives of thousands of needy children. More importantly, she has inspired countless numbers of people to donate their time and energy to provide one of life's most precious gifts: hope.

I am proud to stand today to join the Devon Rotary and the many family and friends who have gathered this evening in extending my sincere thanks and heart-felt congratulations to Susan Booth as she is named a Paul Harris fellow. Yours is a legacy that is sure to continue to inspire generations to come.

INDIA DISSOLVES PARLIAMENT: ELECTIONS COMING: MINORITY NATIONS SHOULD VOTE FOR FREEDOM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. TOWNS. Mr. Speaker, I noticed the other day that India is dissolving its Parliament on February 6. They will be having new elections soon, perhaps as soon as March.

These elections, unlike ours, change faces, but don't seem to change policy. The repression of minorities continues no matter who wins. This repression has killed over 250,000 Sikhs since 1984, over 300,000 Christians in Nagaland since 1947, over 85,000 Kashmiri Muslims since 1988, and tens of thousands of other minorities. More than 52,000 Sikhs, as well as tens of thousands of other minorities, continue to be held as political prisoners. Yet India cites elections like the ones upcoming to show that it is a democracy.

That isn't very democratic for the minorities, is it, Mr. Speaker? As I have said before, the mere fact that they have the right to choose their oppressors doesn't mean they live in a democracy.

Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, has issued an open letter to the Sikhs in Punjab on the elections urging the Sikhs in Punjab to reject all major parties and vote for candidates inclined to support the freedom of Khalistan, the Sikh homeland that declared its independence on October 7, 1987. That is the only way the Sikhs can survive. The Akali Dal is corrupt, he points out, and the Congress Party organized the June 1984 attack on the Golden Temple, the seat of Sikhism.

We can support this cause by stopping U.S. aid to India until human rights are fully observed for all people there and by declaring our support for a free and fair vote on the subject of independence for Khalistan, for Kashmir, for Nagalim, and for all the minority nations of South Asia.

Mr. Speaker, I would like to put the Council of Khalistan's open letter on the upcoming elections into the RECORD at this time.

COUNCIL OF KHALISTAN,
Washington, DC, February 4, 2004.

OPEN LETTER TO THE KHALSA PANTH

PARLIAMENT DISSOLVED; ELECTIONS COMING SIKHS MUST STOP SUPPORTING CORRUPT BADAL, WHO DIMINISHED IMAGE OF SIKH NATION ONLY IN A FREE KHALISTAN CAN SIKHS PROSPER AKALI LEADERSHIP CONTROLLED BY INDIAN GOVERNMENT

DEAR KHALSA PANTH: WAHEGURU JI KA KHALSA, WAHEGURU JI KI FATEH!

The Indian government has dissolved Parliament. New elections are coming, perhaps as soon as March. Elections under the Indian Constitution will not free the Sikh Nation. Use this opportunity, however, to elect committed, honest Sikhs who are committed to freeing Khalistan to Parliament. Do not support Badal or the Akalis. They are corrupt and have betrayed the Khalsa Panth. Not even a single Akali protested the unprecedented corruption of Badal. They have disgraced the name of the old Akalis who sacrificed their lives for the well being of the Sikh Nation.

The Guru gave sovereignty to the Sikh Nation. ("In Grieb Sikhin Ko Deon Patshahi.") The Sikh Nation must achieve it. We always remember it by reciting every morning and evening, "Raj Kare Ga Khalsa." Now is the time to act on it. Do we mean what we say every morning and evening?

The fire of freedom still burns strong and bright in the heart of the Sikh Nation. Last year Sikhs openly held seminars in Punjab on the subject of Khalistan. This is a very good sign and we salute the people who participated in these seminars. They are keeping the flame of freedom lit. Now I urge Sikhs to unite and take action to liberate our homeland, Punjab, Khalistan. It is time to start a Shantmai Morcha to liberate Khalistan from Indian occupation.

Never forget that the Akal Takht Sahib and Darbar Sahib are under the control of the Indian government, the same Indian government that has murdered over a quarter of a million Sikhs in the past twenty years. The Jathedar of the Akal Takht and the head granthi of Darbar Sahib toe the line that the Indian government tells them. They are not appointed by the Khalsa Panth. The SGPC, which appoints them, does not represent the Sikh Nation anymore. They have become the puppets of the Indian government and have lost credibility with the Sikh Nation. Otherwise they would behave like a real Jathedar, Jathedar Gurdev Singh Kaunke, rather than like Indian government puppet Jathedar Aroor Singh, who gave a Siropa to General Dyer for the massacre at Jalianawa Bagh. These institutions will remain under the control of the Indian regime until we free the Sikh homeland, Punjab, Khalistan, from Indian occupation and oppression and sever our relations with the New Delhi government.

Yet the Akali Dal continues to support Badal, even though he was prosecuted and jailed for his corruption. According to India-West, the Punjab Vigilance Bureau carried out raids on Badal's properties for several months and filed a charge-sheet in a local court charging Mr. Badal with siphoning off Rs. 784 million, the equivalent of $17 million in U.S. money, during his five years as chief minister. The article says that Mr. Badal and his family hold assets of Rs. 43.26 billion (nearly $1 billion), most of which are located outside India. Half the population of India lives below the international poverty line. About 40 percent live on less than $2 per day.

The Badal government was the most corrupt one in Punjab's history. They sold jobs for a fixed fee. They came up with a new, dignified term for bribery: "fee for service." If you didn't pay the fee, you didn't get the service. The Chief Minister's wife was so experienced that she could pick up a bag of money and tell how much money was in it. Parkash Singh Badal was a disaster for Punjab and a disgrace to the Sikh Nation. How can the Akali Dal, which is supposed to represent the interests of the Sikh Nation, continue to support him?

Badal's corruption brought Punjab to bankruptcy. He was bankrupt morally and religiously as well as bankrupting Punjab financially. It is time for new leadership that shows the moral fabric a Sikh is supposed to have. Badal has destroyed the moral fabric of the Sikh religion. What happened to the concept of fairness and honesty?

The Akalis who protest Badal's prosecution are morally degenerate. They are destroying the moral fabric of Sikhism as a religion and a society. They should be ashamed of themselves. In addition to stealing from the people of Punjab, Mr. Badal worked against the cause of Sikh freedom. Badal was under the complete control of his masters in New Delhi, the militant, fundamentalist Hindu nationalist BJP. He has a long record of betraying the Sikh Nation.

The Akali Dal conspired with the Indian government in 1984 to invade the Golden Temple to murder Sant Bhindranwale and 20,000 other Sikh during June 1984 in Punjab. If Sikhs will not even protect the sanctity of the Golden Temple, how can the Sikh Nation survive as a nation?

The Akali Dal has lost all its credibility. The Badal government was so corrupt openly and no Akali leader would come forward and tell Badal and his wife to stop this unparalleled corruption. That is why the Akali Dal was defeated in the elections by the Congress Party. The Sikh Nation never can forgive or forget the attack on the Golden Temple. The Congress Party is the enemy of the Sikh Nation. Badal was so corrupt that the Sikhs had to vote for their enemy, the Congress Party, rather than Badal and his henchmen because there was no other party to vote for.

Because Sikhs are slaves in India, there is nobody to defend the Sikh interests internationally. Recently, an issue came up of the French banning the wearing of turbans in school. If Khalistan were free, the Sikh Nation could call the French Ambassador and tell him to stop this harassment of Sikhs. Our Ambassador to France would tell the French government the same thing: the turban is part of the Sikh religion and Sikhs should not be harassed.

Remember the words of Professor Darshan Singh, former Akal Takht Jathedar: "If a Sikh is not a Khalistani, he is not a Sikh." Sikhs should vote only for candidates who are prepared to do so. Otherwise, you are just voting to condemn your children and grandchildren to continued slavery under brutal Brahmin theocratic rule.

The time to achieve our independence is now. India is not one country. It has 18 official languages. Soon Kashmir will be free from Indian occupation. Now America is involved in it. As L.K. Advani predicted, "When Kashmir goes, India goes." We agree with him.

When I met President Bush on December 5, he personally told me, "I am aware of the Sikh and Kashmiri problem and we stopped India and Pakistan from going to nuclear war." The Sikh diaspora has a moral responsibility to help the Sikh Nation to achieve its sovereignty by freeing Khalistan from Indian occupation.

The time has come to liberate our homeland. It is the only way that we can prevent further degenerations of the Sikh Nation like the Badal regime. Sikhs must claim their birthright by liberating Khalistan. Only by freeing Khalistan will we put an end to this corruption and restore control of Punjab and its assets to the people, to whom it rightfully belongs. A free Khalistan is a must for the survival of the Sikh nation and will provide an optimal environment for the Sikh Nation to progress to its optimum potential politically, religiously, and economically.

Panth Da Sewadar,
Dr. GURMIT SINGH AULAKH,
President, Council of Khalistan.

HONORING JULIE DeMARIA

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Ms. LOFGREN. Mr. Speaker, I rise today, to honor Julie DeMaria and her family, and the people of San Jose on the establishment of Operation Care and Comfort.

Operation Care and Comfort is a self-funded, all-volunteer organization whose sole purpose is to supply care packages to the men and women of our military serving oversees. Since last summer Julie rallied neighborhood volunteers and businesses to donate items, including T-shirts, pins, hats and food items to send in the care packages. Most importantly, hand written letters of support are included in each package to the troops, showing our gratitude, and support for their service to our country.

Because of Julie's efforts, the San Jose community has now shipped over 27,500 pounds of care packages to our troops and she is still going! Her devotion to her community and love for her country does not go unrecognized.

On behalf of the House of Representatives, I want to thank Julie DeMaria, her family, and all the volunteers in the San Jose Community involved in Operation Care and Comfort for their service to the United States.

REMEMBERING LUCILLE WESTBROOK

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. ROSS. Mr. Speaker, I would like to take this time to rise in honor of the life and lasting memory of Lucille Westbrook. Lucille, a fifth-generation Arkansan, was born in the small town of Nathan, attended Nashville public schools, and spent her life as an involved citizen, advancing issues dearest to her and worked to preserve the heritage of her community and state. She passed away Saturday, January 31, 2004, at the age of 86.

Described by those who knew her well as "brilliant" and "beloved", Lucille was a well known face and name to the citizens of Howard County. Early in her life, she worked for the U.S. Army Corps of Engineers and later for Senator William J. Fulbright. Lucille remained active in Democratic politics, serving as an election official in Democratic primaries and general elections in Howard County.

She remained an active and influential member of the community through her volunteer service and civic activities. She was a charter member of the Mine Creek Chapter of the Daughters of the American Revolution, a Board member of the Nashville Cemetery Association, and a Board member and President of the Howard County Library System.

Lucille's thirst for knowledge led her to become the area's unofficial historian. In this capacity, she co-founded the Southwest Arkansas Regional Archives in Washington, Arkansas where she volunteered for 24 years, serving as Director of the Archives from 1990–2002. Other projects important to her included working to restore and preserve buildings in nearby Washington and completing a book about the Corinth area in Howard County.

I know the impact which individuals like Lucille can have on a small community. She continually made a priority of helping others learn more about their neighborhoods, communities and family heritages. In 1979, the Arkansas Historical Association recognized her work in preserving the role of history in our lives by establishing an annual $500 award, named in her honor, to the author of the best report on a topic in Arkansas history.

I extend my warmest sympathies to her brother Parker Westbrook of Nashville, her extended family, and the countless friends and individuals who knew and loved Lucille.

HONORING THE ACHIEVEMENTS OF LT. COLONEL PETE GANDY

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize the achievements of one of my constituents, who will soon be joining the ranks of the retired commissioned officers of the United States Air Force, Lt. Colonel Pete Gandy.

Colonel Gandy, a master navigator with 3,600 flying hours and a graduate of the Squadron Officers School and Air Command and Staff College, has served his country honorably and faithfully for the past thirty years.

Upon graduation through the ROTC program at Memphis State University, he was commissioned a Second Lieutenant in the Air Force. Colonel Gandy later received training as a navigator at Mather Air Force Base in California.

Throughout Colonel Gandy's career, he was assigned a multitude of important missions for the betterment of our country's security. His work history and past responsibilities have served as a testament of faith and trust that America has bestowed upon him.

While on active duty, he was assigned Chief of the Munitions Maintenance Division, 1st Strategic Air Division at Vandenburg AFB, California, where he was responsible for test launches for Minuteman III and Titan II ICBM re-entry vehicles. Colonel Gandy also served at Strategic Air Command Headquarters at Offutt AFB, Nebraska where he was involved with planning and installation of Minuteman III missiles at SAC bases in North Dakota.

After his training as a radar navigator, Colonel Gandy was assigned to a B–52 combat crew of the 5th Bomb Wing, Minot AFB, North Dakota. He served as an instructor and flight examiner with the Wing's Standardization and

Evaluation Division during his ARC Light tour to U Tapao Air Base, Thailand and Anderson, AFB, Guam. Upon Colonel Gandy's return to the United States, he received orders to the Plans, Policy, and Programs Division at Headquarters SAC where he worked to increase our Nation's security.

While on inactive duty in the Tennessee Air National Guard as a C–130 navigator, he participated in numerous exercises and deployments to Europe, Central and South America, and Southwest Asia in support of Operations Just Cause and Desert Shield.

In July 1993 Colonel Gandy received a commission in the Louisiana State Guard, promoted to the rank of Colonel, and served as the Disaster Preparedness Liaison for the City of New Orleans. This assignment made him a key player with the state and the city to improve hurricane preparedness.

During his career he was awarded the Defense Service Medal, Air Force Commendation Medal, and the Air Medal for Meritorious Achievement, among others.

Much of his success was due to the total and unwavering support of his wife, Janice and two children David and Tricia.

On behalf of the United States Congress, I would like to recognize this brave airman for the example he has set for our country, and for Northwest Florida. I offer my sincere thanks for all that he has done for Northwest Florida and the United States of America.

TRIBUTE TO MARK MARCHUS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Mark Marchus and thank him for his many contributions to Routt County, Colorado. After 6 years of impeccable service to the Routt County Regional Building Department, Mark announced his impending retirement. He has done much to enhance his community, and I would like to take this opportunity to thank him for his service.

During his tenure with the Routt County Regional Building Department, Mark distinguished himself as an able and competent leader. He made the department more customer friendly, and was instrumental in developing a computer tracking system to aid contractors to monitor each step involved in receiving a building permit. He also implemented an interactive voice system that allows contractors to request building inspections until Midnight the day before. These technological improvements significantly improved the department's efficiency.

Mr. Speaker, it is a great privilege to honor Mark Marchus and wish him all the best as he steps down on April 30 from the Routt County Regional Building Department. He has dedicated his time and energy toward the betterment of the Routt county community and certainly deserves the praise and admiration of this body of Congress and this Nation. Mark, thank you for your dedicated service.

CONGRATULATING CHARLES FLACK UPON RECEIVING THE B'NAI B'RITH COMMUNITY SERVICE AWARD

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize my very good friend, Charles "Rusty" Flack, Jr., of Dallas, Pennsylvania, who received the Community Service Award from the Seligman J. Strauss Lodge No. 139 of the B'nai B'rith. Mr. Flack received the award on February 22, 2004 at the 58th annual Lincoln Day Dinner. I ask that my colleagues join me in congratulating Mr. Flack for this well-deserved honor and expressing our appreciation for the positive contributions he has made to Northeastern Pennsylvania as both a businessman and as a member of the community.

For nearly a quarter of a century, Mr. Flack has served as Chairman and CEO of Diamond Manufacturing Company, a West Wyoming-based company that employs 250 individuals and has grown to become North America's largest supplier of perforated metals. In 1998, the Greater Wilkes-Barre Chamber of Business and Industry bestowed upon Diamond Manufacturing Company its Small Business of the Year Award, and in 2001, Diamond Manufacturing earned the distinction of being one of the Best Places to Work in Pennsylvania. These achievements are especially noteworthy because Rusty and his brother Hal inherited Diamond Manufacturing under tragic circumstances when their father died suddenly at an early age. Although only in their twenties when they took over the business, Rusty and Hal have led Diamond not only to survive, but to thrive.

Mr. Speaker, I do not rise today merely to extol the success Mr. Flack has had as a businessman, though those accomplishments should not be dismissed. Despite the responsibilities any small business demands from its owner, Rusty has always remained involved in numerous civic, religious and educational endeavors and organizations. In each instance, he has performed with a commitment worthy of the award he is about to receive. I have called upon him myself on numerous occasions to seek his counsel and request his assistance in mediating difficult situations. The respect with which he is held within the community helped enormously in bringing adverse parties together.

Among his many civic activities, Mr. Flack currently serves as Chairman of the Wyoming Valley Health Care System, the largest employer in Luzerne County; as the treasurer of the Wyoming Seminary, a prominent K–12 preparatory school in Northeastern Pennsylvania; and as a trustee for the College of Misericordia, a leading institution of higher learning. As an active member of the Prince of Peace Episcopal Church in Dallas, Pennsylvania, Mr. Flack has sung in the choir, taught religion to young churchgoers, and served in the vestry as a senior warden.

Mr. Speaker, earning the esteem of the B'nai B'rith deserves this body's recognition because it is a widely respected organization dedicated to the community it shares with people of all faiths. It is a privilege for me to stand before the House of Representatives to honor an individual like Charles "Rusty" Flack, Jr. I offer my deepest congratulations to him on his becoming a recipient of a Community Service Award, and I urge my colleagues to join Seligman J. Strauss Lodge No. 139 and me in extending our gratitude and admiration to a remarkable citizen who has distinguished himself as a businessman and a civic leader.

KERRY STATEMENT CALLING SIKHS TERRORISTS A MISTAKE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. TOWNS. Mr. Speaker, as an American and a Democrat, it was not good news when I was informed by Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, that Senator JOHN KERRY, the frontrunner for my party's nomination for President, had made a speech in Oklahoma on January 31 in which he described the Sikhs as terrorists. This is a mistake on Senator KERRY's part and one I hope he will correct promptly.

I have been following South Asian affairs for some time now and I can tell you that Sikhs are committed to freedom. I have met members of the Sikh community here in the United States, which is half a million strong, and they are hardworking people who are dedicated to their families, their religion, America, and freedom for their Sikh brothers and sisters back home in Punjab, Khalistan.

The Indian government has been oppressing the Sikhs ever since independence. Shortly after India got its independence, the Indian government sent out a memo describing Sikhs as "a criminal class" and ordering police to take special measures to suppress them. This is shameful. Since 1984, India has murdered over 250,000 Sikhs, according to the Punjab State Magistracy and human-rights organizations. They hold over 52,000 political prisoners. Some have been in illegal custody without charge or trial for 20 years, Mr. Speaker. Two decades! Is that a democratic way to do things?

India's propaganda machine is working overtime to maintain this false picture of Sikhs as a "criminal class" devoted to terrorism. They have even hired two lobbying firms, expensive ones, to carry out this work. Unfortunately, it appears that they managed to misinform the Senator from Massachusetts on this matter. I am sure he will correct himself soon, and I urge him to do so.

In the meantime, Mr. Speaker, it is up to us to do what we can to press for democracy in the subcontinent. Cutting off India's aid would be a good start. This is one of the most effective ways to promote basic human rights for everyone in South Asia. Another very effective means would be to call on India to hold a free and fair vote on the question of independence, the democratic way. By doing this, we help bring the glow of freedom and the blessings of liberty to everyone in that troubled part of the world.

I also call on Senator KERRY to recognize the legitimate aspirations of the Sikhs and the others fighting to free themselves from the yoke of Indian oppression. That they are doing so by peaceful, democratic, nonviolent means shows that the Indian government's picture of them as terrorists is false. I await the Senator's correction.

Mr. Speaker, at this time I would like to add the Council of Khalistan's letter to Senator KERRY requesting a correction and repudiation of his statement to the RECORD so that people can see the real situation in South Asia.

COUNCIL OF KHALISTAN,
Washington, DC, February 11, 2004.

Senator JOHN F. KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERRY: I am writing to you today on behalf of half a million Sikh Americans and over 25 million Sikhs worldwide to say that your remarks equating Sikhs with terrorists were offensive to the Sikh community. While giving a speech in Oklahoma, you referred to "the Sikhs in India" as an example of terrorism.

Sikhism is an independent, monotheistic, revealed religion, not a part of any other religion. Sikhs are distinctive by our religion, language, and culture from any other people on Earth.

Sikhs ruled Punjab from 1710 to 1716 and again from 1765 to 1849. Sikhs, Hindus, Muslims, and Christians all participated in the government. Sikhs are a separate nation and people.

At the time of India's independence, three nations were to receive sovereign power: the Muslims, who got Pakistan, the Hindus, who got India, and the Sikhs. Sikhs took their share with India on the solemn promise that Sikhs would enjoy "the glow of freedom" in Punjab and no law affecting Sikh rights would be passed without our consent. Instead, almost as soon as the ink was dry on India's independence, Nehru sent out a directive describing Sikhs as "a criminal class" and ordering police to take extraordinary measures against us.

Since June 1984, India has murdered over 250,000 Sikhs, according to figures compiled by the Punjab State Magistracy and human rights groups and published in the book The Politics of Genocide by Inderjit Singh Jaijee. A report from the Movement Against State Repression (MASR) shows that India admitted to holding 52,268 Sikhs as political prisoners. Some have been in illegal custody since 1984! Tens of thousands of other minorities are also being held as political prisoners, according to Amnesty International. Indian forces carried out the March 2000 massacre in the village of Chithisinghpora, according to two independent investigations. Indian forces were caught red-handed trying to set fire to a Sikh Gurdwara and Sikh homes in a village in Kashmir. Sikh and Muslim villagers joined hands to stop them.

The book Soft Target, written by two Canadian journalists, Zuhair Kashmeri of the Toronto Globe and Mail and Brian McAndrew of the Toronto Star, shows conclusively that the Indian government blew up its own airliner in 1985, killing 329 innocent people, to blame it on the Sikhs and have an excuse for more repression.

Other minorities such as Christians and Muslims, among others, have also felt the lash of Indian repression. Over 300,000 Christians in Nagaland have been killed by the terrorist Indian regime. Nuns have been raped, priests have been murdered, churches have been burned, schools and prayer halls have been destroyed, all with impunity. A mob of militant Hindus affiliated with the parent organization of the ruling BJP murdered missionary Graham Staines and his two sons by burning them to death while they slept in their jeep, all the while chanting "Victory to Hannuman," a Hindu god. India threw missionary Joseph Cooper from Pennsylvania out of the country after he was beaten so severely that he had to spend a week in the hospital. A Christian religious festival on the theme "Jesus is the answer" was broken up by police gunfire.

Almost two years ago, Muslims were massacred in Gujarat while police were ordered to stand by and do nothing, according to Indian newspaper reports. One newspaper quoted a policeman as saying that the Indian government planned the massacre in advance. This is an eerie parallel to the 1984 massacre of Sikhs in Delhi, in which police were locked in their barracks while the state-run radio and television called for more Sikh blood.

An Indian Cabinet minister was quoted as saying that everyone who lives in India must either be a Hindu or be subservient to Hindus. This kind of religious fanaticism as state policy is dangerous and anti-democratic. We would not want it in America; why should we support it in India?

On October 7, 1987, Sikhs declared their independence from India, naming their new country Khalistan. We are committed to liberating Khalistan by peaceful, democratic, nonviolent means. History shows that multinational states such as Austria-Hungary, the Soviet Union, and India are doomed to fall apart. We intend to see that this happens peacefully, in the manner of Czechoslovakia, not violently like Yugoslavia. Yet simply supporting a sovereign, independent Khalistan is what India calls terrorism.

The 20,000 Sikhs who were murdered in the June 1984 attack on the Golden Temple and 37 other Sikh Gurdwaras throughout Punjab were not terrorists. They were seeking refuge from the Indian government's tyranny. Yet the Indian government insists on describing them as "terrorists," as if repeating it often enough will make it true.

Senator Kerry, we respectfully request, that you apologize to the Sikh Nation and the Sikh community in the United States for your remark. I urge you to support measures to bring freedom to all the people of the subcontinent. Sikhs share the commitment to freedom you showed when you fought in Vietnam and in your service in public office. There was even a Sikh member of Congress in the late 1950s, Dalip Singh Saund of California. We look forward to working with you in the future to bring the blessings of liberty to everyone in the subcontinent.

If you would like any further information or would like to meet about these issues, please feel free to contact me.

Sincerely,

DR. GURMIT SINGH AULAKH,
President, Council of Khalistan.

HONORING THE VIETNAMESE BHIKSHU BUDDHIST COUNCIL'S CEREMONIAL REMEMBRANCE OF MASTER MINH DANG QUANG

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Ms. LOFGREN. Mr. Speaker, I rise to recognize the San Jose Vietnamese Bhikshu Buddhist Council's annual remembrance of Buddhist Master Minh Dang Quang.

According to the Bhikshu Buddhist Council, Master Minh Dang Quang founded the indigenous Vietnamese Buddhist Order "Tang Gia Khat Si", normally referred to in English as the Mendicant Buddhist Order, in Southern Vietnam. This order represents a unique combination of Theravada and Mahayana Buddhism. On the Second day of the Second month in the Year of the Horse (1954) during a time of political turmoil, Master Minh Dang Quang went missing and the Monks and Nuns of this order observe his disappearance each year as a religious ceremony.

According to the Bhikshu Buddhist Council, this year marks the 50th anniversary to celebrate the long-lasting work of Buddhist Master Minh Dang Quang and his founding of the Vietnamese Sakya Muni Dharma School of Buddhism. Although, Master Minh Dang Quang is not with us today, his followers continue their Master's teachings in Vietnam and all over the world.

I am pleased to know that in my City of San Jose, California, the Vietnamese Bhikshu Buddhist Council can freely meet, worship, and practice their faith without fear of persecution.

But that is not enough. We must demand that all Buddhists around the world, and others attempting to practice and worship their faith, are able do so freely without fear of persecution.

We must continue passing legislation like the Vietnam Human Rights Act to promote freedom and democracy in Vietnam and House Resolution 427 that praises the courageous leadership of the Unified Buddhist Church of Vietnam and the urgent need for religious freedom and related human rights in Vietnam.

We cannot sit idly by as the Vietnamese government continues to oppress its people while hiding behind the veil of free trade. On this special day, I recognize the 50th Anniversary of the remembrance of Buddhist Master Minh Dang Quang and reassert my commitment to fighting for human rights in Vietnam.

IN LASTING MEMORY OF DR. DONALD L. MILLER

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. ROSS. Mr. Speaker, I would like to take this time to honor the life of Dr. Donald L. Miller. He lived a life devoted to the love, care and education of others and leaves a legacy carried on by the many lives he touched; either directly through personal relations or indirectly through his efforts to improve the quality of health care now available to Arkansans.

Dr. Miller was born in Little Rock, received his doctorate of medicine from the University of Arkansas for Medical Sciences, and spent nearly his entire life devoting energy and vision to the improvement of health care in Arkansas.

Dr. Miller was a member of numerous community, university, and professional committees and organizations including the American

Medical Association, the American College of Physicians, and the First United Methodist Church. However, it was his work with Area Health Education Center programs that gained him the greatest notoriety. Dr. Miller served as an influential force in getting the program under way in the state and became Director of the Pine Bluff Area Health Education Center. As Director, he earned the esteem of his fellow members of the American College of Physicians, who would write that "his greatest achievement has been the development of the most productive AHEC program in Arkansas." In 1995, they presented Dr. Miller with the Robert Shields Abernathy Award for Excellence in Internal Medicine in recognition of his achievements and sustained commitment to the program.

Under the vision and leadership of Dr. Miller, countless students as well as residents of internal medicine and family practice are more adequately trained in the various technical aspects of health care through the work of the Pine Bluff AHEC. As a result, many quality physicians have been attracted to the area where they now provide quality health care to the citizens of Southeast Arkansas. It is yet another indication of the broad impact Dr. Miller has had on his state, his community, and his fellow citizens.

My thoughts and prayers are with his wife, Peggy, and his daughters, Mollie, Sheila, and Karen. I extend my sincerest sympathies to them and can only hope that we find some solace in the lasting legacy of Donald Miller as his spirit lives on in each of us.

HONORING THE ACHIEVEMENTS OF LT. COL. ROBERT L. REINLIE

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. MILLER of Florida. Mr. Speaker, I rise today to pay tribute to Lt. Col. Robert L. Reinlie for his tireless fight for his fellow veterans.

Lt. Col. Reinlie and the late William O. "Sam" Schism engaged Col. George "Bud" Day, Medal of Honor recipient and former POW, as their attorney. By becoming a plaintiff in a 1996 lawsuit, Lt. Col. Reinlie challenged the United States government to honor healthcare commitments made to WWII/Korea era military retirees.

Lt. Col. Reinlie's extraordinary farsighted vision recognized the need for a plan to support his legal efforts. Lt. Col. Reinlie took it upon himself to begin organizing, what later became the Class Act Group.

With untiring and aggressive pursuit, Lt. Col. Reinlie's efforts were extended into a nationwide grass roots network that was instrumental in forging Congressional legislation favorable to military retirees. Lt. Col. Reinlie helped initiate this grass roots initiative through billboards, letter writing campaigns, demonstrations, phone and fax communication blitzes, meetings, marches, web sites, letters to editors, press releases, all geared to influencing Congressional attention. His dynamic and selfless leadership and commitment drove him to a presence in Class Act Group office spaces, even when extensive surgery was imminent and during extended rehabilitation.

His tireless dedication served as a contributing and encouraging factor for his attorney, Col. Day, and the legal fight to the United States Supreme Court. This fight led by Lt. Col. Reinlie was a major contributing factor to the military retiree medical benefit now referred to as TRICARE for Life and The Senior Pharmacy Program. The WWII/Korea era military retiree fight is not over and Lt. Col. Reinlie, at the young age of 82, is still in the battle to honor his fellow veterans.

Mr. Speaker, I, on behalf of the United States Congress, salute Lt. Col. Reinlie. With the encouragement and significant contribution from his wife Marilyn, he reflects a great credit upon himself, our Nation, and the courage of soldiers that gave us the freedom we enjoy today. I offer my sincere thanks for all that he has done for Northwest Florida and this great Nation.

TRIBUTE TO JOE ESPINOZA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, it is with profound sadness that I rise before you today to pay tribute to the life and memory of Joe Espinoza, who passed away recently at the age of ninety-two. Joe embodied the ideals of patriotism, integrity and love of family that we, as Americans, have come to expect from our public servants. As his family mourns the loss, I believe it is appropriate to remember Joe and pay tribute to his contributions to his city, state and country.

Joe began his service to this nation as a Marine in World War II, and following an honorable discharge, returned to Colorado where he and his wife, Melissa, opened their family restaurant and bar, El Patio. He entered a life of public service in 1978 when he was elected Mayor of San Luis, an office he held for three terms. During his tenure, Joe enjoyed the distinction of being the town's oldest mayor. He is survived by two sons, Josito and Abby; four daughters, Theresa, Margaret, Joetta, and Claudine; twenty-two grandchildren, thirty-one great-grandchildren, and one great-great grandchild.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the memory of Joe Espinoza. He was a beloved family man and public servant who also made numerous contributions to his community. The San Luis community and the State of Colorado will truly miss Joe, and my thoughts go out to his family during this difficult time of bereavement.

CHARLES ADONIZIO, JR. HONORED POSTHUMOUSLY BY PITTSTON SUNDAY DISPATCH

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. KANJORSKI. Mr. Speaker, I rise today to draw the attention of my colleagues in the U.S. House of Representatives to the life of my very good friend, the late Charles "Cugsy" Adonizio. On Sunday, February 8, 2004, the Pittston Sunday Dispatch honored his life with the Joseph Saporito Award for Lifetime of Service to Greater Pittston. A loving husband to Helen for 57 years and the father of six children, Charles Adonizio, Jr. passed away last October at the age of 88 years old.

The editor of the Sunday Dispatch, Ed Ackerman, recently wrote an excellent story outlining the life of this community-spirited man who inspired so many in the Greater Pittston area of Northeastern Pennsylvania. I would like to reprint that article below.

JOSEPH SAPORITO LIFETIME OF SERVICE AWARD

If you knew "Cugsy" Adonizio you know he always cried when he was happy. He'd tell a funny story and inevitably his laughter turned to tears.

Such paradox tells the story of Cugsy's life. He was successful, yet humble, strict yet compassionate, powerful yet gentle.

In his later years, as he battled a heart condition, Cugsy became weak yet strong. He needed the assistance of a cane, but still walked a couple of miles every day. And while walking was difficult for him, swinging a golf club was not. He scored a hole-in-one at the age of 81.

And the paradox continues since his death on October 26 at 88 years old. "In a funny way," his wife Helen says, "he's more alive than ever. I talk to him all the time and, in his own way, I believe he answers me."

Charles Adonizio Jr.—"Cugsy" to most, just "Cugs" to his wife of 57 years—is today honored posthumously with the Joseph Saporito Award for Lifetime of Service to Greater Pittston.

He received a similar honor in 1979 when he was named Man of the Year by St. Michael's School for Boys. It was a fitting tribute for a man who dedicated a good part of his life to helping troubled youth.

As Chief Juvenile Probation Officer for Luzerne County from 1962 until his retirement in 1982, Cugsy earned a reputation as a compassionate disciplinarian. He was more concerned with rehabilitation than punishment. He saw a system that needed fixing and he set about to fix it.

Cugsy graduated from Pittston High School (later returning as school director) and Duquesne University, who since placed his name on their Who's Who list.

He served in the U.S. Navy during World War II and was a full lieutenant at the time of his discharge. He spent 33 months on active duty in the Pacific.

He organized the Wyoming Valley Naval Reserve and became its first commanding officer. He retired in 1955 as a Lieutenant Commander.

He was a Past Exalted Ruler of the Pittston Elks, Fourth Degree and Life Member of the Knights of Columbus, Past Commander of Fort Pittston Post V.F.W., and first President of the Our Lady of Mount Carmel Holy Name Society.

He and Helen are parents of six children: Judy Yanchek, Gloria Blandina, the late Mary Christine Thompson, Charles III, Jane Adonizio Lukas, and Dr. Patrick.

SIKHS PROTEST INDIAN REPUBLIC DAY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. TOWNS. Mr. Speaker, on January 26, India celebrated its Republic Day, the anniversary of the adoption of its Constitution. Now if it would only live by that constitution.

The Council of Khalistan organized a successful protest outside the Indian Embassy here in Washington. While India celebrated, minorities are being killed. India has murdered over 250,000 Sikhs since 1984, over 300,000 Christians in Nagaland, over 85,000 Kashmiri Muslims, and tens of thousands of other minorities. There are tens of thousands of political prisoners, according to Amnesty International. These include over 52,000 Sikhs, a study from the Movement Against State Repression showed. That doesn't sound like a republic to me.

People came to the protest from all over the East Coast. They chanted slogans like "Khalistan Zindabad," "Long live Khalistan," and many others. They educated the public about the repression of minorities in India while the attendees at the Ambassador's party celebrated India's freedom.

We salute India's freedom, but it is time that these benefits extended to everyone within its borders, not just the Brahmin elites and their friends. It is time for the repression to end and for the minorities to live in freedom too.

Mr. Speaker, this kind of repression is unacceptable in any country, but especially in one that proclaims itself democratic.

Perhaps they feel that this repression is necessary to hold the country together, since India is not a single nation but many nations thrown together under one banner, much like the Soviet Union or the Austro-Hungarian Empire. History shows that such nations cannot long survive.

Now I know you're wondering what America can do to help. We should uphold and support the principle of self-determination for all people. The right to self-determination is the cornerstone of democracy.

The time has come to end our aid to India so that all the people there can enjoy the glow of freedom. The best way to secure the blessings of liberty for everyone within India's artificial borders is to stop aiding the tyrants who oppress them with U.S. taxpayer dollars. The other thing that we must do, Mr. Speaker, perhaps equally important, is to take a stand for the essential right of self-determination by putting this Congress on record in support of a free and fair plebiscite with international monitoring on the question of independence for all the minority nations of the subcontinent. This will ensure them the opportunity to enjoy the full rights of free people.

Mr. Speaker, the Council of Khalistan issued an outstanding press release on its Republic Day protest. I would like to insert it into the RECORD at this time for the information of my colleagues and the public.

COUNCIL OF KHALISTAN,
Washington, DC, January 26, 2004.

SIKHS PROTEST INDIAN GENOCIDE ON REPUBLIC DAY

DEMAND FREEDOM FOR SIKH NATION OF KHALISTAN. NO DEMOCRACY FOR SIKHS, CHRISTIANS, MUSLIMS, OTHERS

Sikhs from around the East Coast demonstrated in Washington, D.C. today to protest the ongoing genocide against the Sikh Nation and other minorities by the Hindu fundamentalist, terrorist Government of India. They raised slogans of "Khalistan Zindabad", "India out of Khalistan," "2-4-6-8, India is a Fascist state," and other slogans.

India's Republic Day celebrates the day in 1950 when India adopted its Constitution. But what India calls "Republic Day" is Genocide Day for the minority peoples and nations of South Asia. The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians since 1948, over 85,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits, and others. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." According to a study by the Movement Against State Repression, 52,268 Sikhs are being held in illegal detention as political prisoners without charge or trial. Some of them have been held since 1984!

"India is not a democracy for Sikhs, Muslims, Christians, and other minorities," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, which leads the Sikh Nation's struggle for independence. "The rights guaranteed in the Indian constitution are not enjoyed by non-Hindus," he said. "While India celebrates, Sikhs and others are dying," he said. "Is that something to celebrate?"

Christian missionary Joseph Cooper was expelled from India after a mob of militant Hindu nationalists allied with the Rashtriya Swayamsewak Sangh (RSS), a pro-Fascist organization that is the parent organization of the ruling BJP, beat him so severely he had to spend a week in the hospital. In 2002, 2,000 to 5,000 Muslims were attacked in Gujarat while police were ordered to stand aside, reminiscent of the 1984 Delhi massacres of Sikhs. Indian newspapers reported that the government planned the Gujarat massacre in advance.

Indian police arrested human-rights activist Jaswant Singh Khalra after he exposed their policy of mass cremation of Sikhs, in which over 50,000 Sikhs have been arrested, tortured, and murdered, then their bodies were declared unidentified and secretly cremated. He was murdered in police custody. His body was not given to his family. The police never released the body of former Jathedar of the Akal Takht Gurdev Singh Kaunke after SSP Swaran Singh Ghotna murdered him. Ghotna has never been brought to trial for the Jathedar Kaunke murder. No one has been brought to justice for the kidnapping and murder of Jaswant Singh Khalra.

"It is good that American pressure has forced India and Pakistan to talk about Kashmir," said Dr. Aulakh. "But the atrocities still continue. Khalistan, Kashmir, and all the nations of South Asia have the right to self-determination," he said. "In a democracy, you cannot rule the people against their will." On October 7, 1987, the Sikh Nation declared its independence from India, naming its new country Khalistan. On December 5, Dr. Aulakh met President Bush. "I am aware of the Sikh and Kashmiri problem," President Bush told him.

History shows that multinational states such as India are doomed to failure. Countries like Austria-Hungary, India's longtime friend the Soviet Union, Yugoslavia, Czechoslovakia and others prove this point. India is not one country; it is a polyglot like those countries, thrown together for the convenience of the British colonialists. It is doomed to break up as they did. India is ruled by Hindu theocrats whose agenda is "Hindu, Hindi, Hindutva, Hindu Rashtra," or total Hindu domination of every facet of Indian life. An Indian Cabinet minister said that everyone who lives in India must be a Hindu or subservient to Hindus.

Sikhs ruled Punjab until 1849 when the British conquered the subcontinent. Sikhs were equal partners during the transfer of power from the British. The Muslim leader Jinnah got Pakistan, the Hindu leaders got India, but the Sikh leadership was fooled by the Hindu leadership promising that Sikhs would have "the glow of freedom" in Northwest India. The Sikhs took their share with India on that promise.

"Democracies don't commit genocide," Dr. Aulakh said. "Only in a free and sovereign Khalistan will the Sikh Nation prosper. In a democracy, the right to self-determination is the sine qua non and India should allow a plebiscite for the freedom of the Sikh Nation," he said. "India should also allow self-determination in Christian Nagaland, Kashmir, Assam, and the other nations fighting for freedom to bring peace to South Asia."

"As Professor Darshan Singh, a former Jathedar of the Akal Takht, said, 'If a Sikh is not for Khalistan, he is not a Sikh'," Dr. Aulakh noted. "We must continue to press for our God-given birthright of freedom," he said. "Without political power, religions cannot flourish and nations perish."

HONORING ESTHER MEDINA, EXECUTIVE DIRECTOR OF THE MEXICAN AMERICAN COMMUNITY SERVICES AGENCY, INC.

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Ms. LOFGREN. Mr. Speaker, I rise to acknowledge the great contributions of Esther Medina, the executive director of the Mexican American Community Services Agency, Inc. (MACSA). Founded in 1964, MACSA has established itself as the leader in the Latino community in the area of advocacy, social justice, youth/family/senior services, implementation and operation of two charter schools and the development of affordable housing.

Esther Medina was hired as the executive director of MACSA in 1982. At that time, MACSA was on the verge of losing funding from the United Way and was put on a 3-month corrective action plan to prove fiscal solvency, stable management and leadership. At that time, the finances were in such disarray, MACSA had no money in its budget to operate. Esther was able to convince the United Way to allocate $27,000 to keep its doors open for 3 more months. Through Esther's efforts, she transformed MACSA from an organization with 1 full-time and 1 part-time employee, on the verge of having it's doors closed forever, to an organization with 120 employees and an annual operating budget of over seven million dollars as well as developing and owning it's current headquarter building, 2 acclaimed affordable housing projects for seniors, a full service 25,000 square foot multi-service youth center, a youth/teen intervention center, and 2 public charter high schools.

Esther Medina exemplifies the characteristics of a competent leader by being true to her values as a human being. The astounding success of MACSA is clearly attributable to her outstanding leadership.

IN LASTING MEMORY OF THOMAS McRAE

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. ROSS. Mr. Speaker, I would like to rise in honor of the life and legacy of Thomas McRae III. He was a loving father and husband, a statesman, a leader, a public servant, and a tireless advocate of helping the less fortunate. He recently passed away at the age of 65 at his family's home in Arkadelphia.

Tom McRae, who was deeply rooted in an affluent Arkansas political family, graduated from El Dorado High School in 1956, and went on to earn a History degree from the University of Arkansas and a law degree from the University of Arkansas Law School. Upon graduation, he volunteered to go to Nepal with the Peace Corps in 1964, a 2-year experience that would give him a new perspective on society and allow him to perform extensive social work on behalf of Nepalese villagers and farmers.

Tom became a household name in 1990 when he ran in the Democratic primaries against Governor Bill Clinton in the face of overwhelming odds. He finished a strong second in a field of six, proving that odds are no detriment to a steadfast spirit and determination to fight for the causes and ideals in which you believe. It was a fight he would continue years later by directing nonprofit programs in Mississippi and Kentucky, helping the rural poor get loans and find jobs.

Throughout his life, Tom distinguished himself through a sustained commitment to his ideals and his community. He devoted himself to uplifting society by helping those less fortunate. His character is an example of the values we, as parents, teachers, community members, and legislators, hope to instill in our next generation. Bill Clinton spoke for many of us when he said, "I respected, admired and liked Tom McRae, and I will be forever grateful for the lifetime of service he gave to Arkansas."

I extend my deepest sympathies to his wife, Christine, his children, Catherine and Thomas, as well as all of those who knew and loved him. Although he may no longer be with us, his spirit and his legacy live on in the examples he set and the many lives he touched.

TRIBUTE TO MARJORIE CLEMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, it is with profound sadness that I rise before you to recognize Marjorie Clement of Jefferson County, Colorado, who recently passed away at the age of 81. She was a stellar public servant who will be missed by many, and I think it appropriate that we remember her life before this body of Congress and this Nation today.

Marjorie was appointed Jefferson County Commissioner in 1981, and was elected to serve for two additional terms. An ardent supporter of preserving Colorado's open spaces, Marjorie worked tirelessly to preserve some of Colorado's most beautiful landscapes and vistas. Marjorie became the second woman elected to the Jefferson County Board of County Commissioners, and will be remembered as a great defender of the citizens in her community. In addition to her elected office, Marjorie also contributed to her community as a member of the Jefferson County Historical Commission and the Jefferson County Historical Society. Marjorie was an avid outdoorswoman, enjoying horseback riding, tennis, and skiing. She is survived by a daughter, Elizabeth Graham, a son, Lawrence Clement, five grandchildren, and a great-granddaughter.

Mr. Speaker, it is an honor to rise before this body of Congress and this Nation to pay tribute to the life of Marjorie Clement. Marjorie was a beloved woman who made a tremendous impact on her community through her many selfless years in public service. The Jefferson County community and the State of Colorado will truly miss her, and my thoughts go out to Marjorie's loved ones during this difficult time of bereavement.

COUNCIL OF KHALISTAN URGES SIKH ORGANIZATIONS TO TAKE STRONG STAND FOR FREEDOM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. TOWNS. Mr. Speaker, recently, the French National Assembly enacted a law banning religious symbols such as "conspicuous crosses," yarmulkes, Muslim headscarves, and Sikh turbans from schools. Many religious organizations spoke out against it, including many Sikh organizations. Belgium is thinking about such a law also.

The Council of Khalistan wrote a letter on February 11 noting that none of the other Sikh organizations mentioned the persecution of Sikhs in India or their struggle for freedom in their communications about this law. Yet a free and sovereign Sikh homeland, Khalistan, would have put the Sikhs in a much stronger position to protest these discriminatory and unfair rules.

The letter, brought to me by Dr. Gurmit Singh Aulakh, the tireless fighter for freedom in South Asia, calls on Sikh organizations to stand up to the repression by working for freedom for the Sikh people.

In my years of public service, I have had the privilege of knowing many Sikhs. They are hardworking people and they are very supportive of the cause of freedom. Yet the Indian government's response is to step up the repression in the name of Hindutva—total Hindu domination of every facet of life in the subcontinent. An Indian Cabinet minister even said that everyone who lives in India must either be a Hindu or be subservient to Hindus.

Over a quarter of a million Sikhs have been killed by the Indian government in the last 20 years, Mr. Speaker. More than 52,000 are political prisoners. Even one political prisoner is unacceptable, Mr. Speaker. Even one government murder is unacceptable, especially when no one is punished for it and especially when the country where it happens proudly proclaims its commitment to democratic values.

Over 200 years ago, Americans fought to achieve our independence from an overbearing British monarchy. Today, the Sikhs fight for their freedom by peaceful means, which the Indian government falsely describes as terrorist. We are the beacon of hope for the freedom-loving people of the world, Mr. Speaker. We owe it to them and to ourselves to help them if we can.

One way to help is to stop aid to India as long as these egregious human rights violations continue. Everyone is entitled to live in peace and freedom, to go to work and enjoy life with the family and friends. Yet minorities in India are unable to do that because militant Hindus aligned with the RSS, the parent organization of the ruling party, and the government itself in many cases commit terrible acts of violence against Christians, Sikhs, Muslims, Dalits, Assamese, Bodos, Tamils, Manipuris, and other minorities. This is unacceptable and the hardworking taxpayers of our country should not be called upon to support it.

Another measure that we can take is to declare our strong support for freedom through a free and fair plebiscite on independence where it is sought. India is a multinational state and history shows that such states do not survive. By helping to ensure that democracy is allowed to work for the cause of freedom and self-determination, we can make sure that whatever changes occur in the subcontinent happen peacefully.

Mr. Speaker, I don't mean to be long-winded, so I will stop here and place the Council of Khalistan's excellent open letter into the RECORD.

COUNCIL OF KHALISTAN,
Washington, DC, February 11, 2004.

Open Letter to Sikh Organizations and Institutions:

AN APPEAL TO THE KHALSA PANTH

ONLY IN A FREE KHALISTAN CAN SIKHS PROSPER—EVERY SIKH MUST WORK TO LIBERATE KHALISTAN

DEAR KHALSA PANTH: Waheguru Ji Ka Khalsa, Waheguru Ji Ki Fateh!

Recently, France passed a law banning the wearing of turbans and other religious symbols such as yarmulkes, Muslim head scarves, and "conspicuous crosses" in schools. This is a major violation of religious rights. Belgium is considering a similar law. Sikhs must do whatever we can to protest this unfair, discriminatory action.

Because Sikhs are slaves in India, there is nobody to defend the Sikh interests internationally. Recently, an issue came up of the French banning the wearing of turbans in school. If Khalistan were free, the Sikh Nation could call the French Ambassador and tell him to stop this harassment of Sikhs. Our Ambassador to France would tell the French government the same thing: the turban is part of the Sikh religion and Sikhs should not be harassed.

When Khalistan is free, we will be in a much stronger position to fight such offenses against our religion. We will be able to exert influence that we cannot bring to bear now. This is just one more reason that the liberation of Khalistan is essential. Yet prominent Sikh organizations like the Sikh Council on Religion and Education (SCORE), SMART, the Sikh Coalition, and other organizations refuse to mention the oppression of the Sikhs by the Indian regime and the struggle to liberate Khalistan. They are more concerned about their positions than about the Sikh people. These organizations are heavily infiltrated and often controlled by operatives of the Indian government. We appreciate the British Sikh Federation, which continually promotes the cause of Sikh rights and freedom for Khalistan. These other organizations must promote the cause of Sikh freedom as well. Whenever they have the opportunity to communicate with the outside world, they should promote freedom and independence for Khalistan.

The Guru granted sovereignty to the Sikh Nation, saying "In Grieb Sikhin Ko Deon Patshahi." The Sikh Nation must achieve its independence to fulfill the mandate of the Guru. We always remember it by reciting every morning and evening, "Raj Kare Ga Khalsa." Now is the time to act on it. Do we mean what we say every morning and evening? I urge Sikhs to unite and take action to liberate our homeland, Punjab, Khalistan. It is time to start a Shantmai Morcha to liberate Khalistan from Indian occupation.

Never forget that the Akal Takht Sahib and Darbar Sahib are under the control of the Indian government, the same Indian government that has murdered over a quarter of a million Sikhs in the past twenty years. The Jathedar of the Akal Takht and the head granthi of Darbar Sahib toe the line that the Indian government tells them. They are not appointed by the Khalsa Panth. The SGPC also is controlled by the Indian government that has brutally murdered our people. These institutions will remain under the control of the Indian regime until we free the Sikh homeland, Punjab, Khalistan, from Indian occupation and oppression and sever our relations with the New Delhi government.

The Indian government invaded and desecrated the Golden Temple and 125 other Sikh Gurdwaras throughout Punjab to murder Sant Bhindranwale and 20,000 other Sikhs during June 1984 in Punjab. If Sikhs will not even protect the sanctity of the Golden Temple, how can the Sikh Nation survive as a nation?

The Indian government has murdered over 250,000 Sikhs since 1984, according to figures compiled by the Punjab State Magistracy and human rights groups. These figures were published in Inderjit Singh Jaijee's excellent book, The Politics of Genocide. According to the Movement Against State Repression (MASR), the Indian regime admitted to holding 52,268 Sikhs as political prisoners. They are being held without charge or trial, some of them since 1984!

How can a democratic state hold political prisoners? The regime has made over 50,000 Sikhs "disappear" by picking them up, torturing and murdering them, and then secretly cremating them, declaring them "unidentified." Their bodies are not given to their families. The bodies of Jathedar Gurdev Singh Kaunke and Sardar Jaswant Singh Khalra, who were murdered by the police, were never given to their families.

Other minorities also feel the lash of Indian repression. India has killed over 300,000 Christians in Nagaland since 1947 and murdered priests, raped nuns, burned churches, and destroyed Christian schools and prayer halls. They expelled missionary Joseph Cooper from the country after militant Hindu nationalists beat him up so badly that he had to be in the hospital for a week. Missionary Graham Staines and his two young sons were burned to death while sleeping in their jeep by a mob of militant Hindus chanting "Victory to Hannuman," a Hindu god. Since they were allied with the pro-Fascist RSS, the parent organization of the ruling BJP, they were able to commit this atrocity with impunity. Muslims were massacred in Gujarat while the police were under orders to stand aside and let the massacre occur, a frightening parallel to the 1984 Delhi massacres of Sikhs. A policeman told an Indian newspaper that the Gujarat massacre was planned in advance by the government.

This kind of treatment of its minorities only confirms the kind of country that India, is. It is a fundamentalist Hindu theocracy, not secular or democratic at all. Remember what Narinder Singh, a spokesman for the Golden Temple, told America's National Public Radio in 1997: "The Indian government, they are always boasting that they are democratic, that they are secular. They have nothing to do with a secularism, nothing to do with a democracy. They just kill Sikhs just to please the majority."

Remember the words of Professor Darshan Singh, former Jathedar of the Akal Takht: "If a Sikh is not a Khalistani, he is not a Sikh." The time to achieve our independence is now. India is not one country. It is a polyglot empire thrown together under one roof for the administrative convenience of the British colonialists. It has 18 official languages. History shows that such countries are doomed to fall apart. India will collapse just like the AustroHungarian Empire, the Soviet Union, and other multinational states.

Soon Kashmir will be free from Indian occupation. Now America is involved in it. As L.K. Advani predicted, "When Kashmir goes, India goes." We agree with him and we urge the Indian government to hold a free and fair plebiscite on the question of independence and to sit down with representatives of the Sikh Nation to negotiate the boundaries of a sovereign, independent Khalistan. We want to make sure that India's collapse happens peacefully like that of Czechoslovakia, not violently like the breakup of Yugoslavia. The essence of democracy is self-determination. It is time for India to act like the democracy it claims to be.

When I met President Bush on December 5, he personally told me, "I am aware of the Sikh and Kashmiri problem and we stopped India and Pakistan from going to nuclear war." The Sikh diaspora has a moral responsibility to help the Sikh Nation to achieve its sovereignty by freeing Khalistan from Indian occupation.

The time has come to liberate our homeland. Sikhs must claim their birthright by liberating Khalistan. Only by freeing Khalistan will we put an end to this corruption and restore control of Punjab and its assets to the people, to whom it rightfully belongs. A free Khalistan is a must for the survival of the Sikh nation and will provide an optimal environment for the Sikh Nation to progress to its optimum potential politically, religiously, and economically.

Panth Da Sewadar,

DR. GURMIT SINGH AULAKH,
President, Council of Khalistan.

TRIBUTE TO CHARLES RICHARD BUTLER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you to pay tribute to the life of a remarkable man from my district. Charles Richard Butler of Durango, Colorado passed away recently at the age of 80. Charles will always be remembered as a devoted family man and patriot, and I would like to ask my colleagues to please join me in recognizing his amazing life before this body of Congress and this Nation today.

Charles began his career serving his country in the Navy, and played an integral role in unloading landing craft tanks on Utah beach during the D-Day invasion. After his honorable discharge, he went on to graduate from the University of Colorado in Boulder with both his undergraduate and graduate degrees in geology. Throughout his 35-year career, Charles worked in a variety of geological capacities and was highly respected as an expert in his field. Charles will also be remembered for leading an adventurous life, having both mined the wilds of Alaska, and searched for gold in Mexico. He is survived by his daughter, Ann, his niece Sarah Sumner and her daughters Laura, Julia and Meredith; his brothers William, Howard, and David along with numerous nieces, nephews, grand nieces and grand nephews.

Mr. Speaker, it is an honor to rise before this body of Congress and this Nation to pay tribute to the inspiring life of Charles Richard Butler. He was a beloved family man who made a tremendous impact in the field of geology. The Durango community, and the State of Colorado will truly miss Charles, and my thoughts go out to his family during this difficult time of bereavement.

THE NECESSITY OF AN ENERGY BILL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from February 6, 2004, Omaha World-Herald.

While the energy bill conference report is obviously not perfect—it contains excesses and too much parochial pork-barrel—the legislation would provide many important improvements over the current situation. Among its beneficial provisions, the measure is designed to improve the nation's electricity transmission capacity and reliability. It also supports alternative power sources and promotes a cleaner environment. As the editorial indicates, the conference report can be improved in certain ways while retaining its beneficial provisions.

It is imperative for Congress to pass a sensible long-term energy policy which will help assure Americans of development of diverse, reliable, affordable energy sources with an emphasis on energy conservation. After years of inaction, this Member believes that it is absolutely essential to enact comprehensive energy legislation. It is overdue.

[From the Omaha World-Herald, Feb. 6, 2004]

THAWING ENERGY POLICY

Signs of movement are appearing in Congress' deadlock over a comprehensive energy bill.

The $31 billion bill passed the House but fell two votes shy of breaking a filibuster in the Senate last November. The bill was a mixed bag, containing needed electrical-grid improvements and tax breaks and incentives for alternative energy sources, including a doubling of the nation's ethanol production. But it also would have rolled back some air and water pollution standards and was bloated with more than $11 billion in tax breaks and favors to gain votes.

Among the objectionable provisions was liability protection for makers of the gasoline additive MTBE. That would shift to state and local governments the estimated $29 billion cost of cleaning groundwater contaminated by MTBE.

Pete Domenici, chairman of the Senate Energy Committee, said he'll drop that provision. Good. It's an outrageous provision, but killing it will need the agreement of the House, where it still has strong backing from Majority Leader Tom DeLay.

Also likely to be cut in negotiations is the bill's exorbitant cost—more than half of which was targeted to existing oil, gas, coal and nuclear power production.

The electric-grid and ethanol proposals, fortunately, appear likely to emerge in either a slimmed-down energy bill or as separate proposals.

But the energy bill had many other provisions aimed at making a start (a small one, but a start nonetheless) on setting a new course for the nation's energy policies: tax breaks for alternative-fuel vehicles; tax credits for consumer-level energy-efficiency measures; tax credits for power plant investments in clean coal technology.

These are the important provisions for Congress to safeguard as compromises are sought to pass this vital legislation. (The fact that compromises are finally being openly discussed, after a Republican-only conference committee cooked up the current bill behind closed doors, is a victory all its own for political debate.)

The chance to plot such a course change for the nation's energy policy is an opportunity not to be missed. We're glad to see it's now open to reasonable compromise.

RECOGNIZING DAVID RYAN CLOUSE

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. WHITFIELD. Mr. Speaker, I rise today to recognize David Ryan Clouse of Hopkinsville, KY, for his selection as a student delegate to represent Kentucky at the 42nd Annual United States Senate Youth Program. Ryan was one of two students chosen to participate from the State of Kentucky for this prestigious honor. Selection as a delegate is an honor few receive. Students are required to be involved in student organizations, community activities and achieve academically.

Ryan has excelled in academics. He has served as an officer and member in the various organizations in his school. He participated in the Governor's Cup Program. He has been a valuable member of his schools soccer team, basketball team and tennis team. Ryan has been involved in his church and community.

Mr. Speaker, I am proud to represent David Ryan Clouse in my District. I extend my congratulations to him for his achievements, and I am proud to bring his accomplishments to the attention of this House.

TRIBUTE TO TOM O'KEEFE FOR 30 YEARS OF PROTECTING CALIFORNIANS FROM WILDFIRES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. LEWIS of California. Mr. Speaker, I want to pay tribute today to a dedicated public servant who for the past 30 years has devoted his life to protecting southern Californians from the danger of wildfires. I can say sincerely that many of my constituents owe their lives and homes to the hard work and leadership of Thomas O'Keefe, who is retiring as chief of the San Bernardino Unit of the California Department of Forestry and Fire Protection.

Tom O'Keefe began his career in public service in 1968 as a member of the United States Coast Guard, where he served aboard the Ice breaker Storis in Alaska.

After his 4 years in the Coast Guard, chief O'Keefe began his work for CDF on October 1, 1974 as a Fire Control Assistant in the Orange Ranger Unit. In 3 years, he was promoted to a Fire Apparatus Engineer and was assigned to the El Cerrito Forest Fire Station (FFS) in the Riverside Ranger Unit. He moved up to Fire Captain in August of 1981 and was assigned to Indian Wells and later to a Training Fire Captain position in the Riverside Ranger Unit Headquarters.

In April of 1986, Tom O'Keefe became Battalion Chief in the Riverside Training Section and three years later was made a field Battalion Chief in San Jacinto. Moving up quickly in the ranks, he was named a Division Chief in 1989, in charge of the Staff Services Division and later headed the Emergency Services Division for Riverside County. In October 1996, he was promoted to Deputy Chief of the Riverside Ranger Unit and was finally named Chief of the San Bernardino Ranger Unit in July 1999.

Mr. Speaker, the California Department of Forestry and Fire Protection is our statewide firefighting agency, and Chief O'Keefe has played an active role in many historic events, ranging from the Los Angeles riots to the Northridge earthquake. The agency is also charged with forestry management and fire prevention, and I am most grateful for Chief O'Keefe's efforts to deal with the terrible tree dieoff in the San Bernardino mountains.

On October 21, 2003 wildfires erupted throughout southern California. These fires were some of the most costly and devastating wildfires in the State's history. Two of these fires were located in San Bernardino County, and the Old Fire in my district destroyed more than 1,000 homes. Chief O'Keefe led the CDF in playing a central role as firefighters evacuated tens of thousands of residents, saved thousands of structures and protected and held the fire back from destroying the entire forest. Chief O'Keefe had already been selected to receive the Director's Leadership Award, but the recognition was especially deserved in light of his leadership and professionalism in the fires of 2003.

Thanks greatly to the efforts of Chief O'Keefe and the CDF, most of our mountain residents were able to return home after the fires. They have expressed their gratitude in many ways, and I thank him personally as we wish him well on his retirement.

Mr. Speaker, I ask that you and my colleagues join me in saluting this public servant, and sending him and his wife Nancy our best wishes.

RECOGNIZING DEREK SCOTT KING FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Derek Scott King, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 167, and in earning the most prestigious award of Eagle Scout.

Derek has been very active with his troop, participating in many scout activities. Over the years Derek has been involved with scouting, he has earned 33 merit badges and is a Firebuilder in the Tribe of Mic-O-Say. Derek has also attended the National Scout Jamboree at Fort A.P. Hill in Virginia and the Junior Leader Training Conference at the Pony Express Council.

For his Eagle Scout project, Derek built a new sign for the Alta Vista Baptist Church.

Mr. Speaker, I proudly ask you to join me in commending Derek Scott King for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO FRUITA MONUMENT HIGH SCHOOL STUDENTS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, it is my honor to rise before you today to pay tribute to the students of Fruita Monument High School who recently devoted their time and efforts toward improving the lives of others. Last year, 25 students joined the Committee for a Merry Christmas For All to construct, collect and distribute Christmas toys to needy children in Colorado. Their actions serve as a valuable model of community service, and I would like to ask my colleagues to join me in recognizing their tremendous contributions to the State of Colorado before this body of Congress and this nation.

The Committee for a Merry Christmas For All was established 17 years ago. Since the committee's beginning, the Grand Junction Free Press reports that "Students have designed and constructed nearly 5,000 toys . . . and they've collected another nearly 6,000." This past year, under the tutelage of their teachers Ed Reid and Mel Crider, the students constructed and distributed a variety of toys. On the Saturday preceding Christmas, the students and their teachers met at Fruita Monument High School and distributed the collection of toys to children in need throughout the Grand Junction community. This is an amazing group of young citizens, and I am proud to highlight their amazing actions here on the floor of the House of Representatives.

Mr. Speaker, it is a high honor to rise before this body of Congress to pay tribute to each member of the Committee for a Merry Christmas For All. I would also like to thank their teachers Ed and Mel, who have dedicated their time and efforts to make this service possible. These efforts have brightened the lives of thousands of needy children in Colorado, and the State will forever remain grateful. It is my honor to offer my deepest gratitude and appreciation to the Committee and School, and I thank them for their service.

HONORING JAMES HUFF

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. PICKERING. Mr. Speaker, this month James Huff retires—again. A mentor, a confidant, a family friend, and a counselor since before I ran for Congress, Jim represents the best Mississippi has to offer and will be irreplaceable on my staff.

Jim and Marilyn Huff reared two children and proudly claim 5 grandchildren. For 32 years he worked at the Masonite Corporation in Laurel. As operations manager at Masonite, he was one of the leading businessmen in Jones County, where I grew up and first appreciated his wisdom, wit, and integrity.

President George H. W. Bush put Jim's knowledge and expertise to work, appointing him Mississippi's state director of the Farmers Home Administration. Excelling as administrator and leader, Jim was next asked by President Bush to come to Washington DC and serve as the national administrator of the Rural Electrification Administration.

Years later, Jim's political knowledge of Mississippi and Washington DC benefited my work both in my first campaign for Congress and then as I worked to serve the constituents of Mississippi's Third District. Few freshman Congressmen could boast of such unique experience on staff. His guidance was exceptional; his advice, outstanding.

Jim continues to be a servant in his community. He is a leader at the Hebron Baptist Church where his abilities as a sunday school teacher and work as a deacon are well known and appreciated. Active in the Kiwanis Club, people in Jones County know they can come to Jim for advice and assistance during life's struggles.

The pages of Mississippi record a lifetime of public service and private engagement from Jim Huff. He will never fully retire. He may have more time now to work his cattle farm and relax at his favorite fishing hole, and more time to spend with his loving family.

When I think of Jim Huff, I think of honesty, service, humor, and experience. I thank him for his service to this office and to Mississippi. I join the rest of my staff in saying we will miss him, but I know I will see him often because he is more than a colleague and assistant. He is family and will remain near in my heart, constant in my thoughts, and always in my prayers.

HONORING RAHEEN TYSON HEIGHTER

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. ISRAEL. Mr. Speaker, I rise today to share with my colleagues an address that I delivered at the memorial service of Raheen Tyson Heighter, a fallen soldier from my district on November 11, 2003.

Raheen Tyson Heighter went to the Middle East willingly, sacrificed selflessly, and served proudly.

In the two and a quarter centuries of our nation's history, our country has faced seemingly insurmountable obstacles. But in generation after generation, Americans have risen to the occasion and met every challenge.

In the 18th century, our forefathers were able to beat back the greatest military superpower in the world to secure our independence. In the 19th century, Americans defeated the greatest injustice in the world—slavery. And in the 20th century, millions of patriots, in what has come to be known as America's greatest generation, defeated the greatest evil the world has ever known—the Nazis.

Raheen is part of a generation that faces a newer, but no less dangerous tyranny.

He is a child of Long Island. He went to this high school. In many ways, he is very much like the hundreds of thousands of other children in our community—with one remarkable exception.

Raheen was willing to make the ultimate sacrifice to secure the blessings of liberty for his countrymen, for our children, and for America's future.

By sacrificing himself for our way of life, Raheen, in the words of his mother, "died an American hero."

By fighting for a better world, Raheen, as the poet John Gillespie Magee, Jr. wrote, "slipped the surly bonds of earth" to "touch the face of God."

May his name be remembered throughout history, and may he serve as a source of strength and pride to American generations yet unborn.

HONORING PFC ARMANDO SORIANO

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. GREEN of Texas. Mr. Speaker, I rise today to extend my deepest sympathies to the family and friends of PFC Armando Soriano.

PFC Soriano was a constituent of the 29th District of Texas, and a true hero, who died on February 1, 2004, while serving his country in Haditha, Iraq.

Armando Soriano joined the Army 2 months after graduating from South Houston High School in 2002. Soriano was assigned to the howitzer battery, 3rd Squadron, 3rd Armored Cavalry Regiment, in Fort Carson, Colorado. His unit in Iraq was attached to the 82nd Airborne Division of Fort Bragg, North Carolina. His vehicle, traveling with another one on a supply route, slid off a road and rolled over during bad weather.

Armando Soriano leaves behind his two parents, Clotilde and Enrique, and 4 younger siblings.

I know his parents, family and friends are devastated by this loss, but they should be proud of the great man Armando Soriano had become and that he died a hero while serving his country.

His loss will be felt by all of South Houston, and I ask that you remember the Soriano family in your thoughts and prayers.

TRIBUTE TO DR. LAWRENCE T. GERATY, PRESIDENT OF LA SIERRA UNIVERSITY

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside, California are exceptional. Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Dr. Larry Geraty is one of these individuals. On Wednesday, February 25, 2004, he will be honored at a surprise dinner for ten years of academic and community excellence.

Dr. Geraty grew up as a citizen of the world as part of a Seventh-day Adventist missionary family who lived and worked in China, Burma, Hong Kong, and Lebanon. Dr. Geraty received a rich educational experience from attending schools in China, Hong Kong, Lebanon, England, Germany, France, Israel, California, Maryland, Michigan, and Massachusetts. These experiences set him on a lifelong course committed to the values of diversity and education.

After completing his undergraduate degree at Pacific Union College, Dr. Geraty graduated from the Theological Seminary at Andrews University. He then served a short term as a pastor in Santa Ana, California. Later, Dr. Geraty joined the Andrews Theological Seminary faculty, he first went to Harvard University to study Hebrew Bible and biblical archaeology where he earned and received with distinction his Doctor of Philosophy degree.

Returning to Andrews Theological Seminary as Professor of Archaeology and History of Antiquity, Dr. Geraty distinguished himself as a teacher and scholar for the next 13 years, teaching also in Jamaica, Jordan, Trinidad, Costa Rica, Europe, and Australia, and directed a series of major archaeological expeditions to the Middle East. During this time he was also the curator of the Horn Archaeological Museum and founding Director of the Institute of Archaeology at Andrews University.

In his notable scholarly career, Dr. Geraty has received numerous honors, including a Fulbright Fellowship and served as advisor on archaeology to former Crown Prince Hassan of Jordan. Dr. Geraty also served as president of several scholarly societies; vice president of the American Center of Oriental Research in Amman, Jordan; lectured all over the world and contributed to numerous publications.

Adding to his teaching focus, in 1985 Dr. Geraty became president of Atlantic Union College in South Lancaster, Massachusetts where he earned the reputation as a progressive academic administrator. Since July 1993 Dr. Geraty has served as President and professor of archeology at La Sierra University in Riverside, California, where he has also become active in the community, serving currently on the boards of the Greater Riverside Chambers of Commerce, United Way of the Inland Valleys, The Employers Group, Metro Riverside International Cabinet, Mayor's Higher Education/Business Council, Raincross Club, Monday Morning Group, and the Riverside Youth Action Executive Policy Board.

In the year 2000, Dr. Geraty received the P. E. MacAllister Award for Excellence in Field Archeology from the American Schools of Oriental Research, and in 2001, the Charles Elliott Weniger Award for Excellence at Pacific Union College. On July 1, 2002, he began a three-year term as president of the American Schools of Oriental Research (ASOR), the premier organization for American archeologists working in the Middle East. From headquarters at Boston and Emory universities, he will supervise an annual scholarly convention, the publication of several scholarly books and journals, the accreditation of American archaeological projects in the Middle East and relate to research centers in Jerusalem, Amman, and Nicosia.

Dr. Geraty and his wife, Gillian, have a daughter in Colorado, a son in Michigan, and between them five grandchildren. Truly, one of Dr. Geraty's most impressive accomplishments has been his ability to remain active as an archaeologist and churchman while continuing to lead and direct a university which combines the religious values of a faith community, the educational ideals of a liberal arts college, and the research opportunities of a comprehensive university.

RECOGNIZING JOSEPH WILLIAM MICHAEL FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Joseph William Michael, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 167, and in earning the most prestigious award of Eagle Scout.

Joseph has been very active with his troop, participating in many scout activities. Over the years Joseph has been involved with scouting, he has earned 38 merit badges and is a Firebuilder in the Tribe of Mic-O-Say. He served on Cub Scout Camp staff for 5 years. Joseph has also attended the National Scout Jamboree at Fort A.P. Hill in Virginia and the Junior Leader Training Conference at the Pony Express Council.

For his Eagle Scout project, Joseph built a stadium canopy for the Winston High School baseball field.

Mr. Speaker, I proudly ask you to join me in commending Joseph William Michael for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO JOHN ELWAY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, it is truly a privilege to take this opportunity to pay tribute to John Elway, a remarkable individual and stellar athlete from the State of Colorado. John will be forever revered as one of the most outstanding quarterbacks to ever play in the National Football League. In recognition of his achievements and dedication to the sport, John was recently selected to enter into the Pro Football Hall of Fame. This prestigious honor is a true testament to his extraordinary leadership and commitment to excellence both on and off the field, and it is my honor to highlight his accomplishments before this body of Congress and this nation.

John captured the attention of sports enthusiasts worldwide throughout his impressive career. He began playing for the Denver Broncos in 1983, and went on to lead his team to five playoff appearances, five Superbowls, and two Superbowl victories. Upon his retirement in 1998, John had amassed more victories than any quarterback in the history of the NFL. As further testament to his career accomplishments, John was chosen to enter the Pro Football Hall of Fame on his first year of eligibility.

John is also well known as an active leader off the field, and has for many years, contributed his time and energies toward improving the lives of his fellow citizens. In 1987, John founded The Elway Foundation, an organization that has been instrumental in raising over $3 million to help eliminate child abuse. The money has been used to aid the Family Advocacy, Care, Education, Support organization and The Kempe Children's Center. John's dedication to his community truly serves as a valuable model of civic service to today's youth and young athletes.

Mr. Speaker, it is quite clear that John Elway is a person whose unparalleled dedication and hard work both led him to the top of his profession in the National Football League. The combination of his incredible talent and unrelenting passion for competition, combined with an unconquerable human spirit, has led to his selection as a member of the Pro Football Hall of Fame. It is my distinct pleasure to recognize his achievements before this body of Congress and this nation today, and I wish him all the best in his future endeavors. You have made your teammates, your fans, and the State of Colorado proud.

UNCLE ARTHUR AND ORVILLE WRIGHT

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. SIMMONS. Mr. Speaker, earlier this month the media reported that Rover and Opportunity were exploring the Martian surface. Mars is about 35 million miles from Earth, yet man can reach that alien world.

On December 17, 1903, at Kitty Hawk, North Carolina, an equally awe-inspiring event took place. It was there that Wilbur and Orville Wright gave birth to man's ability to fly by successfully testing the first powered, heavier-than-air craft that achieved sustained flight with a pilot aboard. The first flight was only 120 feet, far less than the distance to Mars, but that single event defined the 20th Century.

In the December 2003 issue of Aircraft Owners and Pilots Association Magazine, I learned, through an article written by my brother, Tom Simmons, that our family has a connection to the Wright Brothers. Our Great Uncle Arthur Ruhl was one of only six journalists in May 1908 to watch the Wright Brothers work with their aircraft at Kitty Hawk.

An article about what Uncle Arthur saw appeared in Colliers magazine on May 30, 1908. But this story doesn't end with Uncle Arthur's article. He sent a copy of his story to the Wright Brothers and Orville sent back a warm reply. Emboldened by the inventor's response, and his own curiosity, Uncle Arthur wrote back and asked if he could take a flight. Orville responded that they had so many requests they were limiting their passengers to Army officials.

Undaunted, Uncle Arthur continued his correspondence with Orville Wright, and by 1910 the Wright Brothers were exhibiting their aircraft because the public was paying to watch the flights. Who should be covering one of the exhibitions for Colliers Weekly but Uncle Arthur. He was watching Orville Wright train one of his students when the inventor extended the long sought invitation.

Uncle Arthur found the adventure exhilarating. He wrote, "It was now that we seemed, indeed, to be going like the wind—a wonderful sensation, like nothing else, so near to the earth, yet spurning it."

I fly between Washington and my home in Connecticut just about every weekend. Today air travel does not inspire the awe described by Uncle Arthur. But it is an amazing thing—the ability to fly thousands of miles around the world in a matter of hours, or to set foot on a planet that our ancestors looked at every night with amazement and wonder.

I can now look at flight through the eyes of my Uncle Arthur; and I will probably never look at the trip between Washington and Connecticut so casually ever again.

[From the AOPA Pilot, Dec. 2003]

UP IN THE AIR WITH ORVILLE

(By Tom Simmons)

There are many ways to "catch the flying bug." One of the the most common occurs when a pilot offers a nonpilot a ride in his airplane. If this ever happened to you (since you're reading AOPA Pilot today) chances are good that you said, "You bet!" Chances are also good that the pilot was certified by the FAA and his airplane was a certificated airframe.

So imagine, for a moment, the same situation but with slightly altered circumstances. Imagine that the pilot has never taken a flying lesson in his life and knows nothing about aerodynamics other than what he has taught himself through trial and error. Imagine that the airplane is home-built, the most recent in a succession of airframes built by this self taught pilot because he keeps modifying the control system and all his previous airplanes have been destroyed in flying accidents. And finally, imagine that the seat you are offered is a wooden chair bolted to the wing, without cockpit or cowling surrounding it, and not even a seat belt to hold you in place. Still interested?

I know of a man who said, "You bet!" under the exact circumstances I've just described. He was my great-uncle, Arthur Ruhl, a feature writer for Collier's Weekly in the early decades of the twentieth century. And the pilot who took him for his first thrill ride was Orville Wright.

The story begins in May 1908. The Wright brothers had returned to Kitty Hawk, North Carolina, to test a two-man machine built according to contract specifications for the Army Signal Corps. My great-uncle was one of six journalists watching surreptitiously from a stand of trees a half-mile away. At the time, the Wrights were still secretive about their invention and refused to fly in front of witnesses (which fueled doubts about their claims of successful flights) so the journalists stayed out of sight.

They watched two flights, including the first two-man flight the Wrights had ever attempted. As Uncle Arthur's article in the May 30 edition of Collier's describes it: "A hundred yards away, the great bird swung to the right and swept grandly by, broadside on. Some cows grazing on the beach grass threw their heads upward, and whirling about, galloped away in terror ahead of the approaching machine. It swept on far above them indifferently, approached the sand hills three-quarters of a mile to the left, rose to them, soared over and down the other side."

Uncle Arthur was clearly thrilled by what he saw. He sent a copy of his article, "History at Kill Devil Hill," to the Wright brothers and received a warm reply from Orville. "I thought your account of the maneuverings of the newspaper men at Kill Devil Hills the most interesting thing I have ever seen concerning our experiments," Orville wrote. Pretty high praise.

Perhaps it was these kind words from Orville that emboldened my uncle to make his next contact in September 1908. Orville was then in Washington, D.C., flying the acceptance trials for the Army, and on September 9 he had taken up his first passenger. Uncle Arthur wrote him and asked to be taken up for a flight. Orville's handwritten reply appears on Cosmos Club stationery.

Sep. 14, 1908.

My dear Mr. Ruhl: I have your letter, and I am sure it would give me great pleasure to take you up with me in our machine, but I have had so many requests that I hardly see how I can take you without giving offense to others. I am limiting the number of passengers to the Army officials at present. I am sorry that you were not able to remain to see some of the flights, but hope you may be able to come down again.

Very truly yours

Orville Wright

Strong winds prevented Orville from flying for several days. On September 17, his next flight after writing my uncle, Orville took Lt. Thomas Selfridge up as his passenger. One of the propellers separated, sliced a guy wire, and caused the machine to crash. Selfridge was killed.

A more timid man might have abandoned his hopes of flying right then and there. But not Arthur Ruhl. When Orville recovered from injuries sustained in the accident and returned to work in May 1909, he found a letter waiting for him. Uncle Arthur still wanted to take a flight. Orville again refused.

Orville wrote back: We shall not be able to make any flights before we go to Washington, and once we get to work there we shall have to devote every flight to teaching our pupils. Besides if we take one passenger we will be besieged with requests from people whom it will be almost impossible to refuse. You will readily see how much embarrassment it will make us if we begin to take passengers. It would give us pleasure to take you for a little spin, in recompense for the suffering you endured, on "the firing line" but we did not see how we can do it. We shall be glad to see you in Washington in you find it convenient to be there while we are at work on our government contract.

But that's not the end of the story. In 1910, the Wrights decided to enter the exhibition business. Americans weren't buying airplanes but they were paying to watch others fly them. So the real money in aviation was out on the flying circuit. In order to compete in as many events as possible, Orville started training pilots for the Wright brothers team. Instruction was conducted at Huffman Prairie, a hummocky pasture eight miles outside of Dayton. And once again, Arthur Ruhl was there to cover the story for Collier's Weekly.

For a nonpilot writing in 1910, Uncle Arthur's understanding of aerodynamics was impressive. In the Collier's article, he writes: "One of the first things to learn, of course, is that the air isn't the simple homogeneous medium it seems to be. It boils and shifts and swirls as current fights tide, and the aeroplane is sailing, not across the stream, but through it.

"Take, for instance, this peaceful cow pasture on a bright June morning. The sky is an even blue and the solitary tree across the field seems drenched in slumbering sunshine. Yet, as a matter of fact, any one of many interesting things are happening near the tree. Maybe the air is streaking up from it as it would streak up a chimney flue, or swirling round it as water swirls around a rock, and if you are flying into the wind and at the tree, the wind may come pouring down over it and upon you like an invisible waterfall."

Uncle Arthur also seems to have understood the Wrights' control system pretty well. "The wings and vertical rudder work together in their machine. The same pull which depresses the left wing-tip and increases its angle of incidence—gives it a firmer grip on the air, so to say—lifts the right wing-tip and lightens its grip accordingly; at the same time the rear rudder turns to the right, thus tending to counteract the combined drag and lift of the wings and bring the machine back to an even keel."

Uncle Arthur watched Orville train his students until the sun edged toward the horizon. "And then he gave an invitation which had been sought ever since a baking spring morning two years ago, when six weary and tick-bitten corresponding rowed, waded, tramped, and crawled for several hours to a spot under Kill Devil Hill and there saw the Wright machine in successful flight across the Kitty Hawk sands. 'You're elected.' said Orville and I climbed in.

"The passengers's seat in the Wright machine is in the middle. THe engine is at his right, and the driver is at his left, so that the balance is the same whether an extra man is carried or not. You sit on a small wooden seat with a back, grasp one of the uprights with your right hand, and rest you feet on a cross-bar. Although not fastened in, one is pretty safely caged by a guy-wire, which passes diagonally across and close to one's chest."

Thus seated, wearing a three-piece suit and jaunty cap, Uncle Arthur headed for the heavens.

"Curious and rather uncanny air trends strike the machine more or less continually as it flies. From the way it vibrates, from the little flapping pennant in front, most of all from an instinct which can only be acquired by experience, the veteran knows pretty well what is happening and how to meet it. But as the novice feels himself suddenly boosted up or dropped with a sensation much like that felt when an elevator suddenly drops or rises, he can only sit tight and trust the man beside him.

"And it was up here, about three hundred feet in the air, that Orville treated me to the only maneuver which a regular bird-man could, I suppose, have regarded as remotely in the nature of an adventure. For any one tired of life and listlessly seeking a new sensation, I can thoroughly recommend it. Just get the Wrights to take you up a few hundred feet, and then as you hand there above the abyss, like a lamb in a condor's claws, bring the great bird up standing and stiffly 'banked,' swing it around in a diameter of, say, two hundred feet."

Imagine that. Uncle Arthur, sitting on a seat with no seat belt, up in the air for the first time in his life, flying at about the height of a 30-story building—and Orville puts the plane into a tight banked turn. I don't know how you would have felt and I'm not sure how I would have felt. But my great-uncle loved it! His article, titled "Up in the Air With Orville," is filled with his joy from the experience.

"Thus we slid down, faster than ever now, with the wind blowing the tears out of our eyes; and just before touching ground came up with exquisite ease and went skimming round the field just tickling the weed tops. It was now that we seemed, indeed, to be going like the wind—a wonderful sensation, like nothing else, so near to the earth, yet spurning it. Twice around the filed we went, keeping an even distance from the ground, as if on an invisible track, and then Orville shut off the engine and we slid down upon the grass just as a duck on the wing slides into water." Wow.

Arthur Ruhl died in 1935 and his files were packed into boxes that went into storage for more than 60 years. I recently came into possession of his papers, which include both articles for Collier's, three letters from Orville Wright, and a note from Katherine Wright, the brothers' sister, thanking Arthur for some sweet peas he brought to dinner at the Wrights' home on Hawthorne Street in Dayton.

RECOGNIZING THE CLASS ACT GROUP GRASSROOTS CONFERENCE TO RESTORE THE BROKEN PROMISE OF MILITARY RETIREE HEALTH CARE

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. VAN HOLLEN. Mr. Speaker, I rise today to commend Col. George "Bud" Day and the members of the Class Act Group who have worked so hard to restore health care to America's military retirees. I salute them for their grassroots efforts that helped make Tricare for Life the law of the land, and I commend them for coming together on February 17, 2004, in Fort Walton Beach, Florida, to develop a strategy to convince Congress to make good on more of the broken promises. I especially appreciate their efforts to enact H.R. 3474, the Keep Our Promise to America's Military Retirees Act, a bipartisan bill that I was proud to introduce.

The purpose of the recent meeting takes on a greater urgency because we must prepare to honor a new generation of veterans who have been willing to make the ultimate sacrifice for our country in Iraq and Afghanistan. Our government must be accountable for the promises it makes to young men and women who are asked to serve our country in this way.

Generations of young men and women were recruited into the uniformed services with the promise that heath care would be there for them when they retired after serving a career in service. But while these career soldiers put their lives on the line for our country, the government did not keep its end of the contract. Finally, the Courts have laid to rest the matter of who is responsible for making good on those promises—the United States Congress.

The Class Act Group convention is in the best tradition of American democracy—they are joining together to petition their elected representatives to do the right thing and make good on promises the government made to our military retirees. As veterans, they have already set a good example for our young people by protecting our freedoms and rights. And by organizing this grassroots movement they are doing it again by exercising those freedoms and rights.

I send my congratulations to the Class Act Group for a job well done! I will work with CAG and anyone else who shares our goal, to see that Congress does Keep Our Promise to America's Military Retirees.

THE IMPORTANCE OF DUE PROCESS FOR JOSE PADILLA

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. UDALL of Colorado. Mr. Speaker, the Supreme Court has agreed to hear two important cases regarding the balance between national security and the rights of American citizens. And in a February 24th editorial, the Rocky Mountain News clearly explains why we all have a stake in the outcome of the cases involving Yasr Hamdi and Jose Portillo.

While both evidently are American citizens now being held as unlawful combatants, their cases are not identical. As the editorial explains:

> Both men are citizens, but the incarceration of Hamdi seems less convincingly a civil-rights incursion than the incarceration of Padilla. While Hamdi deserves his day in court, grabbing a prisoner at the site of armed hostilities in a foreign country is a different matter from picking someone up at a domestic airport.

And, in the words of the editorial, here is the bottom line:

> The obvious issue with Padilla is that if the administration can stick him away as long as it likes without an indictment or court proceedings of any kind, why can't it do the same thing with any of us?

Mr. Speaker, that is exactly the point, and exactly why the Portillo case is so important. For the benefit of our colleagues, I am attaching the full text of the editorial.

[From the Rocky Mountain News, Feb. 24, 2004]

PADILLA DESERVES DUE PROCESS—STILL

Some argue the Bush administration was justified in arresting a U.S. citizen and holding him for two years without due process because, after all, he was in league with terrorists. The logical fallacy here is known as begging the question—you assume the conclusion in the proposition.

How can the administration know Jose Padilla was a terrorist intent on mass killings through use of a "dirty" bomb without due process? And if this can be proven, why doesn't the government initiate a trial?

The Supreme Court is now going to take on the question of whether the administration violated the Constitution in holding Padilla, arrested in Chicago after a trip abroad, and Yaser Hamdi, captured in a battlefield in Afghanistan. Both men are citizens, but the incarceration of Hamdi seems less convincingly a civil-rights incursion than the incarceration of Padilla. While Hamdi deserves his day in court, grabbing a prisoner at the site of armed hostilities in a foreign country is a different matter from picking someone up at a domestic airport.

The obvious issue with Padilla is that if the administration can stick him away as long as it likes without an indictment or court proceedings of any kind, why can't it do the same thing with any of us?

It's hard to see how the Supreme Court could side with the administration in the Padilla case, even if a few other presidents, most notably Abraham Lincoln during the Civil War, have gotten away with the suspension of due process. Moreover, there is language both in Article I of the Constitution and the Fifth Amendment that allows exceptions to due process protections when there is a public danger. We simply don't believe that language would be correctly applied to the Padilla situation.

SPEECH OF DR. ARCH BARRETT

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. SPRATT. Mr. Speaker, I rise to enter into the RECORD a speech given by a former staffer of the House Armed Services Committee, Arch Barrett. Arch is one of the most unassuming people I know, but was one of the most remarkable and able staffers I've met during my 20 years on Capitol Hill.

Arch had an undergraduate degree from both the West Point and Harvard, and later got his Ph.D. in political economy and government from Harvard. He entered the Air Force as a second lieutenant in 1957, saw plenty of action in Vietnam, and retired as a colonel in 1981. While in the Air Force, he received the Distinguished Flying Cross, Legion of Merit, Meritorious Service Medal, Air Medal with 12 oak leaf clusters, the Joint Service and Air Force Commendation Medals, and the Vietnam Service Medal.

As distinguished as his military record is, his greatest effect on the military came after he became a staffer for the House Armed Services Committee. If it were not for Arch Barrett, I do not believe Congress would have enacted the Goldwater-Nichols Act. Goldwater-Nichols forced the separate branches of the Armed Services to work cooperatively, and our forces would not be nearly as effective today had it not been for the Goldwater-Nichols Act. The Pentagon fought Goldwater-Nichols tooth and nail, and it took us about 4 years to actually pass the legislation. Whenever the Pentagon raised an objection, we sent Arch Barrett over and he'd argue with the naysayers until they ran out of objections and had to relent. It was a virtuoso performance by someone who had mastered the subject matter.

Arch Barrett is now a professor at the Navy Post-Graduate School in Monterrey, still serving his country. He gave the graduation address to the Naval Postgraduate School's Joint Professional Military Education Course in June 2003. In that speech, Arch of course downplayed his own role in establishing Goldwater-Nichols, but did recognize important contributions from several Members of Congress. One of those is a man I, like Arch Barrett, admire—my good friend and colleague from Missouri, the Ranking Democrat on the House Armed Services Committee, Ike Skelton.

I commend Arch's speech to all those with an interest in the founding of the Goldwater-Nichols legislation, and I am proud to enter it into the RECORD.

REFLECTIONS ON LEADERSHIP IN DEFENSE AND PROFESSIONAL MILITARY EDUCATION REFORM

(By Archie D. Barrett)

Sixteen years ago, in 1987, Congressman Les Aspin asked me whether there was an uncompleted task in the area of Defense Department restructuring that could be assigned to Representative Ike Skelton. Aspin was the chairman of the Committee on Armed Services of the U. S. House of Representatives. Skelton was a mid-level Democrat on the Committee who was intensely interested in improving the quality and performance of our Armed Forces. I was a member of Mr. Aspin's Committee staff.

At the time, the Pentagon was making little progress in implementing the education provisions of the 1986 Goldwater-Nichols Act. The Act required a reassessment and revamping of professional military education to assure that it supported the new emphasis on joint military planning and operations. I suggested to Chairman Aspin that Rep. Skelton could provide a signal contribution to the improvement of the nation's armed forces if he could be persuaded to lead a congressional panel charged with bringing PME into line with the goals of the Goldwater-Nichols Act. Subsequently, Rep. Skelton seized on the opportunity and ultimately fathered the significant changes in Professional Military Education that have culminated in your presence here as JPME graduates at the Naval Postgraduate School.

My remarks today will be addressed to the leadership displayed by Rep. Skelton and two other individuals that eventually led to this gathering.

We usually think of a leader as someone who is in charge or who heads an organization. I for one barely qualify. My most extraordinary experience in that regard was leading aircraft on night combat missions in Southeast Asia during the Vietnam War. But the aircrews I commanded came together for only one mission and very little "leadership", as we usually think of it, was involved. On the other hand, many of you in the audience have been, or will be, called upon to lead in the traditional sense. You may rightly ask what I could convey to you on the subject. I certainly asked that question of myself when I began to contemplate this address.

My answer is that I have had the privilege of observing others use their ability, their positions, and their prestige to exert leadership on matters of great importance to our country. Basically, a leader influences other people to behave as he or she wishes. The leaders I will discuss influenced the behavior of hundreds of thousands of members of the armed forces, including you in this audience. It is because of my experience with those men that I can discuss aspects of leadership.

At about the time you graduates were attending high school, I retired from the Air Force and joined the staff of the Armed Services Committee. In February 1982, General David Jones, the nation's most senior military officer, testified that there were fundamental flaws in the structure of the highest military body in our Armed Forces, the Joint Chiefs of Staff—or JCS, as it is often called. He proposed that Congress legislate far-reaching changes.

Gen. Jones was chairman of the JCS. At the time, he was in his late '50s. He was a tall, dark haired, distinguished looking man in his Air Force uniform with the 4 stars on each shoulder.

The general charged that the JCS, a committee consisting of the chiefs of each service, had difficulty making decisions and providing advice to the President from an overall national defense perspective because each chief aggressively pursued the interests of his own service. Moreover, he claimed, the service chiefs had used their positions on the JCS to weaken the field commanders—the CINCs—whose mission it is to plan and conduct military operations. Each service chief wanted to keep as much control of his soldiers, sailors, airmen, or marines as possible. Each chief also sought to maximize his service's budget for tanks, planes, or ships regardless of the needs of the other services. It is no wonder, then, that when the services were called on to work together in military operations, their joint performance was often unsatisfactory.

Most of you in this room are accustomed to hearing of nothing but an unbroken string of military successes during your lifetime. Those of us who are older remember a much more uneven pattern of military performances. Jones could point to a whole string of flawed military operations to support his allegations.

In Vietnam, the JCS disregarded the principle of unity of command. There were two land chains of command and four air chains of command largely because of each service's sensitivity about placing its forces under the command of a general or admiral of another service.

In 1980, the services were unable to work together in an attempt to rescue American Embassy hostages in Iran. Two aircraft collided on the ground killing several servicemen and dooming the operation. The subsequent investigation revealed gaping disconnects among the services in training for the operation and, once again, flaws in the chain of command.

Going back to World War II, friendly fire from Navy ships shot down Army aircraft during the invasion of Sicily killing paratroopers and aircrews due to inadequate communications and coordination among the services.

Also, in World War II, the Army and the Navy divided the Pacific into two commands, one headed by Gen. MacArthur and the other by Admiral Nimitz, because they could not agree on a unified command structure. The result was a near disaster at Leyte Gulf that could have prolonged the war.

In 1983, a year after Gen. Jones first testified, 241 young servicemen were killed in a terrorist attack on a Marine barracks in Beirut. The investigation revealed glaring inadequacies in the military chain of command that wound its way from the Pentagon through Army, Air Force, and Navy flag officers to the Marine colonel and his unit on the ground.

In that same year, it took over 6000 U.S. troops to defeat 600 Cubans on Grenada. After action reports revealed that inadequate communications among the services hindered naval gunfire and air-to-ground support of the troops in combat.

These and other flawed military operations were not merely unfortunate incidents. As you well know, the price of substandard performance of our armed forces in war is paid in the lives of young Americans.

Obviously, General Jones was raising issues of fundamental importance to the American people. But why did the general voice his criticisms on Capitol Hill? Why did Jones not rely on his Commander-in-Chief to address the problems? One answer is that the administration was not interested. A more fundamental answer involves a fact many people do not realize. The Constitution makes the Congress, not the President, responsible for the organization of the nation's defense. The U. S. House of Representatives delegates oversight of that responsibility to the Committee on Armed Services, and further, to one of its subcommittees.

Representative Richard White, a Democrat from El Paso, was the chairman of the subcommittee responsible for overseeing defense organization in 1982. White was about 70. He was tall and slim. He was soft-spoken. His ruddy complexion reflected the time he had spent in the West Texas sun. His subcommittee focused primarily on investigations—defense contractor fraud, for example. Almost a quarter century had passed since Congress enacted major changes in defense organization. Understandably, Chairman White knew little about the subject. But he was acutely aware that he was responsible for that part of the Constitution that assigned defense organization to Congress.

In April, White convened hearings to determine whether Gen. Jones' criticisms were valid and to ascertain what action Congress should take. The hearings lasted until late July and covered over 1000 pages. The Reagan Administration strongly opposed reorganization. With few exceptions, the Pentagon witnesses opposed change. On the other hand, many witnesses who had previously served in the Pentagon or White House in high civilian positions sided with Jones. They emphasized that the Joint Chiefs of Staff, as constituted, simply did not and could not provide adequate military advice to the President due to the conflicting service interests that dominated the chiefs' thinking. A number of high-ranking retired military officers also agreed with Jones. Others strongly disagreed.

Mr. White presided over every hearing. Listening to the conflicting views of the witnesses soon provided him the education in defense organization issues that he lacked when the hearings began. He made himself an expert through his perseverance.

Only a few other congressmen, however, attended the hearings regularly. Focusing on defense organization is about as exciting as watching paint dry. Moreover, with the Pentagon leadership and the President adamantly opposed to changes, few legislators felt that the investment of their time would be worth the effort.

At the conclusion of the hearings, Chairman White introduced a bill to reorganize the Joint Chiefs of Staff. He had decided that Jones was right. White's subcommittee approved his bill with few changes. One Congressman stated that he did not know much about the complicated issues addressed in the bill. He could confidently support the bill, he said, because Chairman White had presided over the lengthy hearings and was an expert who knew what must be done.

White presented his bill to the full Committee on Armed Services in August. The Committee approved it and referred it to the House of Representatives. In the fall, with Chairman White leading the debate, the House passed the bill and referred it to the Senate. In December, Mr. White persuaded Senator Tower, a fellow Texan, to hold a hearing on his bill before the Senate Armed Services Committee.

That is the end of my story about Rep. White. Soon after the December hearing

Congress adjourned and White's bill died, as do all bills that have not been enacted at the end of each Congress. There was no time for the Senate to consider the legislation. Moreover, Mr. White disappeared from Capitol Hill at the same time. You see, he had long ago decided to retire and did not run for reelection even though he would have had no trouble winning another term. Interestingly, by that time General Jones had also retired. He continued to push for reorganization, however.

RECOGNIZING BETHANY SMITH

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Bethany Smith, a very dedicated and enthusiastic member of my Washington, D.C., congressional staff.

Bethany has served my office for 7 months, as well as serving as a staffer and intern for Congressman PETE SESSIONS. As our office scheduler, she has established a passion for working on the Hill. Bethany holds dear the people she has worked with as a Hill staffer.

My office and I greatly value Bethany's hard work and commitment. Constituents have grown to know her attention to detail, knowledge of many issues, and personal touch that should not go unrecognized. Her dedication to the Sixth District of Missouri has shown through over the past few months, which is evident by the appreciation of all she works with.

It is unfortunate for countless people that Bethany will be leaving the House of Representatives, as she has left her unique stamp on many. I, as well as my office, wish Bethany the very best in her future career with Senator KAY BAILEY HUTCHINSON.

Mr. Speaker, I proudly ask you to join me in commending Bethany Smith for her many important contributions to myself, my staff, all those she has worked with on the Hill, and for all those she has served. She will be missed by many.

REGARDING THE NEBRASKA STATE EDUCATION ASSOCIATION

HON. TOM OSBORNE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. OSBORNE. Mr. Speaker, I rise today to acknowledge the tremendously positive contributions of teachers across the state of Nebraska. Our teachers are hard-working, dedicated public servants who serve on the front lines of our society. I have worked extensively with the Nebraska State Education Association (NSEA) as well as the National Education Association (NEA). I have worked closely with the NSEA and its educator-members and the NEA here in Washington on many issues of mutual concern. Teaching is the most important job in the world. Our teachers deserve our appreciation and respect.

PENINSULA SINAI CONGREGATION'S 36TH ANNIVERSARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. LANTOS. Mr. Speaker, I am honored to pay tribute to the Peninsula Sinai Congregation on the occasion of its 36th Anniversary. From its humble beginnings the Peninsula Sinai Congregation has grown to include 252 member families in Foster City, California, located in my Congressional District and has become an integral part of the community's social and moral fabric.

In 1967, four pioneers organized the first meeting of the Peninsula Sinai Congregation in a San Mateo church. As the population of the congregation increased it was forced to move, first to the Peninsula JCC and later to its own facility in Foster City, California in 1979. At that time there was one small building that included an education wing comprised of four classrooms, a kitchen and the Col. David J. Reina Memorial Library. Five years later the facility was expanded to include a sanctuary/social hall and as well as administrative offices. Finally in May 2000, the Congregation completed a substantial remodeling, which included the creation of a dedicated sanctuary, a lounge, a full catering kitchen as well as additional classrooms and an expansion of the library.

Mr. Speaker, from four pioneers the Sinai Peninsula Congregation is now a full service religious center, providing a Jewish education for its members from cradle to grave. In addition to Hebrew school programs for children in grades 3–10, the Congregation has a very active Adult education program. This program includes "How to" instruction about rituals and holidays, as well as Adult Bar and Bat Mitzvah opportunities for adult members who had not yet experienced this celebrated rite of passage.

Mr. Speaker, the Peninsula Sinai Congregation also hosts an annual Chen Shapira Memorial Concert as its major fundraiser for the Chen Shapira Jewish Culture Fund. This fund is named after the late Chen Hayim Shapira who was born in Israel but emigrated to San Francisco in 1965, and dedicated his life to broadening Jewish education and promoting Jewish and Israeli music and culture in the Bay Area. Although Mr. Shapira passed away in 2000, this fund continues his work by supporting positive Jewish cultural awareness.

Mr. Speaker, in the Jewish tradition the number 18, called "chai," is considered lucky, and since 36 is 18 doubled, the number 36 is known as "double chai" is also considered lucky. Therefore, on the celebration of the Peninsula Sinai Congregation's double chai anniversary, I urge all of my colleagues to join me in congratulating the Peninsula Sinai Congregation on its extraordinary growth and wish the congregation continued successes in the future.

IMPROVING THE COMMUNITY SERVICES BLOCK GRANT OF 2003

SPEECH OF

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements:

Mr. EDWARDS. Mr. Chairman, I would like to further extend my remarks from the Debate on H.R. 3030 on February 4 2004. In my remarks on H.R. 3030, Mr. BOEHNER and I discussed portions of the 1972 debate addressing the 702 exemption of Title VII of the 1964 Civil Rights Act. The following provides more in-depth explanations of Senator Ervin and Senator Allen's comments in 1972 regarding this issue. Please insert these comments at the end of my remarks or appropriate place regarding this debate.

I believe it is important to consider the rest of the 1972 legislative history on the amendment to the 702 exemption of Title VII of the 1964 Civil Rights Act and to discuss the comments of the lead proponents of the 1972 amendment to the 702 exemption of Title VII of the Civil Rights Act, Senators Sam Ervin (D-NC) and James Allen (D-AL). You will find that these senators rallied support for broadening this exemption by citing examples of religious institutions that they said did not receive federal financial aid, but were supported by private funds. It underscores my point about the difference between discrimination with private funds and discrimination with taxpayer funds.

I recommend for the House's consideration an article that will be published soon entitled, Religion-based Employment Decisions and Federally Funded Jobs: Congressional Debate, Law and Policy, written by Melissa Rogers, Visiting Professor of Religion and Public Policy at Wake Forest University. Rogers is former executive director of the Pew Forum on Religion and Public Life and former general counsel of the Baptist Joint Committee, and she has spent a lot of time working on this issue.

Rogers writes: "It is true . . . that [Senators Ervin and Allen, the prime proponents of the 1972 amendment to the 702 exemption of Title VII] considered an institution-wide exemption for religious organizations from Title VII to be crucial to religious autonomy and freedom. It is often recalled, for example, that Senator Ervin repeatedly said that his amendment was designed 'to take the political hands of Caesar off of the institutions of God, where they have no place to be.'

"But what has not been recalled," Rogers notes, "is that, in his argument for allowing religious organizations to make religion-based employment decisions institution-wide, Senator Ervin repeatedly used an example of a religious institution from his home state that, as he stressed, '[was] not supported in any respect by the Federal Government,' but by religious adherents."

Specifically, Senator Ervin said the following:

> "We have a college in North Carolina known as Davidson College that is affiliated with the Southern Presbyterian Church. Davidson College is supported by the fees of its students and by the voluntary contributions of people interested in its activities. It is not supported in any respect by the Federal Government . . .
>
> This college was founded and is controlled by people who believe in giving a Christian education to the students of the institution . . . [It has] a regulation, which says that any person who is chosen to be a full professor at the institution shall be a member of an Evangelical Christian Church . . ."

Senator Ervin then asked Senator Allen, his colleague and supporter: Is there "anything immoral or ought [there] to be anything illegal in people who support a college devoted to giving a Christian education taking steps to assure that the youth who attend it should be instructed on any subject, whether religious or nonreligious, by teachers who are members of a Christian church?" And, in response to a question later in the debate, Ervin emphasized again that Davidson College was "supported by fees of the students and voluntary gifts of people who believe in giving the kind of education this institution gives."

Senator Allen echoed this argument in his own statements. He commented: "Under our system of religious freedom, which would be violated by this EEOC bill, religious organizations have seen fit to use their own resources to establish church schools at every level of education—elementary, secondary, and institutions of higher education. They did so because they wanted youth taught in a religious atmosphere and by Christian instructors." Senator Allen also quoted Senator Ervin stating: "'[I]f the members of the Presbyterian Church, or the members of the Catholic Church, or the members of the Lutheran Church, or the members of any other religious body see fit to establish, through their own resources, an institution of learning for the instruction of youth, and they want the youth of that institution to be taught by persons they regard as Christian professors, even in nonreligious subjects such as mathematics or trigonometry or philosophy, they should have the unqualified right to do that.'"

Accordingly, Professor Rogers concludes: "The 1972 legislative history reveals that the lead sponsors of the 702 amendment rallied support for their amendments by offering examples of religious institutions that they said did not receive government financial aid, but were supported with private funds. Far from supporting [religious discrimination in publicly funded jobs], this evidence cuts directly against it. Thus, any suggestion that the 1972 legislative history offers support for allowing religious organizations to make religion-based employment decisions with regard to government-funded positions is simply incorrect."

So, if those most interested in this amendment to the 1964 Civil Rights Act would go back and look at the debate, he or she would find that Senators Ervin and Allen were rallying support for broadening the 702 exemption by referring to religious institutions that they said were supported with private money.

But we are not talking about those kinds of situations today. Instead, we are talking about the people's money, the American tax dollar, and I think there is a huge difference there.

75TH ANNIVERSARY OF THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Ms. PELOSI. Mr. Speaker, congratulations to the League of United Latin American Citizens on 75 years of outstanding service. Your work has improved the lives of millions of Hispanic Americans and has benefited our entire country.

Seventy-five years ago, the founders of the League of United Latin American Citizens, better known as LULAC, joined together to establish an organization that would become the largest, oldest and most successful Hispanic civil rights and service organization in the United States. Since its inception on February 17, 1919, in Corpus Christi, Texas, LULAC has championed the cause of Hispanic Americans in education, employment, economic development and civil rights.

LULAC has developed a comprehensive set of nationwide programs fostering educational attainment, job training, housing, scholarships, citizenship, and voter registration. Its members throughout the Nation have developed a tremendous track record advancing the prosperity and civil rights of the Hispanic population of the United States. LULAC's legislative platform promotes humanitarian relief for immigrants, increased educational opportunities for our youth, and equal treatment for all Hispanics in the United States and its territories, including the Commonwealth of Puerto Rico.

This year the League of United Latin American Citizens will celebrate 75 years of community service to increase educational opportunities and improve the quality of life for Hispanic Americans. I am proud to join my colleagues in the Congressional Hispanic Caucus, the LULAC membership, and Americans across the country in commending LULAC on 75 years of service and the great contributions LULAC has made to our country.

PERSONAL EXPLANATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. BEREUTER. Mr. Speaker, on February 3, 2004, this Member unavoidably missed Roll Call vote No. 14 on H.J. Res. 84, a resolution honoring former President Ronald Reagan on the occasion of his 93rd birthday. Had this Member been present, this Member would have voted "aye."

TRIBUTE TO RUSSELL J. RICE

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to pay tribute and honor the achievements of Russell J. Rice, Chief of Police for the city of Placentia, California, who is retiring after 30 years of exemplary service.

Chief Rice's leadership and impressive record of academic career and civic involvement has earned the admiration and respect of all those who have had the privilege of working with him. He was named P.O.S.T. Command College, Outstanding Student for Academic Achievement, Class 18, 1994; City of Placentia, Employee of the Year, 1986; Placentia Police Officer's Association, Officer of the Year, 1985; and Disabled American Veterans, Outstanding Police Officer, 1984 and 1985.

I would like to congratulate Chief Rice on these many accomplishments and sincerely thank him for his ongoing commitment to the community, which he has served so admirably.

TRIBUTE TO BARRY HIRSCHFELD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, it is my honor to rise before this body of Congress and this nation to pay tribute to the Hirschfeld family's impressive tradition of business excellence and philanthropy in Colorado. For over three generations, the Hirschfeld's have dedicated their time and efforts toward improving their Denver community. In acknowledgment of the family's many contributions, Barry Hirschfeld, his father Edward, and grandfather A.B. were recently inducted into the Colorado Business Hall of Fame.

The Hirschfeld legacy began when A.B. founded the A.B. Hirschfeld Press Company in 1907 by printing business cards with a hand press. It has grown to one of the largest printing companies in the area, employing 150 members of the community, and boasts annual earnings of $23 million. The Hirschfeld's entrepreneurial spirit guided them into a number of other prominent business ventures. A.B.'s love for sports resulted in his co-ownership of the Denver Broncos and Denver Bears. Edward's interest in telecommunications led him to start a local television station, and he was instrumental in helping to bring cable television to Denver through Mile High Cable. Barry, the current president of Hirschfeld Press, took an early interest in telecommunications as well, starting a car phone company in 1984, and has pursued various real estate interests throughout the Denver region.

The Hirschfeld family is also well known for their philanthropic endeavors. A.B. served on no less than fifty civic organizations during his life, and founded the Denver Housing Authority, which has worked to help low-income families. Edward actively participated in numerous Jewish and social organizations, was a cofounder of the Hundred Club of Denver, and served as board chairman of Mile High United Way. Today, Barry and his wife Arlene tirelessly devote their efforts to numerous community activities and charitable organizations, such as the Boettcher Foundation and aiding in the creation of the Scientific & Cultural Facilities District.

Mr. Speaker, the drive the Hirschfeld family has shown in their business and charitable activities have made them true civic leaders in their community. For nearly a century, the Hirschfeld family has left an indelible mark of excellence on the City of Denver and the State of Colorado. It is my privilege to extend my sincere congratulations to the Hirschfeld's on their induction into the Colorado Business Hall of Fame.

RECOGNIZING KENNETH E. LEE FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kenneth E. Lee, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 167, and in earning the most prestigious award of Eagle Scout.

Kenneth has been very active with his troop, participating in many scout activities. Over the years Kenneth has been involved with scouting, he has earned 39 merit badges and is a Firebuilder in the Tribe of Mic-O-Say. He served on Cub Scout Camp staff for 5 years. Kenneth has also attended the National Scout Jamboree at Fort A.P. Hill in Virginia and the Junior Leader Training Conference at the Pony Express Council.

For his Eagle Scout project, Kenneth built a handicap ramp for the Winston United Methodist Church.

Mr. Speaker, I proudly ask you to join me in commending Kenneth E. Lee for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING UNC TV MANAGER TOM HOWE

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise to acknowledge the contributions of one of North Carolina's most tenacious and visionary leaders: Tom Howe.

Many North Carolinians might not recognize Tom's name, but they surely have seen his work. Tom is the Director and General Manager of UNC-TV, our state's highly respected public television network. Last month, he received the Governors' Award for Lifetime Achievement from the Nashville/Midsouth Chapter of the National Academy of Television Arts and Sciences. This prestigious Emmy award is given annually to recognize an "outstanding industry leader," a designation that fits Tom perfectly.

For more than a decade, Tom has presided over our state's 11-station public television network, bringing us comprehensive coverage of public affairs and a deepened understanding of North Carolina's past, present, and future.

I have had the privilege of working with Tom in the policy arena. He fought a courageous and somewhat lonely battle for years for equitable treatment for UNC–TV and other systems similarly situated from the Corporation for Public Broadcasting and the Public Broadcasting System. The successful resolution of this matter is still yielding benefits and will for years to come. More recently, Tom has spoken out effectively on the preservation of localism and community standards on our airwaves in the context of the Federal Communications Commission's decision on media concentration.

Tom has been ahead of the curve in television's digital conversion, anticipating industry trends and leading the way in innovative technology. Not only has he beaten the FCC deadline for digital conversion, he has also brought 4-channel multicasting to UNC-TV, ensuring even greater coverage and enhanced educational opportunities for viewers. His dedication and persistence have ensured that UNC-TV continues to be an exemplary network, both in terms of the technology he utilizes and the programs he broadcasts.

Tom Howe knows television, and he uses the power of the medium to effect positive change: to inform, to educate, and to bring viewers the kind of meaningful programming that is increasingly hard to find. I congratulate him for this well-deserved award, and I thank him for his commitment and leadership.

HONORING DAVID E. SCHAFFER

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to recognize a most distinguished public servant, Mr. David E. Schaffer, Senior Counsel on the Transportation Committee's Aviation Subcommittee. Mr. Schaffer is retiring after twenty-six years of Federal service, including the past 20 years with the Committee. His unmatched knowledge in the field of aviation, as well as his engaging personality, will be sorely missed in the halls of Congress. David's work stands as a prime example of the good that can be accomplished through public service. The American people have been quite fortunate to have Mr. Schaffer's expertise and guidance throughout his career. Every single aviation law passed in the last two decades is marked with David's creative ideas and approaches. As an attachment to my remarks, a list of all aviation laws passed during David's tenure is included.

David's ability to work with people on both sides of the aisle serves as a major reason for the overwhelming bipartisan support aviation legislation has gathered over the last twenty years. His evenhanded and steady demeanor, as well as his thoughtful approach to a matter ensures that all ideas are heard, and that every opinion is considered. The relationships that David has cultivated among both government and industry officials has allowed for a free exchange of ideas on a wide variety of issues. Such exchanges have helped foster the growth of our nation's aviation industry. He has earned an immeasurable amount of respect from everyone with whom he has worked, including Members of Congress, staff, and those in the transportation community.

David began his career in public service in 1978, when he joined the Office of General Counsel of the Civil Aeronautics Board as an attorney, specializing in rules, legislation, and litigation involving small community air service, international air service, consumer protection, and charters. In 1984, he began work with the Aviation Subcommittee as an Assistant Minority Counsel, becoming the Chief Minority Counsel in 1992, and Majority Counsel in 1995. Throughout his tenure with the Aviation Subcommittee, he has been involved in all aspects of aviation legislation, including safety, security, airline competition, international air service, the Airport Improvement Program, air traffic control modernization, Federal Aviation Administration reform, and oversight of the Federal Aviation Administration, Transportation Security Administration, and the National Transportation Safety Board.

David's leadership proved critical in the weeks following the events of September 11, 2001. His experience played an essential role in creating the Aviation and Transportation Security Act, which helped restore confidence to the flying public. In a most precarious time for our nation, we were extremely fortunate to have someone like David Schaffer assisting us. Most recently, his assistance led to the successful passage of Vision 100, the FAA Reauthorization Act, which will have a lasting effect on the aviation industry for years to come.

Mr. Speaker, I ask all of my colleagues to join me in celebrating the retirement of David Schaffer, and wish him well in whatever venture he seeks next. I would also like to offer an extended note of gratitude on behalf of the previous Chairmen of the Transportation Committee and Aviation Subcommittee whom David has served with great distinction. We wish you good luck and again say thank you for all you have done for both the Congress as well as the American people.

AVIATION LAWS PASSED DURING DAVID SCHAFFER'S TENURE

108th Congress

H.R. 2115, Vision 100—Century of Aviation Reauthorization Act

S. 579, National Transportation Safety Board Reauthorization Act of 2003

107th Congress

H.R. 2926, Air Transportation Safety and System Stabilization Act

S. 1447, Aviation and Transportation Security Act

106th Congress

H.R. 1000, Wendell H. Ford Aviation Investment and Reform Act for the 21st Century

S. 2440, Airport Security Improvement Act of 2000

105th Congress

H.R. 2476, To amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers.

H.R. 2626, To make clarifications to the Pilot Records Improvement Act of 1996, and for other purposes.

H.R. 2843, Aviation Medical Assistance Act of 1998

104th Congress

H.R. 3159, National Transportation Safety Board Amendments of 1996

H.R. 3539, Federal Aviation Authorization Act of 1996

103rd Congress

H.R. 904, To amend the Airport and Airway Safety, Capacity, Noise Improvement, and Inter-nodal Transportation Act of 1992 with respect to the establishment of the National Commission to Ensure a Strong Competitive Airline Industry.

H.R. 2440, Independent Safety Board Act Amendments of 1994

H.R. 2739, Federal Aviation Administration Authorization Act of 1994

S. 1458, General Aviation Revitalization Authorization Act of 1994

102nd Congress

H.R. 5481, FAA Civil Penalty Administrative Assessment Act of 1992

H.R. 6168, Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992

101st Congress

H.R. 968, Noise Reduction Reimbursement Act of 1989

H.R. 5732, Aviation Security Improvement Act of 1990

H.R. 3671, To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program.

H.R. 5131, To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes.

100th Congress

H.R. 2310, Airport and Airway Improvement Amendments of 1987

S. 623, Independent Safety Board Act Amendments of 1987

S. 1628, An original bill to extend the Aviation Insurance Program for 5 years

99th Congress

S. 2703, Air Carrier Access Act of 1986

98th Congress

H.R. 5297, Civil Aeronautics Board Sunset Act of 1984

S. 197, A bill to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes.

S. 1146, Aviation Drug-Trafficking Control Act

INTRODUCING THE BELARUS FREEDOM ACT OF 2004

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. PAUL. Mr. Speaker, I rise today to introduce the Belarus Freedom Act of 2004. This bill will graduate Belarus from the requirements of the Jackson-Vanik statute and thereby establish permanent normal trade relations with that country.

The Jackson-Vanik amendment was adopted in 1974, during a time when the U.S.S.R. was imposing enormous "education repayment fees" on anyone seeking to emigrate from that country. The statute was designed to prevent temporary restoration of an already suspended "most favored nation" treatment unless its freedom of emigration requirement is complied with. After the break-up of the U.S.S.R., the successor countries found themselves subject to Jackson-Vanik—meaning that they had to prove yearly that they allowed free emigration in order to enjoy normal trade relations with the United States. Several former Soviet republics have already been permanently graduated from Jackson-Vanik, and several others are in the process of being graduated. Belarus has gained a presidential waiver for every year since 1992, indicating its ongoing compliance with the requirements. Therefore it is time to recognize the passing of the Soviet era and move on toward better trade relations with Belarus.

Though some have tried to read additional requirements into the original amendment, Jackson-Vanik is in reality solely about freedom of emigration. And, as I have stated, Belarus has attained a Presidential waiver every year since 1992.

Time and time again we see that peaceful trade and good relations with other countries does much more to foster democratization and liberalization than sanctions, diplomatic expulsions, and accusations. Our Founding Fathers recognized this when they cautioned against foreign entanglements and counseled instead free trade and friendly relations with all countries who seek the same.

I hope my colleagues will join with me as cosponsors of this bill and support further constructive relations with the Republic of Belarus.

HONORING MR. MARK SIMONI

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the United States Coast Guard Auxiliary to honor Mr. Mark Simoni, 9th District Rear Commodore of the United States Coast Guard Auxiliary, for his hard work and dedication to promoting recreational boating safety within the Great Lakes and the Saginaw Bay. On February 21, 2004, the United States Coast Guard Auxiliary, Flint Flotilla 15–02, will gather to honor Mr. Simoni during the "Change of Watch" awards ceremony to be held in my hometown of Flint, Michigan at Mario's Restaurant.

Mark Simoni was born in Flint, Michigan, on December 19, 1952. He graduated from Grand Blanc High School in 1971, and upon completion he attended the University of Michigan and Northwestern University. In 1991 Mark became a member of the United States Coast Guard Auxiliary-Saginaw 15–05. Mark has unselfishly given of his time and resources to ensure the safety of boaters and families. His commitment to the U.S. Coast Guard team mission led him to hold elected offices such as Flotilla Commander-Saginaw 15–05, Division 15 Captain from 2002–2003, and Vice Captain from 2000–2001. Mark has also held staff positions on the Flotilla, Division, District/Region and National level. Recently (2004) Mark was promoted to 9th District Region Rear Commodore of the United States Coast Guard Auxiliary. Mark has volunteered countless hours in the areas of Public Education, Vessel Safety Checks, Safety Patrols, Search and Rescue, Maritime Security and Environmental Protection. A fine example of loyalty is when he used his personal watercraft to patrol the Great Lakes along with other auxiliarists to ensure that Michigan waterways were secure after the September 11, 2001 World Trade Center tragedy. Mark has proven himself worthy of his new title as 9th District Region Rear Commodore. This new position will allow him the opportunity to provide administrative and supervisory support to the Flotillas and Divisions within his district.

Mr. Speaker, as a Member of Congress, I ask my colleagues in the 108th Congress to please join me in congratulating Mr. Mark Simoni on his promotion and also in honoring him for his past deeds. He has and continues to serve his country with enthusiasm and steadfastness. I wish him all the best in the future.

BLACK EAGLE WINS GRAMMY

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to Black Eagle, the winner of the 2004 Grammy for Best Native American Music Album. This drum group from Jemez Pueblo draws upon the rich history of the Native American Powwow for musical inspiration. Their fifteen years of performing has developed a deep and broad following across the country. It is my great honor to congratulate them for this win.

Black Eagle formed in 1989 after group leader Malcolm Yepa attended a powwow in Lame Deer, Montana. He became enamored with the singing and drum playing being performed and upon returning to Jemez Pueblo, Malcolm and his brother David Yepa Jr. formed Black Eagle. Cousins who had heard of Malcolm's experience were eager to join and the group soon consisted of twenty-one members.

After learning popular songs by listening to the recordings from other drum groups, Black Eagle began performing at local powwows. Their music coalesced into a definitive sound as they gained experience and soon the group was drawing wide recognition. Touring across the country during the next few years brought encounters with several others in the same musical vein, including fellow drum group, Black Lodge of White Swan, Washington.

It was at this time, after speaking with Black Lodge, that Black Eagle began writing and performing original music written by members of the group. Making the music even more exceptional was the fact that it was written, and performed, in the Towa language, the dialect of the Jemez Pueblo. Such a project had never been done before, and release of their freshman album, titled, "Volume I," brought wide praise.

The production of music by Black Eagle continued unabated. "Vol. II," the group's second album, was quickly followed by, "Soaring High" and "Star Child." By 2001, when they released their fifth album, "Life Goes On," Black Eagle had gained a wide following through extensive touring and word-of-mouth. This fifth work however, would be the work that gave Black Eagle national prominence and critical acclaim. A collection of round dance and hand drum songs, "Life Goes On," garnered a Grammy nomination under the "Best Native American Music Album" category.

While the 2002 awards ceremony did not bring a win for the group, Black Eagle was bolstered by the nomination and in March of 2003, they released, "Flying Free." This sixth work utilized new technology to create a "live" recording sound in the studio and also bridged Native American music history when bells used on legendary group XIT's albums were played by Black Eagle.

"Flying Free" was nominated, and won, the 2004 Grammy for "Best Native American Music Album." Black Eagle's roots, which reside deep within the Jemez culture, are reflected on the album. Jemez Pueblo has a very long history in the great State of New Mexico, and continues to this day to preserve its cultural, spiritual and traditional customs. Events at the Pueblo, including feast days, dances, and arts and crafts shows, are still the primary responsibility of several members of the group.

Going from a single teenager captivated by the music of his people to a familial, rooted award-winning group, Malcolm Yepa and Black Eagle are to be applauded for their musical achievements, commended for their loyalty to the history of the powwow, and wished the very best in their future aspirations.

KOOTENAI VALLEY RESOURCE INITIATIVE

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. OTTER. Mr. Speaker, I rise today to bring to the attention of the House a shining example of our great experiment in democracy. The Kootenai Valley Resource Initiative came to life in 2001, the result of collaboration between the Boundary County Board of Commissioners, the City of Bonners Ferry, and the Kootenai Tribe of Idaho. The mission of the KVRI is to act as a locally based effort to improve coordination, integration, and implementation of existing local, state, and federal programs that can effectively maintain, enhance, and restore the social, cultural, economic, and natural resource bases in their community. Mr. Speaker, after personally viewing this group in action, I am happy to report this is a successful endeavor.

The KVRI membership consists of private citizens and landowners, local governments, federal and state agencies, an environmental advocacy group, and Indian Nation, and representatives of business and industry within the lower Kootenai basin of Idaho. The Initiative is a sign of tremendous change in Boundary County. It signals a move from combat to collaboration and should serve as a model for other communities around the country with severe contention over natural resource issues. The members of the KVRI work hard to find areas of common concern with which they, as a community, can pursue solutions to challenges such as fisheries recovery, flood flow elevations, TMDL planning, and the development of a wetland conservation strategy.

Mr. Speaker, the collaborative spirit of the KVRI, and its members' determination to find common sense solutions that move the community forward, should serve as an inspiration to us all. I would like to thank the Kootenai Valley Resource Initiative for demonstrating how this great experiment in democracy is supposed to function.

TRIBUTE TO MAYOR JOHN BENNETT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and memory of former Grand Junction Mayor John Bennett, who after a long battle with an illness, passed away at the age of sixty-six. John was a true American patriot, and a beloved friend and colleague to many in his Colorado community. In his years spent in public service, John embodied the ideals of integrity and courage that we, as Americans, have come to expect. As his family and community mourn his passing, I believe it is appropriate to recognize the life of this exceptional man, and his many contributions to his community, state and country.

Mayor Bennett lived an immensely rich and full life, always holding firm to his beliefs in serving his community and country. He spent over twenty years defending this Nation, serving in the Air Force and the Army, where he earned a reputation as a solid and dependable leader. After his retirement, John continued to feel a call to service and dedicated his efforts toward improving the lives of his Grand Junction community. He served as a member of the Grand Junction City Council, and was elected mayor in 1988, where he was known for his judiciousness and problem-solving skills.

Mr. Speaker, we are all at a great loss because of Mayor Bennett's passing, but can be comforted in knowing he helped make Grand Junction a better place for future generations. I would like to extend my heartfelt sorrow to his wife of over twenty years, Barbara, and his loving children, Tammy, Vicki, and William. Mayor Bennett's selfless dedication to Grand Junction, the State of Colorado, and the United States has helped ensure a promising future for our great country and I am deeply honored to bring his life to the attention of this body of Congress. I am proud to have known such a great man who enriched the lives of his family, community, and Nation.

HONORING BERNICE FELDMAN MAYERS

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 2004

Mr. DEUTSCH. Mr. Speaker, today I rise to commemorate the contributions of Bernice Feldman Mayers of Dallas, Texas, and am pleased to be joined in this tribute by my colleague, Representative WEXLER of Florida. Mrs. Mayers was not only a dedicated teacher of special-needs students, but shares the distinction of being related to two members of the South Florida delegation—Congressman WEXLER and myself. She leaves behind a wonderful legacy of warmth, dedication and caring.

Born in the Bronx, New York, Mrs. Mayers moved with her family to Dallas, Texas, at the age of five. She graduated from Forest Avenue High School at the age of 15 and received her bachelor's degree in social work from the University of Oklahoma at the age of 19. Following graduation, Mrs. Mayers began to volunteer for a number of organizations including the City of Hope, a cancer research center. Mrs. Mayers also served as the president of the Dallas Chapter, where she coordinated the first ever cancer research study in the Dallas area.

After receiving her master's degree in special education from Texas Women's University in 1967, Mrs. Mayers began her teaching career with Sam Houston Junior High School. She served as the head of the school's special education department, well-known as a fierce advocate for students with special needs. Mrs. Mayers retired in 1992, but she continued to work as both a substitute teacher and as a Hebrew teacher at Congregation Beth Torah. She also committed her energies to Forest Avenue Alumni Association and the Tom C. Gooch Elementary School in Dallas.

Mrs. Mayers is survived by her husband, two sons, four grandchildren and numerous friends and extended family, all who will miss her greatly.

HOUSE OF REPRESENTATIVES—*Wednesday, February 25, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 25, 2004.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

"Remember you are dust; and unto dust you will return."

Lord God, it was You who first spoke these words to Adam and Eve. Year after year, throughout every epic of recorded history, Your word echoes with humbling judgment. You remind us how frail and faulty human life really is. But You also give us time to change and become Your children of light.

Success, honor and all possessions sift through our fingers. Nothing truly lasts, except You, O Lord. The dawn of new life and the cycle of death follow each other as surely as daylight follows nighttime.

May personal conscience and the narration of humanity's crimes against humanity call forth repentance and efforts to set things right. So let the ashes of human deeds cry out to You.

O Divine Forgiveness, recreate Your people out of the ashes. Your phoenix flame can set us free. Your mercy endures forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kansas (Mr. RYUN) come forward and lead the House in the Pledge of Allegiance.

Mr. RYUN of Kansas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 264. Concurrent resolution authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

H. Con. Res. 358. Concurrent resolution authorizing the printing of "History of the United States Capitol" as a House document.

H. Con. Res. 359. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

PROTECTING UNBORN VICTIMS OF VIOLENCE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, tomorrow this body will vote on Laci and Conner's Law, the Unborn Victims of Violence Act. This bill would make it a Federal crime to kill or harm an unborn child in the act of a Federal crime against a pregnant woman.

Opponents of this bill claim that this is about abortion. They are wrong. This bill actually protects the expecting mother. The bill identifies 68 existing Federal laws dealing with acts of violence and expands them to include harm to an unborn child.

In upholding Minnesota's unborn victims law, the Minnesota Supreme Court said, "The possibility that a female homicide victim may be pregnant is a possibility that an assaulter may not safely exclude."

Over half the States have unborn victims protection laws on the books. Many have been upheld by State courts. None have affected access to abortion.

Let us put politics aside and pass this bill. We need to protect victims of violent crime and their unborn children, and the bill does that. It offers a defense for those who cannot defend themselves. It makes criminals think twice before attacking a pregnant woman.

COMMENDING BILL McNEAL ON BEING NAMED THE NATIONAL SUPERINTENDENT OF THE YEAR

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to congratulate my good friend Bill McNeal on being named the National Superintendent of the Year by the American Association of School Administrators. I have worked with Bill for many years, and no one is more deserving than he is of this award.

Since the year 2000, Bill has served with distinction as the Superintendent of Wake County Public Schools in my congressional district in North Carolina. Wake County is a diverse community and one of the fastest-growing school systems in America.

Bill has demonstrated outstanding leadership in raising student performance by reaching out to all elements of the community and bringing folks together behind a shared vision of education excellence.

Just this week, Forbes Magazine named Wake County schools the number three school system in ranking among the best 100 large school districts in America. Wake County is now a showcase for successful education reform through bold leadership.

At a time when schools across America are facing budget cuts and struggling to comply with the President's No Child Left Behind unfunded mandates, Bill McNeal's accomplishments are proof again that real leadership in education reform is taking place every day in our schools.

I call on my colleagues to join me in commending Bill McNeal for this hard-earned recognition.

SUPPORTING THE UNBORN VICTIMS OF VIOLENCE ACT

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, after being brutally beaten and losing her unborn child in the process, Tracy Marciniak was told that her attackers would not be held accountable for her child's death. Under current Federal law, the only crime committed was assault. There was no acknowledgment for a grieving mother.

When Laci Peterson was found, she was not alone. The small body of her son Conner was with her. Laci's parents not only lost their daughter, but

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

their grandson as well. Logic tells us that two bodies means that murder should be charged for two victims.

Thankfully, 29 States, including California, have enacted unborn victims laws to adequately punish the perpetrators of these heinous crimes. Because of this, the killer of Laci and Conner Peterson will not go unaccounted for for two murders.

It is time for the United States Congress to protect unborn victims of Federal crimes. It our responsibility to recognize the killing of a pregnant woman as an act that ends two lives and assign punishment accordingly.

The Unborn Victims of Violence Act would not only provide long overdue protection to unborn victims, but also help ensure justice and closure for the families. I urge Members to join me in seeking justice for women and their unborn children and the families they leave behind. I urge members to vote for the Unborn Victims of Violence Act.

RECOGNIZING 75TH ANNIVERSARY OF LEAGUE OF UNITED LATIN AMERICAN CITIZENS

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, I am here to recognize the 75th anniversary of the League of United Latin American Citizens, the oldest and largest Hispanic organization in the country. Since its inception on February 17, 1929, LULAC has championed the cause of Latinos in the United States and Puerto Rico.

In 1930, the organization desegregated hundreds of public places, including barber shops, swimming pools, restaurants, hotels and others. The following year, LULAC helped organize and fund the case against the Del Rio, Texas, Independent School District, which was the first class-action lawsuit against a segregated Mexican school. Again in 1946 LULAC set its sights on ending segregation in schools through the Mendez v. Westminster lawsuit, which ended a century of segregation in California's public schools, and by 1948 it ended the segregation of Mexican children in the State of Texas.

By 1940, LULAC had sought to change the workplace for Hispanics, helping to file discrimination cases for the Federal Employment Practices Commission. LULAC was also crucial in earning Hispanics the right to vote by taking the Hernandez v. the State of Texas case to the Supreme Court in 1954.

Mr. Speaker, we all should recognize the valuable work of this organization.

IN SUPPORT OF THE UNBORN VICTIMS OF VIOLENCE ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, faced with the many grave threats to the sanctity of life in the modern world, the value of life from its very beginning must be affirmed, as must the right of every human being to have this primary good respected to the highest degree. As a mother, I feel duty-bound to speak out on behalf of those who have no voice, the innocent unborn child.

Under Federal law, an individual who commits a Federal crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child during the commission of that crime. The Unborn Victims of Violence Act would narrow this gap in the law and would provide greater protection for women from crimes of violence.

Mr. Speaker, I urge my colleagues to pass this important legislation this week and send it to the President for his signature.

TRIBUTE TO SGT. THOMAS ROBBINS AND THOSE WHO HAVE MADE THE SUPREME SACRIFICE PROTECTING AMERICA'S WAY OF LIFE

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, over the recent recess, I attended the funeral of Sgt. Thomas Robbins, a young man who grew up in my congressional district, who was recently killed as a result of injuries sustained in Iraq.

When I attended that funeral, it brought back many painful memories. Chief among them was the time in August of 1970 when I was called home to learn that my brother Bill had been killed in Vietnam. It made me think about my priorities and the need to remember that had it not been for all of the men and women who have served in the United States military through the years, the rest of us would not have the privilege of bragging about how we live in the freest and most open democracy on Earth.

Freedom is not free. We have paid a tremendous price for it. We continue to pay that price today, and we need to be grateful to all those who have served and especially those who have made the supreme sacrifice.

Mr. Speaker, I extend my sympathies to all of the members of Thomas' loving family, and all of his many friends, on this tragic loss. He now becomes one of the reasons why, when I get up in the morning, the first two things I do are to thank God for my life, and veterans for my way of life.

TRIBUTE TO NORMA KNUDSEN

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to pay tribute to a very special person, Norma Knudsen. Although she is one of the oldest members of the Spicer, Minnesota, Sunrise Lions Club at age 86, Norma continues to be one of their most active and devoted volunteers.

Norma has been a leader in efforts to restore and preserve the gift of sight by volunteering at various charity events like baseball games, barbecues and fish fries to benefit the Minnesota Lions Eye Bank, one of the most successful eye banks in the country. While this is laudable itself, it is even more remarkable when you consider that Norma suffers from macular degeneration, a devastating eye disease that has left her almost totally blind.

Because of her selfless efforts and the outstanding example she has been for the rest of us, Norma was recently presented the Helen Keller Award by the Spicer Sunrise Lions Club. There is no more deserving person for this award than Norma Knudsen. With her long track record of volunteerism, Norma has more than met Helen Keller's challenge to be a "knight of the blind in the crusade against darkness."

Mr. Speaker, I commend the fine efforts of Norma Knudsen to help bring sight to many who would have been left in the darkness.

TRIBUTE TO STEVE NEAL

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, last week all of Chicago and all of those who read the Chicago Sun Times were shocked at the death of Steve Neal.

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Steve Neal was one of the premier political columnists in the country. I was particularly shocked because I was scheduled to have lunch with Steve on Friday of last week. Steve Neal was one of the premier writers about politics and political action in the Nation. All of us are going to miss him, so I express my condolences to his family, his wife and children and say that all of our lives have been enriched by the opportunity to read the writings of Steve Neal.

ISRAEL SECURITY FENCE RESOLUTION

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, today there will be much focus across our country on a motion picture known as

"The Passion of the Christ," and like millions of Christians, I cherish the sacrifice of Christ and welcome its remembrance. Also, like millions of Christians, I cherish Israel, as a Jewish State and as our staunchest ally in the Middle East.

After traveling to Israel last month and witnessing firsthand daily terrorist-attempted incursions into Israel to kill Israeli civilians, I realized in my heart that America must stand by Israel and by her efforts to protect her people in the construction of a security fence today.

In that spirit, joined by the gentlewoman from Nevada (Ms. BERKLEY) and a growing list of cosponsors, today I will introduce bipartisan legislation that expresses congressional support for Israel to construct a security fence in order to reduce terrorist attacks. Further, the resolution will condemn the United Nations General Assembly for requesting the International Court of Justice to render a legal opinion on the issue of the fence.

Like millions of Christians, I cherish Christ, and I cherish Israel and our relationship with her.

TIME TO ENACT NEW POLICIES FOR JOB CREATION IN U.S.

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, I rise today to speak about the jobless recovery. What an oxymoron that is.

Families in my district and around the Nation want to know, where are the jobs? Only 296,000 jobs have been created since this President took office, well below the 2 million that he promised. These jobs, by the way, are being created and going overseas. That is what is really happening here in the U.S.

My district is hurting. I represent East Los Angeles and the San Gabriel Valley. Our unemployment is well over 10 percent. Hundreds of people continue to look for work.

When we talk about homeland security, we should also be talking about job security. It is time to enact policies that will truly stimulate the economy and create jobs at home. We should provide tax cuts for middle class families, tax incentives to keep jobs here in the U.S., and implement fair-trade agreements that respect and level the playing field.

GAO HUMAN CAPITAL REFORM ACT OF 2003

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, pursuant to the order of the House of February 24, 2004, I call up the bill (H.R. 2751) to provide new human capital flexibilities with respect to the GAO, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the order of the House of February 24, 2004, the bill is considered read for amendment.

The text of H.R. 2751 is as follows:

H.R. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 31.

(a) SHORT TITLE.—This Act may be cited as the "GAO Human Capital Reform Act of 2003".

(b) AMENDMENT OF TITLE 31.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

SEC. 2. AMENDMENTS TO PUBLIC LAW 106–303.

Sections 1 and 2 of Public Law 106–303 (5 U.S.C. 8336 note and 5597 note) are amended by striking "for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003" each place it appears and inserting "October 13, 2000".

SEC. 3. ANNUAL PAY ADJUSTMENTS.

(a) OFFICERS AND EMPLOYEES GENERALLY.—Paragraph (3) of section 732(c) is amended to read as follows:

"(3) except as provided under section 733(a)(3)(B) of this title, basic pay rates of officers and employees of the Office shall be adjusted annually to such extent as the Comptroller General shall determine, taking into consideration—

"(A) the principle that there be equal pay for substantially equal work within each local pay area;

"(B) the Consumer Price Index;

"(C) any existing pay disparities between officers and employees of the Office and non-Federal employees in each local pay area;

"(D) the pay rates for the same levels of work for officers and employees of the Office and non-Federal employees in each local pay area;

"(E) the appropriate distribution of agency funds between annual adjustments under this section and performance-based compensation; and

"(F) such other criteria as the Comptroller General considers appropriate, including, but not limited to, the funding level for the Office, amounts allocated for performance-based compensation, and the extent to which the Office is succeeding in fulfilling its mission and accomplishing its strategic plan;

notwithstanding any other provision of this paragraph, an adjustment under this paragraph shall not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;".

(b) OFFICERS AND EMPLOYEES IN THE OFFICE SENIOR EXECUTIVE SERVICE.—Subparagraph (B) of section 733(a)(3) is amended to read as follows:

"(B) adjusted annually by the Comptroller General after taking into consideration the factors listed under section 732(c)(3) of this title, except that an adjustment under this subparagraph shall not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;".

(c) CONFORMING AMENDMENT.—Section 732(b)(6) is amended by striking "title 5." and inserting "title 5, except as provided under subsection (c)(3) of this section and section 733(a)(3)(B) of this title.".

SEC. 4. PAY RETENTION.

Paragraph (5) of section 732(c) is amended to read as follows:

"(5) the Comptroller General shall prescribe regulations under which an officer or employee of the Office shall be entitled to pay retention if, as a result of any reduction-in-force or other workforce adjustment procedure, position reclassification, or other appropriate circumstances as determined by the Comptroller General, such officer or employee is placed in or holds a position in a lower grade or band with a maximum rate of basic pay that is less than the rate of basic pay payable to the officer or employee immediately before the reduction in grade or band; such regulations—

"(A) shall provide that the officer or employee shall be entitled to continue receiving the rate of basic pay that was payable to the officer or employee immediately before the reduction in grade or band until such time as the retained rate becomes less than the maximum rate for the grade or band of the position held by such officer or employee; and

"(B) shall include provisions relating to the minimum period of time for which an officer or employee must have served or for which the position must have been classified at the higher grade or band in order for pay retention to apply, the events that terminate the right to pay retention (apart from the one described in subparagraph (A)), and exclusions based on the nature of an appointment; in prescribing regulations under this subparagraph, the Comptroller General shall be guided by the provisions of sections 5362 and 5363 of title 5.".

SEC. 5. RELOCATION BENEFITS.

Section 731 is amended by adding after subsection (e) the following:

"(f) The Comptroller General shall prescribe regulations under which officers and employees of the Office may, in appropriate circumstances, be reimbursed for any relocation expenses under subchapter II of chapter 57 of title 5 for which they would not otherwise be eligible, but only if the Comptroller General determines that the transfer giving rise to such relocation is of sufficient benefit or value to the Office to justify such reimbursement.".

SEC. 6. INCREASED ANNUAL LEAVE FOR UPPER-LEVEL EMPLOYEES.

Section 731 is amended by adding after subsection (f) (as added by section 5) the following:

"(g) The Comptroller General shall prescribe regulations under which officers and employees of the Office in high-grade, managerial, or supervisory positions who have less than 3 years of service may, in appropriate circumstances, accrue leave in accordance with section 6303(a)(2) of title 5. Such regulations shall define high-grade, managerial, or supervisory positions and set forth the factors in determining which officers and employees should be allowed to accrue leave in accordance with this subsection.".

SEC. 7. EXECUTIVE EXCHANGE PROGRAM.

Section 731 is amended by adding after subsection (g) (as added by section 6) the following:

"(h) The Comptroller General may by regulation establish an executive exchange program under which officers and employees of the Office in high-grade, managerial, or supervisory positions may be assigned to private sector organizations, and employees of private sector organizations may be assigned to the Office, for work of mutual concern and benefit. Regulations to carry out any such program—

"(1) shall include provisions which define high-grade, managerial, or supervisory positions, and provisions (consistent with sections 3702–3704 of title 5) as to matters concerning (A) the duration and termination of assignments, (B) reimbursements, and (C) status, entitlements, benefits, and obligations of program participants;

"(2) shall limit (A) the number of officers and employees who are assigned to private sector organizations at any one time to not more than 30, and (B) the number of employees from private sector organizations who are assigned to the Office at any one time to not more than 30; and

"(3) shall provide for the inclusion, in all reports submitted to the Congress under section 719(a) of this title, of a review of the work being done by all individuals participating in the program and an assessment of the effectiveness and usefulness of the program.".

SEC. 8. REDESIGNATION.

(a) IN GENERAL.—The General Accounting Office is hereby redesignated the Government Accountability Office.

(b) REFERENCES.—Any reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of the enactment of this Act shall be considered to refer and apply to the Government Accountability Office.

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) PAY ADJUSTMENTS.—

(1) IN GENERAL.—Section 3 and the amendments made by section 3 shall take effect on October 1, 2005, and shall apply in the case of any annual pay adjustment taking effect on or after that date.

(2) INTERIM AUTHORITIES.—In connection with any pay adjustment taking effect under section 732(c)(3) or 733(a)(3)(B) of title 31, United States Code, before October 1, 2005, the Comptroller General may by regulation—

(A) provide that such adjustment not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment; and

(B) provide that such adjustment be reduced if and to the extent necessary because of extraordinary economic conditions or serious budget constraints.

(3) ADDITIONAL AUTHORITY.—

(A) IN GENERAL.—The Comptroller General may by regulation delay the effective date of section 3 and the amendments made by section 3 for groups of officers and employees that the Comptroller General considers appropriate.

(B) INTERIM AUTHORITIES.—If the Comptroller General provides for a delayed effective date under subparagraph (A) with respect to any group of officers or employees, paragraph (2) shall, for purposes of such group, be applied by substituting such date for "October 1, 2005".

The SPEAKER pro tempore. The amendment printed in the bill is adopted.

The text of H.R. 2751, as amended, is as follows:

H.R. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 31.

(a) SHORT TITLE.—This Act may be cited as the "GAO Human Capital Reform Act of 2003".

(b) AMENDMENT OF TITLE 31.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

SEC. 2. AMENDMENTS TO PUBLIC LAW 106–303.

(a) AUTHORITIES MADE PERMANENT.—Sections 1 and 2 of Public Law 106–303 (5 U.S.C. 8336 note and 5597 note) are amended by striking "for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003" each place it appears and inserting "October 13, 2000".

(b) SENSE OF CONGRESS.—

(1) VOLUNTARY EARLY RETIREMENT AUTHORITY.—Section 1 of Public Law 106–303 is amended by adding at the end the following:

"(e) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the General Accounting Office workforce and not downsize the General Accounting Office workforce.".

(2) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—Section 2 of Public Law 106–303 is amended by adding at the end the following:

"(g) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the General Accounting Office workforce and not downsize the General Accounting Office workforce.".

(c) ADDITIONAL LIMITATION RELATING TO VSIPS.—Section 2(b) of Public Law 106–303 is amended by striking paragraph (2) and inserting the following:

"(2) subsection (a)(2)(G) of such section shall be applied—

"(A) by construing the citations therein to be references to the appropriate authorities in connection with employees of the General Accounting Office; and

"(B) by deeming such subsection to be amended by striking 'Code.' and inserting 'Code, or who, during the thirty-six month period preceding the date of separation, performed service for which a student loan repayment benefit was or is to be paid under section 5379 of title 5, United States Code.';".

SEC. 3. ANNUAL PAY ADJUSTMENTS.

(a) OFFICERS AND EMPLOYEES GENERALLY.—Paragraph (3) of section 732(c) is amended to read as follows:

"(3) except as provided under section 733(a)(3)(B) of this title, basic rates of officers and employees of the Office shall be adjusted annually to such extent as determined by the Comptroller General, and in making that determination the Comptroller General shall consider—

"(A) the principle that equal pay should be provided for work of equal value within each local pay area;

"(B) the need to protect the purchasing power of officers and employees of the Office, taking into consideration the Consumer Price Index or other appropriate indices;

"(C) any existing pay disparities between officers and employees of the Office and non-Federal employees in each local pay area;

"(D) the pay rates for the same levels of work for officers and employees of the Office and non-Federal employees in each local pay area;

"(E) the appropriate distribution of agency funds between annual adjustments under this section and performance-based compensation; and

"(F) such other criteria as the Comptroller General considers appropriate, including, but not limited to, the funding level for the Office, amounts allocated for performance-based compensation, and the extent to which the Office is succeeding in fulfilling its mission and accomplishing its strategic plan;

notwithstanding any other provision of this paragraph, an adjustment under this paragraph shall not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;".

(b) OFFICERS AND EMPLOYEES IN THE OFFICE SENIOR EXECUTIVE SERVICE.—Subparagraph (B) of section 733(a)(3) is amended to read as follows:

"(B) adjusted annually by the Comptroller General after taking into consideration the factors listed under section 732(c)(3) of this title, except that an adjustment under this subparagraph shall not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;".

(c) CONFORMING AMENDMENT.—Section 732(b)(6) is amended by striking "title 5." and inserting "title 5, except as provided under subsection (c)(3) of this section and section 733(a)(3)(B) of this title.".

SEC. 4. PAY RETENTION.

Paragraph (5) of section 732(c) is amended to read as follows:

"(5) the Comptroller General shall prescribe regulations under which an officer or employee of the Office shall be entitled to pay retention if, as a result of any reduction-in-force or other workforce adjustment procedure, position reclassification, or other appropriate circumstances as determined by the Comptroller General, such officer or employee is placed in or holds a position in a lower grade or band with a maximum rate of basic pay that is less than the rate of basic pay payable to the officer or employee immediately before the reduction in grade or band; such regulations—

"(A) shall provide that the officer or employee shall be entitled to continue receiving the rate of basic pay that was payable to the officer or employee immediately before the reduction in grade or band until such time as the retained rate becomes less than the maximum rate for the grade or band of the position held by such officer or employee; and

"(B) shall include provisions relating to the minimum period of time for which an officer or employee must have served or for which the position must have been classified at the higher grade or band in order for pay retention to apply, the events that terminate the right to pay retention (apart from the one described in subparagraph (A)), and exclusions based on the nature of an appointment; in prescribing regulations under this subparagraph, the Comptroller General shall be guided by the provisions of sections 5362 and 5363 of title 5.".

SEC. 5. RELOCATION BENEFITS.

Section 731 is amended by adding after subsection (e) the following:

"(f) The Comptroller General shall prescribe regulations under which officers and employees of the Office may, in appropriate circumstances, be reimbursed for any relocation expenses under subchapter II of chapter 57 of title 5 for which they would not otherwise be eligible, but only if the Comptroller General determines that the transfer giving rise to such relocation is of sufficient benefit or value to the Office to justify such reimbursement.".

SEC. 6. INCREASED ANNUAL LEAVE FOR KEY EMPLOYEES.

Section 731 is amended by adding after subsection (f) (as added by section 5 of this Act) the following:

"(g) The Comptroller General shall prescribe regulations under which key officers and employees of the Office who have less than 3 years

of service may accrue leave in accordance with section 6303(a)(2) of title 5, in those circumstances in which the Comptroller General has determined such increased annual leave is appropriate for the recruitment or retention of such officers and employees. Such regulations shall define key officers and employees and set forth the factors in determining which officers and employees should be allowed to accrue leave in accordance with this subsection.".

SEC. 7. EXECUTIVE EXCHANGE PROGRAM.

Section 731 is amended by adding after subsection (g) (as added by section 6 of this Act) the following:

"(h) The Comptroller General may by regulation establish an executive exchange program under which officers and employees of the Office may be assigned to private sector organizations, and employees of private sector organizations may be assigned to the Office, to further the institutional interests of the Office or Congress, including for the purpose of providing training to officers and employees of the Office. Regulations to carry out any such program—

"(1) shall include provisions (consistent with sections 3702 through 3704 of title 5) as to matters concerning—

"(A) the duration and termination of assignments;

"(B) reimbursements; and

"(C) status, entitlements, benefits, and obligations of program participants;

"(2) shall limit—

"(A) the number of officers and employees who are assigned to private sector organizations at any one time to not more than 15; and

"(B) the number of employees from private sector organizations who are assigned to the Office at any one time to not more than 30;

"(3) shall require that an employee of a private sector organization assigned to the Office may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which such employee is assigned;

"(4) shall require that, before approving the assignment of an officer or employee to a private sector organization, the Comptroller General shall determine that the assignment is an effective use of the Office's funds, taking into account the best interests of the Office and the costs and benefits of alternative methods of achieving the same results and objectives; and

"(5) shall not allow any assignment under this subsection to commence after the end of the 5-year period beginning on the date of the enactment of this subsection.

"(i) An employee of a private sector organization assigned to the Office under the executive exchange program shall be considered to be an employee of the Office for purposes of—

"(1) chapter 73 of title 5;

"(2) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

"(3) sections 1343, 1344, and 1349(b) of this title;

"(4) chapter 171 of title 28 (commonly referred to as the 'Federal Tort Claims Act') and any other Federal tort liability statute;

"(5) the Ethics in Government Act of 1978 (5 U.S.C. App.);

"(6) section 1043 of the Internal Revenue Code of 1986; and

"(7) section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).".

SEC. 8. REDESIGNATION.

(a) IN GENERAL.—The General Accounting Office is hereby redesignated the Government Accountability Office.

(b) REFERENCES.—Any reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.

SEC. 9. PERFORMANCE MANAGEMENT SYSTEM.

Paragraph (1) of section 732(d) is amended to read as follows:

"(1) for a system to appraise the performance of officers and employees of the General Accounting Office that meets the requirements of section 4302 of title 5 and in addition includes—

"(A) a link between the performance management system and the agency's strategic plan;

"(B) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system;

"(C) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period and setting timetables for review;

"(D) effective transparency and accountability measures to ensure that the management of the system is fair, credible, and equitable, including appropriate independent reasonableness, reviews, internal assessments, and employee surveys; and

"(E) a means to ensure that adequate agency resources are allocated for the design, implementation, and administration of the performance management system;".

SEC. 10. CONSULTATION.

Before the implementation of any changes authorized under this Act, the Comptroller General shall consult with any interested groups or associations representing officers and employees of the General Accounting Office.

SEC. 11. REPORTING REQUIREMENTS.

(a) ANNUAL REPORTS.—The Comptroller General shall include—

(1) in each report submitted to Congress under section 719(a) of title 31, United States Code, during the 5-year period beginning on the date of enactment of this Act, a summary review of all actions taken under sections 2, 3, 4, 6, 7, 9, and 10 of this Act during the period covered by such report, including—

(A) the respective numbers of officers and employees—

(i) separating from the service under section 2 of this Act;

(ii) receiving pay retention under section 4 of this Act;

(iii) receiving increased annual leave under section 6 of this Act; and

(iv) engaging in the executive exchange program under section 7 of this Act, as well as the number of private sector employees participating in such program and a review of the general nature of the work performed by the individuals participating in such program;

(B) a review of all actions taken to formulate the appropriate methodologies to implement the pay adjustments provided for under section 3 of this Act, except that nothing under this subparagraph shall be required if no changes are made in any such methodology during the period covered by such report; and

(C) an assessment of the role of sections 2, 3, 4, 6, 7, 9, and 10 of this Act in contributing to the General Accounting Office's ability to carry out its mission, meet its performance goals, and fulfill its strategic plan; and

(2) in each report submitted to Congress under such section 719(a) after the effective date of section 3 of this Act and before the close of the 5-year period referred to in paragraph (1)—

(A) a detailed description of the methodologies applied under section 3 of this Act and the manner in which such methodologies were applied to determine the appropriate annual pay adjustments for officers and employees of the Office;

(B) the amount of the annual pay adjustments afforded to officers and employees of the Office under section 3 of this Act; and

(C) a description of any extraordinary economic conditions or serious budget constraints which had a significant impact on the determination of the annual pay adjustments for officers and employees of the Office.

(b) FINAL REPORT.—Not later than 6 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report concerning the implementation of this Act. Such report shall include—

(1) a summary of the information included in the annual reports required under subsection (a);

(2) recommendations for any legislative changes to section 2, 3, 4, 6, 7, 9, or 10 of this Act; and

(3) any assessment furnished by the General Accounting Office Personnel Appeals Board or any interested groups or associations representing officers and employees of the Office for inclusion in such report.

(c) ADDITIONAL REPORTING.—Notwithstanding any other provision of this section, the reporting requirement under subsection (a)(2)(C) shall apply in the case any report submitted under section 719(a) of title 31, United States Code, whether during the 5-year period beginning on the date of enactment of this Act (as required by subsection (a)) or at any time thereafter.

SEC. 12. TECHNICAL AMENDMENT.

Section 732(h)(3)(A) is amended by striking "reduction force" and inserting "reduction in force".

SEC. 13. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) PAY ADJUSTMENTS.—

(1) IN GENERAL.—Section 3 of this Act and the amendments made by that section shall take effect on October 1, 2005, and shall apply in the case of any annual pay adjustment taking effect on or after that date.

(2) INTERIM AUTHORITIES.—In connection with any pay adjustment taking effect under section 732(c)(3) or 733(a)(3)(B) of title 31, United States Code, before October 1, 2005, the Comptroller General may by regulation—

(A) provide that such adjustment not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment; and

(B) provide that such adjustment be reduced if and to the extent necessary because of extraordinary economic conditions or serious budget constraints.

(3) ADDITIONAL AUTHORITY.—

(A) IN GENERAL.—The Comptroller General may by regulation delay the effective date of section 3 of this Act and the amendments made by that section for groups of officers and employees that the Comptroller General considers appropriate.

(B) INTERIM AUTHORITIES.—If the Comptroller General provides for a delayed effective date under subparagraph (A) with respect to any group of officers or employees, paragraph (2) shall, for purposes of such group, be applied by substituting such date for "October 1, 2005".

The SPEAKER pro tempore. The gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 30 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of the bill, H.R. 2751.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2751, the GAO Human Capital Reform Act of 2003. I want to thank the leadership for bringing this important legislation to the floor.

This legislation, which I introduced last year, has broad support in both Houses and on both sides of the political aisle. It was crafted in collaboration with Democrats on the Committee on Government Reform and the Senate Governmental Affairs Committee.

In essence, H.R. 2751 expands the management flexibilities that the GAO already has. Among its provisions, this legislation makes permanent the GAO's authority to offer early retirement and buyouts in order to provide GAO with the necessary tools to streamline and reshape its workforce. The legislation enhances GAO's ability to reimburse employees for relocation expenses and establishes an employee exchange program with the private sector in areas of mutual concern and positions where GAO has a supply-and-demand imbalance.

It also permits the Comptroller General to increase the annual leave benefits for employees who joined the GAO in mid-career. Right now, for example, even seasoned employees who joined the GAO with extensive experience in the private sector are only entitled to 13 days of annual leave for the first 3 years with the agency. That is the same amount of leave that is given to a recent college graduate. Under this legislation, they could receive up to 20 days a year.

Mr. Speaker, H.R. 2751 also changes the name of the organization from the General Accounting Office to the Government Accountability Office, which better reflects the agency's modern-day mission.

Most importantly, the GAO Human Capital Reform Act gives the Comptroller General more authority to reward employees for good work and establishes a meaningful pay-for-performance system. Annual pay raises would be based on individual performance, also taking into account inflation and differences in competitive compensation by locality.

At both the Subcommittee on Civil Service and Agency Organization, which I chair, and the full Committee on Government Reform, this legislation received overwhelming bipartisan support. It is endorsed by the Comptroller General, the GAO Employees Advisory Council, and by outside observers of the civil service.

This legislation will be a great benefit to the GAO and to Congress, which relies heavily on the expertise and skill of the GAO employees. The GAO has been a leader in creating a performance-based environment and will continue to do so when this bill becomes law. I urge passage of H.R. 2751.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Virginia (Chairman TOM DAVIS); the gentlewoman from Virginia (Chairwoman JO ANN DAVIS); the gentleman from California (Mr. WAXMAN), the ranking member; and their respective staffs for working so diligently to improve the General Accounting Office Human Capital Reform Act which we are considering today.

I believe that GAO is a good demonstration project for reform that may eventually be extended to the rest of the government. As a matter of fact, in the November 2003 issue of Washingtonian magazine, the GAO is listed as one of 50 great places to work in the D.C. area. GAO was noted for a pay system that rewards top performance, stability, upward mobility, and such benefits as repaying employees' student loans, on-site child care, and Metro subsidies. This does not mean that GAO is perfect, but it has set an example of how to prepare for and implement human capital flexibilities.

Unfortunately, I cannot say that for the Department of Defense and a host of other agencies that are asking for and receiving unprecedented exemptions from title V. Most agencies are simply ill equipped to manage such major reforms. We should be concentrating our efforts on government-wide reforms rather than agency-by-agency requests.

Having said that, several improvements were made to the bill during the subcommittee markup and subsequently by Ranking Member WAXMAN. The original bill did not contain any reporting requirements. I offered an amendment that requires GAO to submit an annual report to Congress on its use of flexibilities under the bill. Additionally, the original version of the bill only allowed enhanced annual leave for high-grade managerial or supervisory positions. My amendment changed that so it would apply to all GAO employees.

I also requested and received written assurance from the Comptroller General that GAO would provide the Subcommittee on Civil Service and Agency Organization with an annual report on pay adjustments received by women minorities and veterans at the Government Accounting Office.

The gentleman from California (Mr. WAXMAN) insisted on additional changes to the executive program that have been incorporated into the bill. These changes include reducing the number of participants who can participate in the program, having the program sunset after 5 years, and ensuring that private employees working at GAO are subject to Federal ethics and conflict-of-interest laws, and do not have access to trade secrets. Now we have a responsibility to continue our oversight of agencies like GAO that have received human capital flexibilities to ensure that they are working and working in a fair and equitable manner.

Finally, I would like to take note that this bill has bipartisan and bicameral support, the result of doing civil service reform the right way; and I trust that we will learn from that as we continue to reform the government.

I support this bill and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WAXMAN), the ranking member of the Committee on Government Reform and Oversight.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

The House is considering this bill, which would give personnel flexibilities to the General Accounting Office. These flexibilities will help GAO in the recruitment and retention of its employees which, in turn, will allow GAO to do a better job in serving the Members of the Congress.

In general, I believe civil service reform ought to be done on a government-wide basis, not an agency-by-agency basis. A piecemeal approach creates a hodgepodge of personnel systems which limits the mobility of employees and increases the potential for unfair treatment.

Nevertheless, Comptroller General David Walker has made a very strong case for why GAO should be granted the personnel flexibilities in this bill. On that basis, I support the bill. I also believe that GAO would be an appropriate place to experiment with these reforms before we consider them for other agencies.

In developing this legislation, the Comptroller General consulted with GAO's employee representatives, gave guarantees to employees about their future pay, and worked with Members on both sides of the aisle in the Congress of the United States and in both the House and in the Senate. When the gentleman from Illinois (Mr. DAVIS), the ranking member of the Subcommittee on Civil Service, and I expressed concerns about several provisions in the bill, the Comptroller General worked to find language that we could support. The end result is the bill that is before us today. It is a bipartisan bill. It has been improved by compromise, and it is supported by every member of our committee. For that reason, I would urge the Members of the House to accept the legislation as well.

As other agencies approach Congress for personnel flexibilities in the future, I hope they will look to GAO's consensus-building approach as a model. I want to thank the Comptroller General, the gentleman from Virginia (Chairman TOM DAVIS), and the gentlewoman from Virginia (Chairwoman JO ANN DAVIS) for their cooperation and, of course, our ranking member, the gentleman from Illinois (Mr. DANNY DAVIS). I urge my colleagues to support the bill.

☐ 1030

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to engage in a colloquy with the gentlewoman from Virginia (Mrs. JO ANN DAVIS) to clarify our understanding regarding section 7 of this bill.

This section relates to the executive exchange program, which authorizes a small number of private sector employees to work at GAO. The bill states that these private sector detailees shall be considered GAO employees for the purpose of several Federal ethics provisions. In 1979 and 1999, the Justice Department stated that GAO employees are subject to 18 U.S.C. 208 and 209, which cover financial conflicts of interest. The Comptroller General has confirmed that it is a long-standing practice for GAO employees to be subject to these provisions.

Our understanding is that private sector detailees to GAO shall be subject to the financial conflict of interest provisions in 18 U.S.C. 208 and 209. My question is, does the Chair of the Subcommittee on Civil Service and Agency Organization have this same understanding?

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentlewoman from Virginia.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, yes, that is our understanding as well.

Mr. DAVIS of Illinois. I thank the gentlewoman so very much, and I continue to urge support for the bill.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I thought we had one other speaker on his way, but I would just urge that the House pass H.R. 2751.

Mr. TOM DAVIS of Virginia. Mr. Speaker, please include the attached exchange of letters between Chairman BILL THOMAS of the Committee on Ways and Means and myself in the CONGRESSIONAL RECORD at the end of the debate on H.R. 2751.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, January 28, 2004.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your recent letter regarding your committee's jurisdictional interest in H.R. 2751, the GAO Human Capital Reform Act of 2003. I appreciate all of your efforts to ensure that the Government Accounting Office has the resources it needs to effectively carry out its responsibilities.

I acknowledge your committee's jurisdictional interest in this legislation and appreciate your cooperation in allowing speedy consideration of the bill. I agree that your decision to forego further action on the bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation. I will support your request for outside conferees should there be a House-Senate conference on this or similar legislation.

Finally, I will include a copy of your letter and this response in the Congressional Record when the House considers the legislation.

Sincerely,

TOM DAVIS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 28, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN DAVIS: I am writing concerning H.R. 2751, the "GAO Human Capital Reform Act of 2003," which was reported by the Committee on Government on November 19, 2003.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning the Internal Revenue Code. Sec. 7 of H.R. 2751 deems persons participating in the Executive Exchange Program to be an "employee of the General Accounting Office" for the purposes of section 1043 of the Internal Revenue Code, which governs ethics-related divestiture by government employees. However, in order to expedite this legislation for floor consideration we will not take action on this particular proposal. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 2751, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. Speaker, I rise in strong support of H.R. 2751, the GAO Human Capital Reform Act of 2003.

Over the last couple of years, the Government Reform Committee has worked tirelessly to revitalize the federal civil service in an effort to bring the Federal workforce into the 21st century. In November 2002, Congress granted the new Department of Homeland Security the authority to develop its own human resources management system, largely outside of the confines of the 50-year-old Federal civil service system. In June 2003, Congress authorized the Securities and Exchange Commission to utilize streamlined hiring procedures to address critical staff shortages at the Commission. In November 2003, Congress granted the Defense Department authority similar to Homeland Security to develop a human resources management system for its civilian workforce. In January of this year, Congress authorized a number of new workforce authorities for NASA that will enable the space agency to compete with the private sector in recruiting and retaining a highly specialized workforce.

Now GAO—a legislative branch agency that helped us to craft these reforms—has asked Congress to provide it with some of the same personnel flexibilities that we have provided to these other agencies. Civil Service Subcommittee Chair JO ANN DAVIS responded by introducing H.R. 2751, which would provide GAO with the authority to offer early buyout packages, base employee compensation on performance, offer additional relocation benefits, offer more flexible annual leave policies, and establish an executive exchange program with the private sector.

H.R. 2751 was developed in coordination with the minority members of the Government Reform Committee, the General Accounting Office and the Senate Governmental Affairs Committee, all in a bipartisan manner. We in this body rely on the GAO to ensure the performance and accountability of the Federal Government, and this legislation will assist the Comptroller General in ensuring a vibrant and effective workforce to meet this important task.

I urge Members to support this important legislation.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). All time for debate has expired.

Pursuant to the order of the House of Tuesday, February 24, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this bill will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later in the day.

HONORING THE LIFE OF THE LATE RAÚL JULIÁ

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 287) recognizing and honoring the life of the late Raúl Juliá, his dedication to ending world hunger, and his great contributions to the Latino community and the performing arts.

The Clerk read as follows:

H. CON. RES. 287

Whereas Raúl Juliá made his Broadway debut just a few weeks after arriving in New York City in 1964 in Calderon's "Life is a Dream";

Whereas Raúl Juliá, after only 3 years of living in New York City, was instrumental opening doors for nontraditional parts for Hispanic actors by taking the role of Demetrius in Shakespeare's "Titus Andronicus" at the New York Shakespeare Festival and Cradeau in Sartre's "No Exit";

Whereas Raúl Juliá was the busiest Hispanic Shakespearean actor in New York and the first to establish a decades-long association with Joseph Papp and the New York Shakespeare Festival;

Whereas Raúl Juliá began an impressive and productive 28-year association with Joseph Papp and the New York Shakespeare Festival as Macduff in the Festival's Mobile Unit, Spanish language production of MacBeth;

Whereas Raúl Juliá became the first Puerto Rican actor to conquer Broadway stages by having his work be nominated for 4 different Tony Awards in 10 years: "Two Gentlemen of Verona", "Where's Charley?", "Threepenny Opera", and "Nine";

Whereas Raúl Juliá provided a role model for millions of children in his role as "Rafael, the Fix-It Man" in Sesame Street;

Whereas Raúl Juliá was a dedicated leader in the fight against the rising rates of teen violence and cosponsored scriptwriting competitions for high school students as a way to encourage teenagers to express their emotions through art rather than through violence;

Whereas Raúl Juliá's dedication to help Hispanic-American film and television writers develop their work led him to co-found the Latino Playwrights Reading Workshops;

Whereas Raúl Juliá was instrumental in the formation of the now legendary Puerto Rico Traveling Theater, an off-Broadway nonprofit Puerto Rican theater that to this day continues to promote and showcase bilingual plays, new Hispanic playwrights and Spanish-speaking actors while bringing theater to those who cannot ordinarily afford it;

Whereas Raúl Juliá was a leader in the entertainment industry, particularly as a tireless mentor and role model to emerging Latino actors;

Whereas Raúl Juliá was a dedicated activist and humanitarian who in his lifetime became a major supporter and spokesperson for the Hunger Project, a nonprofit organization committed to the eradication of world hunger;

Whereas Raúl Juliá was tireless in his commitment to the Puerto Rican film industry and to the making of Spanish language films and continued to participate in small, independent, Spanish-language films even after having become a Hollywood star;

Whereas Raúl Juliá was an extremely successful stage, film and television actor who never abandoned his Puerto Rican heritage, never changed his name and never gave up his accent, thereby becoming an enduring role model for hundreds of Latino actors;

Whereas Raúl Juliá received the Hispanic Heritage Award recognizing his many career achievements for the Latino community, including his involvement in "La Familia", a New York City outreach program for Latino families in need, the Puerto Rican traveling theater, the Museo del Barrio, and the New York Shakespeare Festival;

Whereas Raúl Juliá received the National Board of Review Best Actor prize for his interpretation of the political prisoner Valentin in the award-winning landmark film "The Kiss of the Spider Woman", an award he shared with his co-star William Hurt;

Whereas Raúl Juliá posthumously received the prestigious Emmy Award, Cable Ace Award, Golden Globe Award, and the SAG Award, given by his fellow actors for his most famous roles including Chico Mendes in "The Burning Season";

Whereas Raúl Juliá was proud of his Puerto Rican heritage and his life and work reflected his strong commitment to his culture and the people of Puerto Rico;

Whereas Raúl Juliá was given a state funeral in Puerto Rico and since that time there have been many awards and honors created in his name: a scholarship at Julliard, a scholarship given to a promising young actor for the purpose of studying and performing Shakespeare at the Joseph Papp Public Theater, the Raúl Juliá Award for Excellence given annually by the National Endowment for the Hispanic Arts in Washington, DC, El Teatro Raúl Juliá in San Juan Puerto Rico, and the Raúl Juliá Global Citizen Award, an annual award being given this year for the first time by the Puerto Rican Family Institute based in New York City;

Whereas Raúl Juliá was recognized by the Mayor of the City of New York with the creation of Raúl Juliá Day which was celebrated and commemorated in conjunction with Puerto Rican Heritage and Culture Month on November 21, 1994: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes and honors the life of the late Raúl Juliá, his dedication to ending world hunger, and his great contributions to the Latino community and the performing arts.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 287, the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Government Reform, I rise in support of House Concurrent Resolution 287 that recognizes and honors the life of Raúl Juliá.

Mr. Speaker, this resolution celebrates the contributions of one of the most dynamic actors of our time. Born in San Juan, Puerto Rico, in March of 1940, Raúl Juliá began his incredible theatrical career at a very young age. He moved to New York City in 1964 to pursue his livelihood on a grander stage, and he quickly landed parts in a number of Spanish-language productions.

Raúl Juliá made his Broadway debut 4 years later in 1968 in a show called The Cuban Thing. He capitalized on his Broadway success to acquire a role as Rafael, the Fix-It Man on Sesame Street in 1971, but it was later that year when Juliá earned his breakthrough part. He played Proteus in his first Shakespeare drama, two Gentlemen of Verona, for which he earned his first of four Tony Award nominations. Ultimately, Juliá became a feature film star as well, starring most prominently in Kiss of the Spider Woman in 1985 and The Addams Family movies in the early 1990s.

Mr. Speaker, while we may best know Raúl Juliá for his elegance and success as an actor, this resolution appropriately emphasizes Raúl Juliá's remarkable humanitarian legacy. Juliá worked closely with the Hunger Project, which is a nonprofit aid organization, to create the Raúl Juliá Ending Hunger Fund. Juliá worked hard with very little fanfare to recruit individual and business sponsors to contribute to the fund for the purpose of providing food to the hungry worldwide. He was a diligent spokesman for both the Hunger Project, as well as the Raúl Juliá Ending Hunger Fund, and his efforts are worthy of commendation by this House.

In 1994, Raúl Juliá's noteworthy life was cut tragically short when he suddenly suffered a severe stroke and died shortly afterwards at the age of 51. However, I am very pleased that the House is remembering Raúl Juliá's legacy by considering this legislation today, and I urge all Members to support its adoption.

Mr. Speaker, I commend the gentleman from Illinois for his work to recognize Raúl Juliá.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

I, too, want to thank our colleague the gentleman from Illinois (Mr.

GUTIERREZ) for introducing this resolution recognizing and honoring the life of Raúl Juliá.

Mr. Speaker, Raúl Juliá was discovered by the actor Orson Bean, who inspired him to leave his native San Juan, Puerto Rico, and immigrate to the United States in 1964. Over the next three decades, Mr. Juliá enjoyed a stellar career as one of our finest stars of stage and screen.

His first love was always the stage, and he was one of the first Puerto Rican actors to make it big on Broadway. He was nominated for four Tony Awards, including for his performance as Mack the Knife in the Threepenny Opera. He also boasted an impressive résumé of Shakespearean work, beginning with his first starring role, the title character in Titus Andronicus, with the New York Shakespeare Festival. It was once said of this daring actor that he was always outrageous in his acting choices. He is larger than life all the time when he is on stage.

A wider audience grew to know him through his film work, an eclectic body of work that ranges from Valentin, the passionate revolutionary in Kiss of the Spider Woman; to the assassinated Salvadoran archbishop Oscar Romero in Romero; to the campy Gomez Addams in The Addams Family. Mr. Juliá's last role, as the Brazilian rainforest activist Chico Mendez, won him posthumous Emmy and Golden Globe Awards.

Raúl Juliá took seriously his responsibility as a role model for young Latino actors to follow. He made it a point to embrace his Puerto Rican heritage, never changing his name or attempting to cover his accent, and still he resisted the sort of typecasting that all too often afflicts minority actors. In doing so, he quite clearly made a difference to any young Latino who aspired to be an actor.

In addition to his acting career, Raúl Juliá was tirelessly devoted to making the world a better place. For the last 15 years of his life, he was involved as a major supporter and spokesman for the Hunger Project, a group dedicated to ending world hunger. After his death in 1994, the Hunger Project created the Raúl Juliá Ending Hunger Fund in his honor, as well as the Raúl Juliá Global Citizen Award. Also in his honor, the Hunger Project extended its programs in Latin America, establishing programs in Mexico, Bolivia and Peru.

One of Mr. Juliá's favorite quotes, which he released to the Washington Post in 1992, comes from Don Quixote: Maddest of all is to see things as they are, not as they ought to be.

Raúl Juliá, accomplished actor of stage and screen, international activist for the alleviation of worldwide hunger and role model for a whole generation of Latino actors, not only saw things as they ought to be, but did his level best to bring his vision to pass. For that he is worthy and deserving of this resolution in his honor.

I urge my colleagues to join with me in support of this important resolution.

Mr. Speaker, we reserve the balance of our time.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Having no other speakers at this time, I simply urge all Members to support the adoption of House Concurrent Resolution 287, and I thank the gentleman from Illinois for introducing it.

Mr. ACEVEDO-VILÁ. Mr. Speaker, I rise today to demonstrate my support for H. Con. Res. 287 and encourage my colleagues to vote in favor of this important resolution honoring a very important man, Raúl Juliá. I request unanimous consent to revise and extend my remarks.

As the representative of the people of Puerto Rico, I am proud to address you today to honor the life and work of Raúl Juliá. Through his groundbreaking work in the theater, television, and film, his commitment to the improvement of the Latino community, and his dedication to ending world hunger, Raúl Juliá became a role model and inspiration for many.

After being discovered in a nightclub in Puerto Rico by actor Orson Bean, he moved to New York in 1964, when he was just 24 years old. He quickly found work in Broadway and paved the way for Latino actors by taking on nontraditional roles. He became a very well known Shakespearean actor, taking on roles like Othello and Edmund in King Lear, and was the first Hispanic to create a long lasting alliance with the New York Shakespeare Festival. His work on Broadway earned him 4 Tony Award nominations in the course of 10 years.

Juliá also served as a role model for children through his portrayal of Rafael, the Fix-It Man in the popular children's television show Sesame Street, and appeared in multiple made-for-television movies. In addition to his theater and television credits, his film career was also very prolific and productive. Among his best-known roles are the political prisoner Valentin in The Kiss of the Spider Woman, Cardinal Oscar Romero in Romero, Gomez Addams in The Addams Family and its sequel, Addams Family Values, and slain Brazilian activist Chico Mendes in The Burning Season, for which he posthumously received Emmy, Golden Globe, Screen Actors Guild, and Cable Ace Awards.

In addition to his acting career, Raúl Juliá worked to improve the Latino community by becoming a leader in the fight against teen violence and a mentor to aspiring Latino actors. He created and cofounded multiple projects, such as the Latino Playwrights Reading Workshops and the Puerto Rico Traveling Theater, and became involved in other programs, such as "La Familia", and the Museo del Barrio. Additionally, he was a lifelong advocate for the Hunger Project, an organization committed to ending world hunger. For all his community involvement and his career achievements, he received the Hispanic Heritage Award in 1995.

Raúl Juliá was an exemplary Puerto Rican, and a brilliant role model for all. It is an honor for me today to rise and pay tribute to this great man's life and work. I strongly encourage this body to join me in praising this man's life by passing H. Con. Res. 287.

Mr. GUTIERREZ. Mr. Speaker, the resolution we are considering today, H. Con. Res. 287, commemorates the life and legacy of Raúl Juliá and recognizes his role in tearing down barriers for Latinos around the world.

Both on stage of off, on film and in the community, Raúl Juliá embodied the strength and spirit that made him a hero and a role model for so many actors and audiences alike.

He had that rare talent, and that unique ability to move people with each performance and to motivate them to embody the passion and purpose he brought to his craft.

Throughout his career, Raúl Juliá often declined traditional roles in Hollywood blockbusters and mainstream plays.

Instead, he sought out innovative and groundbreaking parts that tested his talents.

He shined as a Fellini-esque filmmaker in the Broadway musical Nine, touched our hearts as slain Salvadoran Archbishop, Oscar Romero, and captivated audiences as political prisoner Valentin in the award-winning film, Kiss of the Spider Woman.

He also was able to show his depth as an actor with characters ranging from Gomez Addams in The Addams Family to Chico Mendes in the Burning Season to Rafael the Fix-it Man in Sesame Street.

But, what made Raúl Juliá so special and so one of a kind was that his work extended well beyond the stage and the screen.

As committed as he was to perfecting the parts he played, he was equally dedicated to the charitable causes he pursued.

That included the Hunger Project, a nonprofit organization focused on ending world hunger.

In 1987, Raúl Juliá told Elle Magazine, "There are 38,000 people dying of hunger each day and most are children. And, being a celebrity, I communicate about it as much as I can."

In addition to fighting hunger on the global stage, Raúl Juliá was equally involved in local causes by working with numerous nonprofits and social service agencies to help families in need.

He also was able to use his influence in the entertainment industry to create a culture that opened up new opportunities for Latino actors and writers to share their talents.

He was instrumental in the formation of the Puerto Rico Traveling Theater, which continues to promote and showcase bilingual plays and new Latino writers and actors.

It was this dedication and determination and vision that made Raúl Juliá a mentor and a model for so many.

When he passed away a decade ago, thousands of people attended his funeral in Puerto Rico to pay their respects and to acknowledge his enormous contributions.

They wanted to thank him for his courage and his character and his inspiration. And that is why it is so important that Raúl Juliá's memory lives on.

So that he can inspire the next generation of actors to rehearse harder and to reach farther.

And so that all people, regardless of race or country of origin, understand the importance of giving back to their communities and to addressing the problems plaguing our society.

Mr. Speaker, the passage of this resolution provides one more opportunity to pay our respects to the passion and the vision of this one-of-a-kind actor and outstanding humanitarian and activist.

And I urge its passage.

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today in support of H. Con. Res. 287, a resolution to honor the life and achievements of the late great actor, Raúl Juliá.

Juliá was born in San Juan Puerto Rico on March 9, 1944. A precocious child, Juliá discovered his talent for acting at the young age of 5. From then on he knew his destiny was the theatre. Upon graduation from the University of Puerto Rico, Juliá was faced with a difficult choice between his parents' wishes and his own. They wanted him to continue to law school. He wanted to pursue an acting career. Finally, like so many Puerto Ricans, and so many aspiring actors, he left for New York.

In New York, it was Joseph Papp, founder of the New York Shakespeare Festival, who gave Juliá his first break after casting him as a lead in Shakespeare's Titus Andronicus. With the support of Papp and following in the paths blazed by native Puerto Ricans Jose Ferre and Rita Moreno, who had won acclaim for their stage and on screen performances, Juliá became a Broadway star. He was nominated for four Tony awards and more importantly demonstrated that Puerto Ricans could play more diverse roles than the stereotypical roles they were usually given.

While the theatre was Juliá's passion, it was film that made him immensely popular. On screen Juliá once again proved that he was a diverse actor, starring in comedies, dramas and action films. Perhaps, most of us know him best from his role as Gomez Addams in the hugely successful Addams Family movies.

Juliá passed away on October 24, 1994, at the age of 54. He left behind his wife of 28 years, two sons, and a multitude of shocked fans. He is sorely missed, not only for his great acting but for being such a great human being. He never succumbed to pressures to abandon his Latino-Puerto Rican heritage in order to succeed and as a result he opened doors for nontraditional parts for Hispanic Actors. What was more impressive about Juliá was his dedication to the uplifting of others. He was a passionate supporter of The Hunger Project, a foundation devoted to the elimination of world hunger. For 17 years, he served as the Project's spokesperson. He also was a dedicated leader in the fight against the rising rates of teen violence and encouraged teenagers to express their emotions through art rather than violence.

Since his death, there have been many awards and honors created in his name. They include a scholarship at Julliard, the Raúl Juliá award given annually by the National Endowment for the Hispanic Arts in Washington, DC, and the Raúl Juliá Global Citizen Award. I am also proud to say that in June 1996, a new elementary school in my district in the Bronx, New York was dedicated as the Raúl Juliá Micro Society Dual Language School.

Mr. Speaker, for his accomplishments on stage and on screen and his unyielding desire to help those less fortunate than he, I ask that my colleagues join me in honoring the life of Mr. Raúl Juliá.

Mrs. MILLER of Michigan. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, we yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 287.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

BARBER CONABLE POST OFFICE BUILDING

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3690) to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the "Barber Conable Post Office Building".

The Clerk read as follows:

H.R. 3690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BARBER CONABLE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, shall be known and designated as the "Barber Conable Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Barber Conable Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3690, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3690 that designates the post office in Batavia, New York, as the Barber Conable Post Office Building. All members of the New York State delegation have cosponsored this legislation.

Mr. Speaker, Barber B. Conable, Junior, was a wonderfully respected member of this body who served 10 terms from 1965 until 1985. His distinguished professional career included stints as president of the World Bank, as a Congressman, a New York State senator, an attorney, U.S. Marine Corps reservist, as well as a World War II veteran.

Barber Conable sadly passed away last November at the age of 81. This legislation will rename the post office in Batavia, New York, after him, in a town that he represented both in Congress and as a State senator as well for so many years.

Mr. Speaker, Barber Conable was perhaps best known for serving one 5-year term as president of the World Bank from July of 1986 until July of 1991. His commitment to fighting poverty all over the world made him a compassionate conservative who was well ahead of his time. Upon his passing, current World Bank president James Wolfensohn said that Barber Conable "was a remarkable leader whose concern for the poor and passion to help improve their lives marked his tenure at the Bank."

In the Congress, Barber Conable toiled away for many years as a minority member of the House Committee on Ways and Means, ultimately rising to the post of ranking member. For nearly a decade, he was the House Republican Party standard-bearer on taxes, trade and Social Security.

Because he served in the minority, he often tried to use his wit to grab the attention of Members and others. The Congressman once mused, What is power? All it is is influence, and as long as people listen when I talk, I have got influence.

Unquestionably, people did listen when Congressman Conable talked. A Cornell law school-educated lawyer, he was a persuasive, confident speaker who often spoke completely off the cuff when debating intricate tax policy in the committee. Overall, political columnist George Will matter-of-factly stated, There has never been a better Congressman.

On behalf of the author of this legislation, the gentleman from New York (Mr. REYNOLDS), I want to extend the sincere sympathy of all Members of this House to the family of Barber Conable, especially to his wife Charlotte and his four children, Anne, Emily, Sam and Jane. I want to assure them that Barber Conable will never be forgotten.

Mr. Speaker, I thank the gentleman from New York for his work on H.R. 3690.

Mr. Speaker, I reserve the balance of my time.

□ 1045

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

As the ranking member of the House Committee on Government Reform, I am pleased to join my colleague in the consideration of H.R. 3690, legislation naming a postal facility in Batavia, New York, after Barber Conable. This measure was introduced by the gentleman from New York (Mr. REYNOLDS) on December 8, 2003. It was unanimously reported by our committee.

Barber Conable was born in New York. He attended Warsaw High School and Cornell University. After college, he served in World War II as a United States Marine. After the war, he obtained a law degree and began practicing law. He began his political career in 1962, when he first served in the New York State senate. From there, he ran for Congress, was elected to represent the 30th district in 1964, and he served on the House Committee on Ways and Means where he was active on tax issues. He represented his district for 20 years until his departure in 1985.

Now, that states the facts. Let me tell my colleagues that, from my own experience as a Member of Congress who had the honor of serving with Representative Conable, that he was a very distinguished man. People on both sides of the aisle looked to him with respect. When he spoke, all of us listened. He was a man who embodied the civility that we all yearn for in the House of Representatives, a civility that looked to working out issues on a bipartisan basis, looking to treat each other with mutual respect, trying to find opportunities for Members of both parties to find common ground.

He left the House and went on to become president of the World Bank, a position he held for 5 years. Upon his retirement, Mr. Conable returned to his New York home. As a distinguished professor, he attended many events at the University of Rochester and was sought after as a brilliant and gifted speaker. Mr. Conable passed away in November of 2003.

Mr. Speaker, I commend my colleague for seeking to honor our late colleague in this manner. He well deserves whatever praise that we can give him as a very distinguished Member of the House, one who I think serves as a model for those of us who served with him and those who have followed and who yearn for the time when the House of Representatives is not just the partisan institution that we so often see today, but one that seeks to work in a bipartisan manner to look after the best interests of the people in this country and to bring our various perspectives both from our region and from our ideology to some kind of temper where we recognize that we have to all get together in order to do what is best for the American people.

Mr. Speaker, I urge all Members to support this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. REYNOLDS), my distinguished colleague and the sponsor of H.R. 3690.

Mr. REYNOLDS. Mr. Speaker, I thank the gentlewoman from Michigan for yielding me this time.

I rise before the House today to remember a great man, a mentor to many of us both in Congress today and Congresses of the past, and that is Barber Conable, who passed away a few months ago.

Barber Conable distinguished himself as a Member of Congress for 20 years and had the respect of his colleagues on both sides of the aisle. He was notable also for an esteemed academic career and his professional knowledge on a wide variety of issues, from taxes to Social Security, and his willingness to tackle any problem head on. Always lending a helping hand was a signature trait of Barber's. He never let partisanship get in the way of progress.

Barber Conable was the best example of what a public servant ought to be. He loved his country, his community, and his family. He never strayed from the strong values he was raised on. His genuine sophistication as a legislator came effortlessly, revealing the compassion and unselfishness that was the hallmark of his public service.

Today, it is fitting that we pay tribute to a great Congressman, a great public servant who never forgot the roots of his hometown and his community that we name the Batavia post office after Barber Conable. I appreciate the support of my colleagues not only from New York but throughout the Congress that have joined me in cosponsorship of this legislation.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume to simply urge all Members to support the passage of H.R. 3690.

Ms. SLAUGHTER. Mr. Speaker, I rise today to support the designation of the post office located at 2 West Main Street in Batavia, NY, as the "Barber Conable Post Office Building," I want to commemorate the life and achievements of former Congressman Barber Conable. At the time of his retirement in 1984, he was ranking member of the House Committee on Ways and Means, bringing to it intellect and an unparalleled love and knowledge of the law. Barber passed away last year and I must say, Western New York has lost a true statesman.

He took time out of his law school courses and Cornell University to serve in the Pacific during World War II. Later, after completing his law degree, he served his country again in Korea.

Shortly after returning from Korea, he started his career in public service by running for and winning a seat in the New York State Senate. Two years later, he was elected to serve in the House of Representatives in a district representing parts of the City of Rochester, the western half of Monroe County, and Genesee, Wyoming, Orleans and Livingston Counties. From 1966 to 1986, Barber Conable's integrity, hard work, and determination created an environment in which Members worked with each other across party lines for the good of all Americans. As a result, he earned the respect of his colleagues, both Democrat and Republican.

It was an honor for me to be elected to serve a portion of the area he represented when I was first ran for Congress in 1988, and I take pride in continuing to serve the part of Western New York I know he loved so much. I remember when I first came to Congress, Barber came to visit me in my new office. We were both delighted to realize that I was occupying the very same office that he had occupied as a freshman. Barber was always so kind with his counsel and his advice. He was the greatest kind of friend.

Barber Conable will be remembered for a countless number of contributions he made during his years of public service. The spirit Barber Conable brought to the House of Representatives is inspirational and it is my hope that we will continue to remember and honor his memory.

Mrs. MILLER of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr LAHOOD). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and pass the bill, H.R. 3690.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 48 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1419

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FOLEY) at 2 o'clock and 19 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 1997, UNBORN VICTIMS OF VIOLENCE ACT OF 2004

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 529 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 529

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 1997) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the amendment in the nature of a substitute printed in part B of the report of the Committee on Rules, if offered by Representative Lofgren of California or her designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 529 is a modified closed rule that provides for the consideration of H.R. 1997, the Unborn Victims of Violence Act of 2004.

This rule provides for 2 hours of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

H. Res. 529 provides that the bill shall be considered as read for amendment. The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying the resolution, shall be considered as adopted.

The rule further provides for the consideration of the amendment in the nature of a substitute printed in part B of the report of the Committee on Rules, if offered by the gentlewoman from California (Ms. LOFGREN) or her designee, which shall be considered as read, shall be debatable for 1 hour equally divided and controlled by the proponent and an opponent.

H. Res. 529 waives all points of order against the amendment printed in part B of the report of the Committee on Rules and provides for one motion to recommit with or without instructions.

This is a fair rule, Mr. Speaker; and I urge all my colleagues in the House to join me in supporting its passage so that we can move on to considering the underlying legislation.

With respect to the underlying legislation, H.R. 1997, I want to commend the gentlewoman from Pennsylvania (Ms. HART) for introducing this legislation and the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, for bringing it to the floor this week.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Georgia for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, violence against women and children and all of humanity should never be tolerated. Bold, effective steps should be taken to reduce violence against women, children, and men, and particularly pregnant women. But H.R. 1997 is not about women, and it is not about children. It is about politics. It is an attempt to drive a wedge between women and their constitutional rights.

For decades, the constitutional right to privacy, which protects women and their reproductive rights, has endured attack after attack. This bill is another deliberate strike at reproductive freedom and choice and is part of a nationwide strategy to overturn Roe v. Wade or to so undermine a woman's right to choose that it becomes meaningless in practice. The issue of violence against pregnant women is used to cloak the intent and the impact of this bill. Pregnant women are being used as pawns in an elaborate chess game to deny women self-determination and their constitutional rights.

The agenda is unmistakable. It has been clearly articulated by opponents of reproductive rights. A leader of an anti-choice legal group has said: "In as many areas as we can, we want to put on the books that the embryo is a person. The blastocele is a person. That sets the stage for a jurist to acknowledge that human beings at any stage of development deserve protection. That would even trump a woman's interest in terminating a pregnancy."

H.R. 1997 would set such a stage, pitting rights against one another, and the woman's rights are not paramount. In an opinion that was issued earlier this year, Christine Durham, Chief Justice of the Utah Supreme Court, warned that "declaring a fetus to be a person entitled to equal protection would require not only overturning Roe v. Wade but also making abortion a matter of constitutional law, illegal in all circumstances, even to save the life of the mother."

During the Committee on the Judiciary's markup of this bill, the gentlewoman from Wisconsin (Ms. BALDWIN) offered an amendment that stated: "Nothing in this section shall be construed as undermining a woman's right to choose an abortion, as guaranteed by the United States Constitution, or limiting in any way the rights and freedoms of pregnant women." The amendment failed. If H.R. 1997 should not affect or interfere with a woman's right to choose, why then would the committee reject this simple statement reaffirming the rights as articulated in Roe and reaffirmed in Planned Parenthood of Southeastern Pennsylvania v. Casey?

In fact, debate on the constitutional right to choose is unnecessary in legislation that seeks to safeguard pregnant women. If protecting women from violence is the goal, the straightforward and noncontroversial solution is clear: pass the Motherhood Protection Act. It accomplishes the same ends, providing additional punishments for anyone who injures a pregnant woman and injures a fetus or causes a miscarriage. The Motherhood Protection Act does so without necessarily raising controversial constitutional issues. The bill could be sent to the President for his signature quickly and easily.

Rita Smith, the executive director of the Denver-based National Coalition Against Domestic Violence, said her group tried to work with lawmakers writing this legislation to make it more about protecting women. She said that they would not go down that road. This seems to be more about trying to undo abortion.

Disappointingly, the bill does little to protect women. In our Federal system, criminal law is generally reserved to the States. This bill does nothing to address the many State crimes perpetrated against pregnant women. This bill would only create a separate criminal count on Federal offenses like terror attacks, interstate stalking, and acts on military bases or Federal land. If my colleagues are serious about reducing violence against women, then fully fund the Violence Against Women Act, which expanded protections for all women against acts of violence.

In fiscal year 2003, the Violence Against Women's Act was appropriated at $100 million less than the fully authorized level. Programs for transitional housing and for Federal victims counselors and training for judges were not funded at all, which gives a lie to the fact this issue here is to protect women against violence. And rape prevention and education was funded at half its authorized level.

To protect women from violence without undermining reproductive freedom, I urge my colleagues to support the amendment in the nature of a substitute. The underlying legislation is a challenge to women's constitutional rights. Women's safety and welfare safety should not be pawns in an effort to overturn Roe v. Wade. Indeed, women are not being protected here. Women are being used.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from North Carolina (Mrs. MYRICK), my colleague on the Committee on Rules.

Mrs. MYRICK. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, when a baby is in the womb and someone violently attacks the mother and causes injuries or takes the life of that child, then the offender should be held responsible, and current law is unjust in that case. An individual who commits a Federal crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child while committing the crime.

The Unborn Victims of Violence Act protects the unborn child from violent crime. Those who injure or kill the child will be charged with a separate offense. The legislation is being called merely symbolic by its opponents. But how many women in America would view the loss of their wanted unborn child through violent means as merely symbolic?

□ 1430

All we have to do is ask the woman who has just lost her child after a violent attack, it is not the same thing as a simple assault. Clearly it is more serious, and it is more emotionally jarring to that woman, and it should be treated accordingly.

Mr. Speaker, I strongly urge my colleagues to support this rule and to support the underlying legislation.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for her leadership as the Chair of the Woman's Caucus and her continued leadership on the issues of protection for women and children.

I rise today to speak to the obvious, I think, confusion, but maybe attempt to confuse, because I believe if my colleagues were listening to this debate, they could not imagine why any of us would rise and have a difference of opinion, and any of us would rise in opposition to the rule or the underlying legislation, H.R. 1997. It seems on its face to be concerned about women and children.

Mr. Speaker, it is interesting that we are just a few days shy of the Peterson case. All of us know the enormous tragedy those families are experiencing in the loss of their beautiful daughter and the unborn child.

I would hope that U.S. attorneys and others who protect our society across the Nation would rise up and tell America the truth, and that is any time that there is an attack on a woman who happens to be pregnant, you can be assured there is a criminal provision, a law, by which U.S. prosecutors can pursue that defendant or that perpetrator of that horrible and horrific crime.

As a woman it would be an outrage for me to stand on this floor and suggest that I am not concerned about women across the Nation, young and middle-aged and old, that might be attacked by a predator, who attacked them on the basis of their sex, or attack them because they are pregnant or have conceived a child. Of course we know a woman looks different in different stages of her pregnancy, but it does not matter. If that woman has been injured, she has a remedy in the criminal courts, and, God forbid, if she has been murdered.

But the opposition to H.R. 1997 is because it is not intended on its face to only protect those harmed by a terrible criminal act. What it does is attack the woman who on the basis of the ninth amendment and Roe v. Wade has a right to choose her destiny.

First, H.R. 1997 creates a separate criminal offense for harm to an unborn child with a legal status equal to and separate from that of a woman. It means that any woman that chooses to get an abortion and/or the physician who does the abortion may be subject to criminal penalties.

Number two, it recognizes a member of the species Homo sapiens at all stages of development as a victim of crime from conception to birth. This affords a fetus, embryo, and even a fertilized egg rights and interests separate from and equal to those of the woman. There is no recognition of the crime against the woman.

Mr. Speaker, this is a bogus representation of protecting pregnant women. The Lofgren substitute, on the other hand, creates a separate Federal criminal offense for assaulting a pregnant woman resulting in the injury or termination of a pregnancy without engaging in a debate over the rights of a fetus. That makes sense because what it does is it focuses on the problem, and the problem is that we want women, no matter what status they may have, pregnant or not pregnant, young or old, to be protected by the laws of this land. But what we are doing here is disregarding the laws of this land by making criminal women who have the right to make a choice on their own bodies with their pastors or religious leaders, their family, their loved ones. No other intrusive government should be involved in this process.

I am confused as to why on this floor we debate this question today when there are people who are hungry, there are people who are unemployed, there are soldiers who are dying in Iraq, there are people without health care, and yet this floor does nothing but criminalize innocent women who have the right under the law of this land to make a determination about their body and their future.

I think the better route would be that we recognize our responsibility to protect those victims of crime. I served as an associate municipal court judge, and I understand the difference between right and wrong and the responsibility of government to protect our citizens. This is not that type of legislation. I ask my colleagues to vote against the rule, and I ask them to vote against the underlying legislation.

Mr. Speaker, I am saddened to be here today, to once again stand up for the pro-choice movement and deflect efforts made to undermine it. This is not the first time we have visited this issue, and I fear it will not be the last.

It is also unfortunate, that this attempt to undermine all of our progress made with women's rights, Congress is closing the door to letting us hear other amendments. We must be a true democracy, and we must listen to one another on such a pertinent issue. If we are going to be legislating a woman's right to choose, I believe we are entitled to more input on this subject.

I am pleased to join my colleague, ZOE LOFGREN, in supporting her substitute, the Motherhood Protection Act. I believe this is a time for pro-choice members to come together across party lines and take effective action to protect a mother, while retaining her liberties and privacy.

Violence against women, especially pregnant women, is unacceptable and should be punished. I, along with the pro-choice community, am dedicated to preserving a woman's right to have a family when she chooses—and any criminal act that robs her of a hope-for future child is tragic and intolerable. Rather than supporting such common-sense measures, my colleagues are instead promoting the Unborn Victims of Violence Act, described as "a sneak attack on a woman's right to choose." The loss of a wanted pregnancy is a tragedy, but solutions should be real, not political.

The Unborn Victims of Violence Act erodes the legal foundation of a woman's right to choose by elevating the legal status of all stages of prenatal development. If enacted, the legislation would be the first Federal law to recognize a fertilized egg, embryo or a fetus as a person who can be an independent victim of a crime. Our Supreme Court has held that fetuses are not persons within the meaning of the 14th amendment. Nowhere in this legislation is the harm to the woman resulting from an involuntary termination of her pregnancy mentioned. In fact, the pregnant woman is not mentioned at all.

The "Motherhood Protection Act" is a crime bill that is designed to protect pregnant women from violence. The Motherhood Protection Act embodies many of the same principles that I offered as amendments in the House Judiciary Committee, where Unborn Victims of Violence was originally introduced.

I have always supported the intent of this bill, to protect the life of the pregnant mother who has suffered as a victim of a crime of violence and the viability of her pregnancy. However, I oppose the means which the drafters of the Unborn Victims of Violence Act have used to achieve its end. Like the Motherhood Protection Act, all my offered amendments referred to changing language in the bill, focusing on the pregnant mother instead of the fetus.

The Motherhood Protection Act creates a second, separate offense with separate, strict, and consistent penalties for assault resulting in the termination of a pregnancy or assault resulting in prenatal injury.

The Motherhood Protection Act recognizes the pregnant woman as the primary victim of an assault that causes the termination of her pregnancy, and it creates a separate crime to punish this offense. In this way, the bill accomplishes the stated goals of the Unborn Victims of Violence Act—the deterrence and punishment of violent acts against pregnant women—while avoiding any undermining of the right to choose.

The Unborn Victims of Violence Act fails to address the very real need for strong Federal legislation to prevent and punish violent crimes against women. Nearly one in every three adult women experiences at least one physical assault by a partner during adulthood.

We have State laws that already address crimes committed against pregnant women. The majority of States have statutes on the books that address criminal conduct that results in harm to a pregnancy. Many States punish murder or manslaughter of an "unborn child," as that term is defined by the State law. Some States punish assault, battery, or other harm resulting in injury or death to an "unborn child," as that term is defined by State law. For other States, if a crime committed against a pregnant woman results in termination of or harm to a pregnancy, the harm to the pregnancy is an adjunct to the crime or may be used as a sentence enhancement.

Congress can protect pregnant women from violence without resorting to controversial bills like the Unborn Victims of Violence Act that undermine Roe v. Wade. We must take strong steps to prevent such attacks and must recognize the unique tragedy suffered by a woman whose pregnancy is lost or harmed as a result of violence. I am calling on Congress to support tough criminal laws that focus on the harm suffered by women who are victimized while pregnant, as well as a range of programs that promote healthy childbearing and family planning.

I hope my colleagues realize that the rule on the Unborn Victims of Violence Act is not sufficient, and more voices must be heard in these critical decisions. Thank you, Congresswoman LOFGREN, for taking appropriate action for trying to correct a bill designed to turn back decades of progress. I support the Motherhood Protection Act, and will continue to be a staunch advocate of the pro-choice movement.

I fully support a woman's right to choose, including a woman's right to choose to carry a pregnancy to term. Because Unborn Victims of Violence does nothing to protect women and because its clear intent is to create fetal personhood, I, along with Planned Parenthood Federation of America, oppose this legislation. Congress should adopt a more reasoned approach that would protect all women from violence.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, I rise today in support of H.R. 1997, the Unborn Victims of Violence Act. This bill will establish separate criminal offenses for the killing or injuring of an unborn baby during the commission of a Federal crime involving a pregnant woman.

While most States have passed fetal homicide laws, under Federal law there are currently no legal consequences for the killing or injuring of an unborn child during an attack on a pregnant woman. This bill will establish a Federal statute for what a majority of the States have already classified as criminal, the killing of a fetus or an unborn child.

As a Federal representative, it is essential that I take care of those who are at risk in society, and this legislation does just that. This is a question of justice in the name of those who do not have a voice. Opponents of H.R. 1997 claim that the loss of an unborn child only harms the mother. However, that poor accounting fails to consider the independent harm to another human being. Current Federal law is simply unjust and incomplete. Federal laws must not tell grieving mothers and families there was only one victim when, in fact, there were two.

Studies show that in some States murder is the leading cause of death of pregnant women, not complications from pregnancy. The Federal Government is lagging behind. While a majority of States have enacted statutes permitting the prosecution of a person for the murder of both a pregnant woman and her unborn child, injuring or killing an unborn child during the commission of a violent crime has no legal consequences under Federal law.

A recent study showed that 84 percent of Americans believe that prosecutors should be able to bring homicide charges on behalf of an unborn child killed in a womb. Unborn victims' legislation has withstood legal tests from an Illinois appellate court in People v. Ford, which concluded that a State's fetal homicide statute did not violate the equal protection clause of the 14th amendment and was not unconstitutionally vague. I believe this bill is constitutionally sound and provides the proper legal protection that unborn children deserve. I urge my colleagues to support this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, we are here again to consider the Unborn Victims of Violence Act, which has for several years unnecessarily mired what should be a laudable and uncontroversial effort to punish truly heinous crimes in the emotionally charged, and legally suspect, back alleys of the abortion debate. This is regrettable because real people are suffering real harm while this House has played abortion politics instead of punishing truly barbaric crimes.

This rule provides for consideration of this bill once again, and a reasonable substitute that will be offered by the gentlewoman from California (Ms. LOFGREN). That substitute would deal harshly with the perpetrators of these crimes, in some cases more harshly than would the underlying bill itself. It would also punish these offenders without treading into constitutionally suspect territory. From day one, it would be enforceable without question. I urge my colleagues to support the substitute and to oppose the underlying bill.

For those of who are prochoice, the right to choose extends not just to a woman's right to have an abortion, but to a woman's right to carry a pregnancy to term and to deliver a healthy baby in safety, if that is her choice. That is why we supported the Violence Against Women Act, that is why we support programs to provide proper prenatal care and nutrition to all women, that is why we support proper health and nutrition services after birth, and that is why we support other initiatives such as the Family and Medical Leave Act. Life does not beginning at conception and end at birth. We have an obligation to these children and parents throughout and after the pregnancy.

Let there be no mistake, using physical violence against a woman to prevent her from having a child she wants is just as much an assault on the right to choose as is the use of violence against women who exercise their constitutional right to choose to end their pregnancies. A woman and only a woman has the right to decide whether and when to bring a child into a world, not an abusive partner, not a fanatic, not a Congressman.

My colleagues should understand we are not talking here just about viable healthy fetuses who are ready to be born. This bill says "at any stage of development." That means any stage, including violence to embryos, violence to zygotes, violence to a blastocyst. I do not apologize to my colleagues who have in the past taken offense to the use of the correct medical terms for the subject matter we are discussing.

We should have no illusions about the purpose of this bill, that it is yet another battle in a war of symbols in the abortion debate in which opponents of a woman's constitutional right to choose attempt to establish that fetuses, from the earliest moments of development, are persons with the same legal rights as the adult women who are carrying them. The implication is that anyone who does not share the metaphysical slant of the radical antichoice movement that a two-celled zygote is a person on exactly the same basis, and with exactly the same rights, as a child or adult must secretly favor infanticide.

This bill, by making the destruction of a fetus, or even a zygote, crime against the fetus, without any reference to the terrible harm suffered by the pregnant woman speaks volumes.

Recognizing an embryo as a legal person is at odds with Roe v. Wade. The Supreme Court clearly said, "The unborn have never been recognized in the whole sense," and concluded that "'person,' as used in the 14th amendment of the Constitution, does not include the unborn." The rhetoric used by supporters of this bill urging that the law must "recognize the fetus as a victim" makes clear the purpose of this bill, which is a direct frontal assault on that holding in Roe v. Wade.

Rather than debate the abortion issue yet again, we should pass the Lofgren substitute that provides for the same severe penalties for the same terrible crimes without getting into the thorny issue of whether an embryo at 30 days of gestation is a legally recognized person. The Lofgren substitute provides for two separate crimes, one conviction for the assault and murder of the woman, and a new crime involving injury to the fetus or termination of the pregnancy. The major difference is that the Lofgren bill gives recognition to and imposes serious penalties for the additional and truly grotesque crime against the woman, not against the fetus.

If we are serious about this problem of violence against women, we have effective remedies at our disposal. If we want to play abortion politics, we have an appropriate vehicle before us to do that. Violence against a pregnant woman is first and foremost a criminal act of violence again a woman that deserves strong preventive measures and stiff punishment. According to the Journal of the American Medical Association, homicides during pregnancy, and in the year following birth, represent the leading cause of death among women in the United States. Among nonpregnant women it is the fifth leading cause of death.

Mr. Speaker, it is a disgrace that while these preventable crimes continue to occur, Congress fiddles with largely symbolic legislation rather than taking affirmative steps to deal with the problem. Why has this Republican-controlled Congress and White House continually refused to fund fully the Violence Against Women Act? It appears that many of the Members who have signed on to this bill are the same ones who have voted to divert funds from protecting women from violence to protecting stock dividends from taxation.

No one who listened to the testimony we have heard in our subcommittee could be left unmoved by the murders and assaults against women who wanted nothing more than to have a child. We owe it to these women, and to those who are closest to them, to ensure that early intervention is available, and that States and localities receive the full resources of the Violence Against Women Act to prevent violence against women by intervening before the violence escalates to that level.

☐ 1445

We must enact strong penalties which are not constitutionally suspect for these heinous crimes. We should not cloud that issue by plunging a legitimate law enforcement effort into the murky waters of the abortion debate.

Finally, this bill opens the door to prosecuting women, or restraining them physically, for the sake of a fetus. Some courts have already experimented with this approach. The last time we had occasion to consider this bill, the Supreme Court had just struck down a practice in the then sponsor's home State of South Carolina where a hospital would give the results of pregnant women's blood tests to local law enforcement for the purpose of initiating legal action against those women if they had used crack. Once we recognize a zygote, two cells, as having the same legal status as the pregnant woman, it would logically follow that her liberty could be restricted to protect it. The whole purpose of Roe was to protect that liberty interest. This bill would undermine it.

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in strong support of the rule and of the underlying bill, the Unborn Victims of Violence Act. I rise today as a pro-life Member of this institution to say that this bill is not about the debate over the sanctity of human life. This bill is just about justice.

The Unborn Victims of Violence Act recognizes that when a criminal attacks a pregnant woman and injures or kills her unborn child, he has claimed two human victims. The bill would establish that if an unborn child is injured or killed during the commission of an already defined Federal crime of violence, that this is in and of itself a crime. This is about justice, Mr. Speaker.

In current Federal criminal law, an unborn child is not recognized as a victim with respect to violent crimes. In fact, this is such a self-evident fact that at this point in time, 29 States have recognized fetal homicide for all or part of prenatal development, hardly a fringe issue on the edges of the American culture wars. Twenty-nine States in the Union have recognized this as a function of State law, and we attempt today to make it a part of Federal law.

Despite lots of talk, Mr. Speaker, that this is somehow by subterfuge about abortion, the bill explicitly provides that it does not apply to any abortion to which a woman has consented. And it is well established that unborn victims laws do not conflict with the Supreme Court's pro-abortion decrees.

This really is not just about the cold and sterile confines of law school and courtroom debates. This is really about compassion and about families and about tragic loss.

I would close on this remembrance, the words of Carol Lyons, whose 18-year-old daughter Ashley and unborn grandson Landon were murdered in Scott County, Kentucky, on January 7 of this year.

She said: "Nobody can tell me that there were not two victims. I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter good-bye for the last time and closed the casket."

One story after another. Two victims of violent crime. This for once on this blue carpet is not a debate about life, about the most contentious issue of our time and our culture. This is about justice, this is about compassion, and this is about this Congress standing for what justice demands.

I urge my colleagues to support the rule and to support strongly the Unborn Victims of Violence Act.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise to register my opposition to this rule and the underlying bill, and I rise to ask my colleagues to look at this legislation for what it is, not for what it claims to be.

We all agree that acts of violence against pregnant women are tragic, and our criminal justice system should respond decisively to them. Those committing these abhorrent crimes should be punished to the full extent of the law.

Unfortunately, the bill we will be considering under this rule has another agenda, and that is to erode and undermine the Roe v. Wade decision by treating an embryo or fetus at any stage of development as an individual with extensive legal rights, distinct from the mother. But if we really want to punish crimes that are committed against pregnant women, we can do so in ways that do not tangle this issue with the abortion debate.

As a member of the Committee on the Judiciary, I was joined by several of my colleagues during the markup of this bill in offering amendments that would have extricated this issue from abortion politics by clarifying its purpose. My amendment, along with amendments offered by the gentlewoman from California (Ms. LOFGREN) and the gentleman from Virginia (Mr. SCOTT), sought to focus squarely on the issue of preventing and punishing violence against women and particularly pregnant women. The rejection of these amendments clearly reveals that supporters of this bill have another objective, and that is to legislate fetal personhood as a foundation for depriving women of their right to make their own reproductive decisions.

Violence against women remains a huge problem in today's society; and, yes, we absolutely should focus our efforts on addressing this issue. According to a Commonwealth Fund survey, nearly one in every three adult women experiences at least one physical assault by a partner during adulthood. That is a staggering figure: one out of every three women. And the risk of violence does increase for pregnant women. In fact, murder is the number one cause of death to pregnant women. But this bill will do nothing to protect pregnant women from violence. In fact, the bill makes no mention of the primary victim of violence, the pregnant woman, and instead creates a new cause of action on behalf of the unborn. This is a step backwards for victims of domestic violence. Once again, the attention of the legal system is being turned away from efforts to punish violence against women. Instead of protecting women, this bill lays the groundwork for establishing fetal personhood and eroding the foundation of a woman's right to choose.

I have long been a strong supporter of the Violence Against Women Act, which expanded protections for women against callous acts of violence. I believe we are better served by laws that protect women, pregnant and nonpregnant alike, from the violence than we are by creating a whole new legal framework to establish and protect fetal rights. By switching the focus of the crime from the pregnant woman to the unborn child, we are diverting attention from the problem we should be focused upon, violence against women. Think about it. You cannot do this sort of harm or cause these sorts of injuries to a fetus without harming and injuring the mother.

If we are sincere in our desire to punish crimes committed against pregnant women, then we should be addressing that issue without tangling it in abortion politics. Let us abandon this thinly veiled attack on abortion rights that is the Unborn Victims of Violence Act and address the true issue by providing real punishments for criminals who attack pregnant women.

I urge my colleagues to vote against this rule and underlying bill.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, today I rise in support of the rule and the underlying bill, the Unborn Victims of Violence Act, and to urge my colleagues to pass this critical piece of legislation.

Mr. Speaker, it amazes me to hear the arguments of the opponents of this bill, not wanting to protect the rights and the will and the wish of this mother who chose the right to carry her child to full term and to protect the rights of the father for having justice against the murder of the child that they chose to keep. It just amazes me to hear that argument.

Recent studies by State health departments have shown that homicide is a leading cause of maternal mortality, as we heard our previous speaker say; and it results in the death of both the mother and her child, the child that she chose to carry. However, under current Federal law, there is only one victim. This bill is not about abortion. This bill is about, as my colleague from Indiana said, it is about justice: justice for that family, that father who has lost not only his wife but his child as well.

Mr. Speaker, this simply does not make sense. It is time for the Federal Government to recognize what the rest of the country already knows, that crimes against pregnant women create two victims, the mother and the child. We must afford pregnant women and their unborn children the full protection of the law that they deserve.

Mr. Speaker, our Nation's laws must protect our most vulnerable members of society and fully prosecute those who commit violent acts against them. By passing this legislation, we guarantee that protection for women and their unborn children, and we create a deterrent against future attacks on women of childbearing age. I do not see how this bill takes away any rights of protecting those women who are harmed by violence. This is not taking the focus off that. This is just adding justice for that family who has lost not only the mother but the child as well.

I urge the House to pass the rule and the underlying bill, the Unborn Victims of Violence Act.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I first of all want to thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me this time.

I rise, Mr. Speaker, in opposition to H.R. 1997, the Unborn Victims of Violence Act. A pregnant woman is probably one of the most vulnerable members of our society. Nearly one in three women report being physically assaulted during pregnancy and murder is the leading cause of death among pregnant women. However, H.R. 1997 does nothing to protect pregnant women from violence. Rather, it creates a new cause of action on behalf of the unborn. The result would be a step backward for victims of domestic violence by once again diverting the attention of the system away from punishing violence against women to punishing violence against an unborn fetus.

I heard my colleague earlier talk about compassion and talk about justice and try and stir this body to pass legislation that is absolutely not needed, to pass legislation that only curries favor with a certain portion of the people of these United States. I compare it to the currying of favor with those who would oppose same-sex marriages. I would say to my colleagues that if we spent all of the time that we spend on legislation like this and talking about constitutional amendments and directed it towards guaranteeing every child in the United States a right to an education, or guaranteeing every person in this country a right to health care, or guaranteeing every person in this country a right to a job, or guaranteeing every person an opportunity to live in a home that is safe and in a safe neighborhood, we would spend our time a whole lot better.

H.R. 1997 marks a major departure from current Federal law by elevating the legal status of a fetus at all stages of development. We could have passed several of the alternatives that were proposed by my colleagues that would have dealt squarely with the issue that is before us versus inflaming a division or running a knife between parts of this country on divisive issues such as abortion, such as same-sex marriages.

I just call upon my colleagues to stop putting forth legislation whose real intentions are covered by the intentions that they put forth in the legislation or put forth on the floor. I would encourage all of my colleagues to vote against the rule and vote against the underlying bill. If we really want to protect women, let us fund the COPS program so that there will be more police officers out on the street. If we really want to protect women, let us fund fully the Violence Against Women Act. If we really want to protect women, let us begin to teach young men, and young women as well, the importance of playing fair and not being involved in violence and other things. But this legislation will not do it.

Mr. LINDER. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank my good friend for yielding time.

Mr. Speaker, why would Planned Parenthood and a virtual who's who of abortion activists in America so vehemently oppose the Unborn Victims of Violence Act and promote a gutting substitute in its stead? Why would they take a position so extreme that 80 percent of Americans oppose it?

Why is it that on the floor of this House, so many intelligent, talented, and gifted lawmakers to whom so much has been given are going to such great lengths to deny basic protections in law for an unborn child who has been shot, beaten, stabbed, or otherwise mauled by an attacker, even taking the irrational step of opposing a definition that was overwhelmingly passed in this body 417 to zero?

Could it be that America's abortion culture, a culture of death, has so numbed our hearts and dulled our minds that we have become unwilling, or perhaps incapable, of recognizing the obvious? Could it be denial with a capital D?

Amazingly, as a result of breathtaking breakthroughs in medicine, today unborn children are often treated as patients in need of curative procedures in healing just like any other patient. Is the concept of an unborn child as a victim really so hard to grasp, even when we are not talking about abortion, but assault by a mugger? Have the soothing voices of denial by credentialed people, especially in medicine and the media, ripped off our capacity to think?

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Has the horrific spectre of almost 45 million poisoned or dismembered babies legally enabled by Roe v. Wade robbed us of our capacity to see and understand and empathize? Is it a lacking in logic or courage or common sense or compassion? Have unborn children become mere objects, a dehumanizing and deplorable status that feminists rightly rebel against? Should a mugger, like an abortionist, have unfettered access to maim or kill a baby without triggering a separate penalty for the crime?

For years, Mr. Speaker, Congress has updated and strengthened laws and stiffened penalties for those who commit violence against women, and that is as it should be. In December of last year, President Bush signed my comprehensive antitrafficking legislation, the Trafficking Victims Protection Act of 2003, and before that President Clinton signed landmark legislation that I authored the Victims of Trafficking and Violence Protection Act, 2000. I would remind my colleagues that included in my law as Division B was the Violence Against Women Act, a $3.2 billion 5-year authorization for a multitude of efforts to mitigate Violence Against Women, provide shelters, and a myriad of protection initiatives.

So women who are victims of violence clearly need every legal protection, shelter and assistance a caring society has to muster, but I would respectfully submit to my colleagues so do children. A victim is a victim, it seems to me, no matter how small. Why is it so difficult to recognize an unborn child as a victim who is also capable of suffering severe trauma, disfigurement, disability, or even death? Unborn children feel pain when they are shot or beaten. They bleed and they bruise easily. Unborn children are as vulnerable as their mothers to an assailant wielding a knife, a gun, or a steel pipe.

Mr. Speaker, the amniotic sac is like a protective bubble, but it is not made of Kevlar. It pierces easily. Support the Unborn Victims of Violence Act.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today to express my opposition to this rule and to H.R. 1997, the Unborn Victims of Violence Act. This bill unnecessarily redefines a crime. Why? Not to deter or prevent violence. It does not do that. Not to ameliorate the effect of violence. It does not do that. Not to help the victims of violence. It does not do that. There clearly is an ulterior motive here, a different agenda that the supporters have.

There is no question that the loss or harm to a woman and her fetus is absolutely devastating, and those who injure or kill a pregnant woman or her fetus should be punished, and families should have appropriate redress for their loss, but this bill would not accomplish that. This bill seeks to create a unique Federal criminal offense for acts that cause injury or death to an unborn fetus. Tellingly, it does not create any comparable offense for killing or injuring the woman bearing the fetus. I think that makes it clear that the real purpose here is not to protect the victims of violence, not to prevent violence, but to give the fetus equal legal status to the mother and thus to undermine the legal foundation of Roe v. Wade.

I challenge the supporters of this bill to be logically consistent and support the substitute permitted under this rule, the Motherhood Protection Act, which would severely punish crimes against pregnant women without unnecessarily engaging in the abortion debate. I would also remind my colleagues that protecting pregnant women is just one part of combating all forms of violence that threaten women across this Nation. We must renew our commitment to this issue and focus our efforts on passing measures that are aimed at protecting all women from violence, and here I challenge the supporters again to fully fund programs such as the Violence Against Women Act that actually provide lifesaving services to battered women.

I strongly urge my colleagues to reject H.R. 1997.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in support of the rule and in support of the underlying bill and, along with some of my colleagues, with a little bit of mystification as to the reaction of those who oppose the rule and the underlying bill.

It appears as though we have some ignorance of facts going on here. Some of the Members and many of the Members remember the case of Laci Peterson. In fact, it is being adjudicated right now in the State of California. Laci Peterson's mother, Sharon Rocha, called me, the prime sponsor of the Unborn Victims of Violence Act, and Senator DEWINE, who is the sponsor of the legislation in the Senate, and requested that we name the bill in honor of her daughter Laci and her unborn grandson Conner. We did so without hesitation. It was very simple to understand and do so as a result of her request and also understand the grief that she and her family felt as a result of the murder of her daughter and her unborn grandson. She said, "Please understand how adoption of a single-victim proposal," one that will be offered in opposition to the underlying bill, "would be a painful blow" to the victims' family, a family like Ms. Rocha's, "who are left to grieve after a two-victim crime because Congress would be saying that Conner and other innocent victims like him are not really victims, that, indeed, they never really existed at all. But our grandson did live," she says. "He had a name, he was loved, and his life was violently taken from him before he ever saw the sun."

Unfortunately, the Peterson case is not the only case like this; more recently the family in Kentucky that just helped the Kentucky Legislature pass legislation similar to this in the Kentucky State Legislature.

We need to pass a bill that recognizes two victims. There are two victims. In fact, our bill specifically separates abortion from an act of violence against the mother. We are talking about a mother and a family who have chosen to bear a child. That family is preparing for that child's birth. That family has often named that child. That child is actively now a member of that family. But, unfortunately, facts in this world make some pretty ugly figures. We see that where statistics were kept about the cause of death to pregnant women in Maryland, Illinois, and New York, that fully more than one-quarter of the pregnant women who died died at the hands of a criminal. They were victims of homicide. Along with their death was the death of their unborn child. Why then should we not recognize two victims? There were two victims. There were two victims in the Peterson case and two victims in all of those statistics that New York, Maryland, and Illinois kept.

If our job here as legislators is not to recognize crime and prosecute crime, then I am not really sure what it is. I request my colleagues to support the rule for the two-victim Unborn Victims of Violence Act, the Laci and Conner law, and also to support the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for her leadership on this issue and so many others and for her yielding me this time.

I rise in strong opposition to the rule and the underlying bill and in support of the Lofgren amendment, which will be on the floor tomorrow.

Over the past 5 months, this body has dealt reproductive rights and women's health a one-two punch, first with the passage of the so-called partial birth abortion ban, which ignores the health and life of the woman, and now with this bill, which again ignores the health and life of the woman.

I have kept a scorecard of the antichoice action since the Republican majority took over in 1995, and if this rule and its underlying bill pass, it will mark the 202nd action against a woman's right to choose, which is exactly what this bill is intended to do.

According to this bill, anyone could be a murderer since no intent to harm the fetus is required. So in other words, if a pregnant woman is on an airline and crashes, is the airline now liable for two deaths? If a woman is working out in a gym with a trainer and miscarries, is the trainer a murderer? Pregnant women will become a liability for stores, gyms, and other businesses, and their freedom to perform daily tasks will be restricted.

This bill is not a domestic violence bill, and it does absolutely nothing to protect women who are victims of domestic violence. What this bill does is for the first time in Federal law, this bill, the underlying bill, will give a fertilized egg the same legal recognition and standing as a man or a woman. Under this bill a criminal could avoid stiffer penalties as long as he causes no harm to the fetus even though the pregnant woman might be brutally beaten and victimized.

It is insulting that the authors of this legislation would use violence against women as the vehicle to attack a woman's right to choose, which is what this bill is really about, whittling away, piece by piece, legislation by legislation, a woman's right to choose. This bill does absolutely nothing to address the violence against women, but the Lofgren amendment, which will be on the floor tomorrow, does, and the Lofgren substitute would severely punish crimes against pregnant women without tangling juries and prosecutors in the abortion issue. The Lofgren amendment protects pregnant women without limiting their very basic rights and without redefining the Constitution to establish fetal personhood.

So I urge my colleagues to oppose this rule and the underlying bill and support the Lofgren amendment and substitute tomorrow.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank my colleague from Georgia, the distinguished member of the Committee on Rules, for yielding me this time.

Mr. Speaker, I come to the floor today to speak in support of the rule to consider H.R. 1997, the Unborn Victims of Violence Act, and to recognize fetal homicide as a crime, a crime under Federal criminal proceedings. And I want to thank the gentlewoman from Pennsylvania (Ms. HART) as well as the gentleman from Ohio (Mr. CHABOT) for introducing this legislation, which I believe represents the majority opinion of Americans across this country.

According to a Fox News poll conducted in August of 2003, 79 percent of the electorate believes that prosecutors should be able to charge an assailant with the death of an unborn child resulting from their act of violence. A similar Newsweek poll conducted in May of 2003 revealed that 56 percent of the people believe that if someone kills a fetus still in the womb, as well as the mother, that person should be charged with two murders instead of one.

Considering that 29 States, including my own State of Georgia, have already passed unborn victims of violence laws, it is past time to enact such a law at the Federal level. Let me assure the opposition to the legislation that H.R. 1997 does not supersede State laws, but it rather applies only to already defined Federal crimes. This debate is simply about prosecuting criminals. It is not an abortion bill, but rather a crime bill, and under this bill it is necessary to prove beyond that a defendant had intent to do criminal harm at least towards the mother. The legislation is about identifying victims, and I urge passage of the rule so that we can move on to debating and passing this vital piece of legislation.

My colleagues on the other side of the aisle complain that the Unborn Victims of Violence Act does not address the mother.

□ 1515

Well, we have laws to protect the mother in regard to violence and murder.

I want to remind Members on the other side of the aisle who are opposing this legislation also that in regard to the murder and protecting the mother, a strategically directed blow to a mother's abdomen resulting in minimal injury to the mother very well could result in the death of a 6½- or 7-pound unborn baby, just like Conner Peterson, and the mother's injury could be a minor contusion. So you are going to say you solve that problem by instead of slapping one wrist, slap two? Give me a break.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I want to reiterate something that the gentleman from Georgia (Mr. GINGREY) just said: It is really important to remember that there are laws to protect the woman, and it is important that we strengthen those laws and make sure those laws are solid. But we also need to be concerned about children and unborn children.

When we talk about child abuse in this country and we talk about children's protection, often many of the Members who are critical of this bill have been among the leaders in that effort, and I would like to see them join with us in this one. In fact, the poll that the gentleman from Georgia (Mr. GINGREY) referred to also showed that 69 percent of those who consider themselves prochoice support this amendment that causes the perpetrator of a violent action that causes the death of an unborn baby to be charged with murder.

In other words, this is not really an abortion debate, this is how do you feel about the legal protections for the unborn baby? And even prochoicers, 69 percent, say they favor this amendment.

I want to reiterate some of the points that the gentlewoman from Pennsylvania (Ms. HART), who has been the leader of this effort, has also said.

We followed the news accounts of the tragic double murder of Laci and Conner Peterson. Not one, but two lives were lost. Under California law, the killing of Laci and Conner is being prosecuted as a double murder with two victims. Unfortunately, in some parts of the country, as well as under Federal law, Laci and Conner's deaths would not be viewed as a crime against two victims, but rather just one. This is clear violation of justice, and the Peterson case has helped highlight this fact.

Today we have the opportunity to correct a shortcoming in Federal law that does not allow an unborn child to be identified as a second victim of murder if killed while on a military base or other location under Federal jurisdiction. The Unborn Victims of Violence Act, also known as Laci and Conner's Law, would correct that loophole and ensure that the perpetrator of the double murder be prosecuted and punished accordingly.

It is unbelievable to me that some Members of Congress would like Federal law to only recognize the death of one victim in such cases under Federal jurisdiction. That would not get the same protection as Laci and Conner Peterson did. The Lofgren one-victim substitute amendment which will be allowed to be offered under the rule is offensive to those who have lost loved ones.

Mr. Speaker, everyone has followed the news accounts of the tragic double murder of Laci and Conner Peterson in California just before Christmas in December 2002. Not one, but two lives were lost as was plainly evident when the bodies of both Laci and Conner washed up on the shore many months later.

Under California law, the killing of Laci and Conner is being prosecuted as a double murder with two victims. Unfortunately, in some parts of the country, as well as under Federal law, Laci and Conner's deaths would not be viewed as a crime against two victims, but rather one. This is a clear violation of justice—and the Peterson case has helped highlight this fact. Consistently, in poll after poll, 80 percent of Americans say they believe there are two victims in the killing of a pregnant mother and her unborn baby.

Today, we have the opportunity to correct a shortcoming in Federal law that does not allow an unborn child to be identified as a second victim of murder if killed while on a military base or any other location of Federal jurisdiction. The Unborn Victims of Violence Act, also known as "Laci and Conner's Law," would correct that loophole and ensure that the perpetrator of the double murder be prosecuted and punished accordingly.

It is unbelievable to me that some Members of Congress would like Federal law to only recognize the death of one victim in cases such as the murder of Laci and Conner Peterson. The Lofgren one-victim substitute amendment, which will be allowed to be offered under the rule we are debating, is patently offensive to the relatives of double murder victims who simply want justice to be done in the prosecution of the individuals who killed their loved ones.

Sharon Rocha, the mother of Laci Peterson, has expressed her opposition to the Lofgren amendment. In a recent letter, she stated:

> I hope that every legislator will clearly understand that adoption of such a single-victim amendment would be a painful blow to those, like me, who are left alive after a two-victim crime, because Congress would be saying that Conner and other innocent unborn victims like him are not really victims—indeed that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun.

While the Peterson case might be the most widely known two-victim murder case at this time, many other families have also experienced the incredible pain of having lost a daughter or sister or spouse who was pregnant with an unborn child at the time of her murder. These families, too, are calling on Congress to bring about justice and enact the Unborn Victims of Violence Act.

The rule under consideration now is fair to both sides, allowing for both a substitute amendment and a motion to recommit. I urge my colleagues to vote in favor of the rule.

Tomorrow, as we come to vote on the base bill and the substitute amendment, I hope my colleagues will consider the plea of Sharon Rocha, Laci Peterson's mother, and reject the one-victim substitute. There were two victims in the murder of Laci and Conner Peterson, and in their honor, I urge my colleagues to vote "yes" on the Unborn Victims of Violence Act.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the sad thing about this bill is that it is not violence against women, it is violence against pregnant women, and, while that is an abhorrent thing, it should be treated as violence against women. We all know and believe that.

What this bill does is reduce women to vessels, to wombs. It says that they are the ones that matter. If that were not the case, then this Congress would fund the Violence Against Women's Act.

Recently the majority leader of the House said in an interview that he thought all women should be in the home and that their husbands should give all the structure. Well, maybe we will get a bill on the floor pretty soon that says every woman in America of child-bearing age must be pregnant at all times and must not be allowed to leave the house. That, of course, then does say that older women who are past child-bearing age are fair victims for violence because we have not funded the Violence Against Women's Act. But if they are pregnant, then we will really look after them.

What a narrow-minded thing that is. I would like all the Members who think this is a great idea to go home and tell their mothers and daughters and their sisters and all the rest of their female relatives that only if they are pregnant do they matter to the Congress of the United States.

It is appalling that we have had over 200 votes whittling away at this since 1995. I honestly would not put anything past the Congress here, and I would expect if the majority leader comes up with his bill to force women to stay at home, it would be a good hearing and be right out here on this floor, even though people are without jobs, people are going hungry, health care is almost nonexistent in many places, and we are fighting a war that is causing us casualties on a daily basis. But what do we debate? This. This takes precedence over everything else.

So, I just say again to the women of the United States, look out, sisters. You just do not matter here anymore.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will just take enough time to say I urge my colleagues to support this rule so we can get on with the real debate on both the underlying bill and the substitute to it.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the clause 8 of rule XX, proceedings will resume on the questions previously postponed.

Votes will be taken in the following order:

H.R. 2751, by the yeas and nays; and

House Concurrent Resolution 287, by the yeas and nays.

The second electronic vote will be conducted as a 5-minute vote.

GAO HUMAN CAPITAL REFORM ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 2751, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 43, not voting 8, as follows:

[Roll No. 28]

YEAS—382

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballance
Ballenger
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves

Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—43

Akin
Barrett (SC)
Bartlett (MD)
Burgess
Burton (IN)
Cannon
Coble
Cubin
Culberson
Duncan
Feeney
Filner
Flake
Fossella
Franks (AZ)
Garrett (NJ)
Goode
Gutknecht
Hayworth
Hefley
Hensarling
Hostettler
Istook
Jones (NC)
King (IA)
Manzullo
Miller (FL)
Moran (KS)
Nussle
Ose
Paul
Pence
Petri
Royce
Sensenbrenner
Shadegg
Shimkus
Smith (MI)
Stearns
Sweeney
Tancredo
Taylor (NC)
Toomey

NOT VOTING—8

Baird
Clyburn
Collins
Doggett
Forbes
Honda
Kucinich
Lantos

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1545

Messrs. GUTKNECHT, TOOMEY, SHADEGG, MORAN of Kansas, HEFLEY, FOSSELLA, SHIMKUS, GARRETT of New Jersey, and Mrs. CUBIN changed their vote from "yea" to "nay."

Mr. SABO changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING THE LIFE OF THE LATE RAÚL JULIÁ

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 287.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 287 on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 29]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder

Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Baird
Clyburn
Collins
Dicks
Doggett
Forbes
Honda
Jones (NC)
Kucinich
Lantos
Shadegg

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1554

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CODIFYING "BIBLICAL PRINCIPLES" OF MARRIAGE

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, the President's presidential prayer team is urging us to "pray for the President as he seeks wisdom on how to legally codify the definition of marriage. Pray that it will be according to Biblical principles."

With that in mind, I thought I would remind the body of the biblical principles they are talking about.

Marriage shall consist of a union between one man and one or more women. That is from Genesis 29:17–28.

Secondly, marriage shall not impede a man's right to take concubines in addition to his wife or wives. That is II Samuel 5:13 and II Chronicles 11:21.

A marriage shall be considered valid only if the wife is a virgin. If the wife is not a virgin, she shall be executed. That is Deuteronomy 22:13.

Marriage of a believer and a nonbeliever shall be forbidden. That is Genesis 24:3.

Finally, it says that since there is no law that can change things, divorce is not possible, and finally, if a married man dies, his brother has to marry his sister-in-law.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the resumption of legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. MCGOVERN. Mr. Speaker, I ask to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FIGHTING CHILD HUNGER IN BOGOTA, COLOMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, over the recess I traveled to Colombia for a third time as part of a fact-finding delegation sponsored by the Washington Office on Latin America.

The highlight of my trip was a visit to a school feeding program in a place called Ciudad Bolivar, which is a very poor area of Bogota. Mr. Speaker, this school feeding program is a partnership between USAID, the U.N. World Food Programme and the Bogota Department of Social Welfare.

Joining me at the school were USAID Mission Director Mike Deal; Mr. Peter Goossens, WFP Program Coordinator for Colombia; Maria Lucia Osorio, WFP staff person who works directly with the school; Andrew Krefft, the USAID senior program specialist on Colombia's internally displaced; and representatives from Bogota's Department of Social Welfare.

☐ 1600

I want to express my personal appreciation for all their efforts in making school feeding programs in Colombia so successful.

Mr. Speaker, the school I visited is called Colegio Luis Carlos Galan. Approximately 1,200 children receive meals and food rations at Colegio Galan. Eighty percent of these children are from displaced families. The children receive a fortified breakfast mixture and mid-morning fortified snacks. The meals are prepared by community cooks in school kitchens, where mothers are educated in food preparation, nutrition, child care, and health care. The school meal is supplemented with rice, vegetables, beans, eggs, and juice, purchased and prepared by the children's families from family contributions of about 10 cents per day.

This one school feeding program costs only $2,000 for the entire 2004 school year. Think of it, Mr. Speaker, just $2,000 provides 1,200 impoverished children with nutritious meals and snacks for an entire school year. These are some of these children. It also strengthens families' commitments to their children's education, attracts and keeps these children in school, and demonstrates, as few other programs can, that the United States genuinely cares about the future of Colombia's children.

Mr. Speaker, 80 percent of displaced Colombians live in extreme poverty and have inadequate nutrition. Only 36 percent of displaced children will ever finish primary school, and a mere 8 percent will complete high school. Currently, USAID funds a 3-year $5.1 million program to alleviate hunger, improve the health and well-being of Colombia's displaced families, and increase school attendance through school feeding programs.

The USAID program, which began in September 2003, assists over 113,000 displaced schoolchildren in 414 schools in 12 Colombian departments. The program is implemented by WFP; and prior to this, the school feeding program was financed through USDA's McGovern-Dole International Food for Education pilot program. Mr. Speaker, regrettably, the Bush administration made Draconian cuts in this program that resulted in eliminating the Colombian funding. Fortunately for Colombia's children, USAID came to the rescue and picked up the costs, incorporating it into programs supporting Colombia's internally displaced.

At the school I visited, 80 percent of the children are from displaced families. They come from all over Colombia, ranging in age from 6 years to 16, and reflect Colombia's racial and ethnic diversity. One mother, displaced from Caqueta, told me that her family's life was filled with violence: "It is terrible to have to flee with nothing but the clothes on your back, running for hours and days, arriving at Bogota, not knowing anyone." She gave her sincerest thanks for the United States' support of the school.

A teacher stated, "Today, these children are fed, but tomorrow, who knows?" This teacher felt that many of these children were in school for the first time in their lives, learning things that will help them throughout their lives, like how to read and write.

Mr. Speaker, if you could only see these children. They are bright, they are beautiful, they are the future of Colombia; and I admire and honor the dedicated teachers and school administrators and parents and students at this school; and I respect the commitment of USAID and the World Food Program staff, who are giving these families hope for a better future.

Last Friday, the newly elected mayor of Bogota, Mr. Lucho Garzon, launched a new initiative called Bogota Without Hunger. Through this campaign, Ciudad Bolivar is one of six priority zones designated to receive additional resources for nutrition, education, health services, and housing.

I encourage my colleagues to visit U.S.-supported school feeding programs when they travel abroad. I most strongly urge the leadership of this Congress to significantly increase funding for both the USDA McGovern-Dole program and USAID food aid programs. No matter how tight current budget restrictions might be, these programs are truly among the very best investments we can make in the future stability of Colombia and the world.

TRIBUTE TO JOHN A. FERGUSON, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. DEAL) is recognized for 5 minutes.

Mr. DEAL of Georgia. Mr. Speaker, it is with great pride and a distinguished privilege for me today to address the colleagues of the House to honor a man who has accomplished more for northeast Georgia over the past 40 years than most people will do in an entire lifetime. Health care is more accessible and a higher quality exists and surpasses that of many metropolitan areas. Our economy has expanded exponentially for decades. Thousands of jobs have been created, and hundreds of thousands of lives have been improved because of the efforts of this one man. I would like my colleagues to join me in honoring my friend and a community service leader, Mr. John A. Ferguson, Jr., as he retires as president and CEO of Northeast Georgia Medical Center and Health System in Gainesville, Georgia.

In 1964, at the age of 23, John came to the Northeast Georgia Medical Center as the first hospital engineer in the State of Georgia. And although he currently held a master's degree in engineering from Georgia Tech, he was determined to continue his education and work to obtain an additional master's degree in health care administration from Georgia State University. At that time, Northeast Georgia Medical Center was known as Hall County Hospital and was a single-entity acute care hospital with only 147 beds and 430 employees.

Within 1 year of being on the staff, John was named assistant administrator, and at the age of 28 he became the youngest hospital administrator and CEO in the State in 1968. Within 10 years of his promotion to CEO, the hospital's acute care bed size had almost doubled, a dedicated 10-bed ICU and 10-bed CCU had been added, as well as a 20-bed mental health unit. From there, northeast Georgia's health care system and quality of life continued under John's leadership. It continued to grow and to improve on an annual basis.

In 1986, he lead NGMC through corporate reorganization, which enabled the organization to expand health care services across county lines and improve access to health care for citizens throughout northeast Georgia who previously had to drive to Gainesville for most of their primary health care services.

Today, Northeast Georgia Health System is a major provider of health care services for 20 counties in northeast Georgia. It has over 3,500 employees and one of the largest and most active volunteer programs in the State. The system now includes a freestanding mental health, alcohol, and drug abuse treatment facility, two long-term care facilities, a satellite cancer center in Stephens County, a hospice service and two hospital campuses with a total of 418 acute inpatient beds. Other major services that have been added under John's leadership include the Ronnie Green Heart Center and Stribling Heart Clinic for advanced heart care, the only comprehensive cancer care service in the region; a strong network over 14 primary care centers located in eight counties; a neonatal intensive care service; and a comprehensive physical rehabilitation institute.

Fortunately for northeast Georgia, John has always understood that to truly impact the health of the community, services cannot be contained within the walls of the hospital. His vision for a healthier community coupled with a heart for people who depend on NGMC for health care services paved the way for a strong relationship with the Hall County Health Department. In the late 1970s, working with the health department, NGMC implemented a midwifery program to extend prenatal care to indigent patients who did not have resources to access private providers of services.

John's vision for a healthier community has resulted in numerous other innovative outreach initiatives. In the early 1990s, NGMC lead a collaborative community effort with local schools, the health department, the Junior League, and other service organizations to generate funds for a mobile health unit to provide basic health care screenings and services to people who had limited resources to access other traditional health care services. NGMC has continued to fund and help staff this service since its inception.

Through the Medical Center Foundation, health initiatives operated by other community service organizations have been supported. More than $300,000 was raised to help fund construction of a free medical and dental clinic for persons who have no resources for care. Since completion of the clinic, the medical center has continued to help fund clinical supplies through the indigent care trust fund for volunteer physicians, dentists, and nurses who staff the clinic. Funds have also been raised for numerous other health-related community benefits, such as the Meals on Wheels program for provision of meals to homebound seniors, the SafeKids Playground at Fair Street Elementary School in Gainesville, automatic external defibrillators for emergency response vehicles in Hall County, and the Challenged Child Organization.

Northeast Georgia Health System is the lead agency for SafeKids since 1997 and currently works with 21 community agencies to develop and fund initiatives to decrease the rate of accidental injuries to children. The SafeKids Coalition has received numerous State and national awards and was recently recognized as National Coalition of the Year.

John's vision for high-quality health care services and his heart for the people who depend on Northeast Georgia Health System have unquestionably made an impact on the community and the health and quality of life in Hall and surrounding counties. I commend Mr. John A. Ferguson as a man who has served our community well and commend him to his retirement.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–428) on the resolution (H. Res. 536) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

THE PRESIDENT'S BALLOONING CREDIBILITY DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, in addressing the Republican Governors Association fund-raiser on Monday evening, the President, in a much-touted speech, decided to question the Democratic front runner's credibility. This speech, it was touted, was to launch the President's reelection campaign; but it began with the theme of questioning the front runner of the Democratic Party's credibility.

Let me just start off by saying it is a good thing that the White House is not made of glass. I think it is very interesting that the President decided that the credibility of our front runner was in question, when after only 3 years of governing, this is a President who has America stuck in a jobless economy and an endless occupation.

Now, the President could have spoken about his foreign policy record, but all that offers is a growing and expensive prospect of endless occupation. He could have spoken of his leadership on the economy, but all he could point to is an economy that is not producing jobs. So the President decided that it was his right in a speech the other night to the Governors to lead off with a discussion of credibility.

I think the credibility gap of the administration at this point is a good thing, given that his budget will widen the deficit gap. The deficit he has created will not be as lonely now that he has a credibility deficit that continues to grow.

The President wants to question the consistency of our potential nominee's record, yet within 18 months he flip-flopped on steel tariffs. This is a President who wants to question credibility, yet in a book recently published by Paul O'Neill, his former Treasury Secretary, he questioned the legitimacy of a second tax cut he was going to propose because, he said, "Haven't we done enough for the top end?" Yet he went out there and accused Democrats of class warfare for asking the very same question he had asked, Had the first tax cut not done enough to take care of the top 1 percent?

After 3 years, his economic record is $3 trillion added to the Nation's debt and 3 million Americans have lost their jobs, and yet he wants to run this election on credibility.

He went to Ohio to talk about the importance of manufacturing jobs to the economy, given that 2 million manufacturing jobs have been lost in America since 2000. His budget, 3 years in a row, has cut the manufacturing extension program, which helps small manufacturing businesses compete in the world market. And he wants to talk about credibility?

His economic report of last week praised outsourcing of jobs to India. This is a President who wants to talk about credibility? It was his economic report that cited 2.7 million new jobs would be created this year in the United States. In less than a week, before the ink was even dry, he needed to retract that, because the economy will not produce 2.7 million jobs. And this is an administration who wants to make credibility an issue?

On the issue of foreign policy, regardless of what your position is on the war, we went to war on the notion of dealing with weapons of mass destruction, and now we have a report questioning whether weapons of mass destruction were ever in Iraq, which was the legitimacy and the principle of going to war. Yet this is an administration that would like to make credibility of our nominee the issue in this campaign.

The President pledged in his recent budget $3.5 million in new money for police and firefighters to help communities here in the United States, but his budget cuts $1 billion for police and firefighters. But he would like to make credibility an issue.

His plan to halve the deficit by 2009 is an "accounting fiction" to Goldman Sachs. But he would like credibility to be the issue.

He said the Medicare bill would cost $400 billion. Within 3 weeks after the ink was dry, the report came out that it would cost $550 billion to taxpayers; $150 billion in errors in addition to the $400 billion for the prescription drug bill. And he would like to make credibility an issue?

He promised to clean up the Great Lakes, but he cut water quality funds by $400 million. Yet he would like to make credibility an issue in this campaign?

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On policy after policy, this administration says one thing and does another to benefit its corporate and special interests. If we are going to make credibility an issue in this campaign, to quote one Senator, bring it on.

BUSH ECONOMIC POLICY NEEDS TO BE CHANGED

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, all of us now are familiar with the economic report of the President of the United States. It is the report put out by the chief economic adviser for the President. It is signed by George Bush on page 4, signed by the chairman of the President's top economists in the country, the Chairman of the Council of Economic Advisors, Greg Mankiw. We have heard lots of media coverage that in this report the Chairman of the Council of Economic Advisors says outsourcing is a good thing; that an economic concept that they learned in graduate school called comparative advantage means if you can make something cheaper overseas, you ought to close down the American plant and make it overseas. They said outsourcing is a good thing, while a State like mine in Ohio has lost one out of six manufacturing jobs.

They go on to predict we will create in this country under the Bush economic plan 2.6 million jobs this year. They also promised 3 million jobs a couple of years ago. We have actually lost manufacturing jobs in this country because of the Bush economic plan.

The response to every economic problem is more trickle-down economics, cut taxes on the wealthiest Americans hoping it trickles down and creates jobs. That has not worked. Their other answer is more trade agreements, expanding NAFTA to Central America, the so-called Central American Free Trade Agreement, expand NAFTA to the rest of Latin America called the Free Trade Area of the Americas. None of that is working.

We are seeing loss of jobs. In the district of the gentlewoman from Indiana (Ms. CARSON) or the district of the gentleman from Washington (Mr. MCDERMOTT), we are seeing continued shipping of jobs overseas, continued outsourcing, as the President applauds in his Council's report, continuing hemorrhaging of jobs all over the world.

But something that was also in this report which is even more amazing, the President has not been able to figure out how to stem the tide of economic job loss. We created in the Clinton years 25 million jobs. We have lost in the Bush years 3 million jobs, a huge portion of them manufacturing jobs. No President since Herbert Hoover has actually lost jobs during his administration, a record that George Bush is now competing with.

The President, because he cannot seem to figure out how to create manufacturing jobs, the President in his report is saying regarding manufacturing jobs, maybe we ought to consider changing the definition of manufacturing jobs. They said the definition, and this is in the President's report signed by the President on page 4, the definition of a manufactured product is not straightforward. When a fast-food restaurant sells a hamburger, for example, is it providing a service job, which is what we always thought, or, according to the President, is it combining inputs to manufacture a product? So these fast-food workers at $6 and $7 an hour, maybe we are going to call them manufacturing jobs. I am not making this up; this is in the President's report. They said manufacturing if someone is engaged in the mechanical, physical or chemical transformation of materials, substances or components into new products.

So we have the $6-an-hour high school student in McDonald's standing there. First he unwraps the bread, which is like something you would do in a factory building cars. He unwraps the bread, puts the bun down, and takes the hamburger. He has to change chemically the hamburger. We would call that cooking it, but under the newspeak of the President's report, he is going to chemically change the hamburger so instead of being raw, it is now chemically altered or cooked. Then there is the cheese. If it is a cheeseburger, it is an even more complicated manufacturing process. The worker needs to chemically change the cheese. We would call it melting, but in the new-speak, we call it chemical change of the cheese. That cheese is then put on the burger. Next he has to unwrap the lettuce head and put lettuce on the hamburger. Next he slices the tomato. All of these manufacturing components are going into this new hamburger.

Mr. Speaker, my point is the President's answer to what are we doing about loss of manufacturing jobs in this country is to reclassify manufacturing and say that these service jobs that pay $7 an hour, instead of the $20 an hour that workers in my district make, or workers at Goodyear in Akron building tires were making, instead of $20 an hour with pensions, with good health care benefits, we are now going to say we lost those manufacturing jobs, but we have other manufacturing jobs at McDonald's. And I do not mean to leave out Burger King, Arby's or some of the other fast-food restaurants that are actually manufacturing their hamburgers.

Mr. Speaker, I think we see the ludicrousness of this. This country has to change its economic policy and change its direction. We need to say no to this trickle-down economics which give the tax breaks to the wealthiest people in the hope that they will create some jobs. That is not working. We have to say no to trade agreements that are shipping jobs overseas.

PRESCRIPTION DRUG ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I cannot believe the gentleman from Ohio (Mr. BROWN) missed Wendy's, an Ohio-based company, in his speech.

Mr. Speaker, I rise today to address one of our Nation's oldest and most difficult narcotics problems, prescription drug abuse. Prescription drug abuse has been a problem for decades, but recently a new generation of morphinelike painkillers called oxycodones has caused a wave of addiction and overdoses. The drug OxyContin, which is an oxycodone-based drug, has produced the greatest amount of publicity, but numerous similar drugs, such as Percocet, Percodan and Tylox, have also been abused.

Last month the Committee on Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, which I chair, held a hearing on prescription drug abuse in Winter Park, Florida. The gentleman from Florida (Mr. MICA), the former chair of the subcommittee and a man with a long record of effective leadership on these issues, requested the hearing in response to a series of OxyContin-related deaths in central Florida.

At the hearing the gentleman from Florida (Mr. MICA) and I, joined by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Florida (Mr. KELLER) heard testimony from government, medical and other witnesses about the cost of prescription drug abuse, the benefits afforded by these drugs, and how best to balance these two. But more must be done to ensure in striking this balance that we enforce the law, that we educate people about how to avoid such addiction, and more treatment specifically targeted towards such addiction.

Prescription drug abuse presents special problems for the government, the medical community, and the pharmaceutical industry. On the one hand these powerful and dangerous drugs, with as great a capacity for addiction and abuse as heroin and cocaine, even though they have that potential, there are many ways for these drugs which have legitimate uses to fall in the wrong hands. Supplies of the drugs can be stolen from pharmacies and manufacturers and then sold back in the black market; doctors may intentionally or unintentionally over prescribe the drugs to patients, leading to addiction and abuse; or patients themselves may obtain illegal quantities of the drugs by shopping for multiple prescriptions and filling them at multiple pharmacies.

On the other hand, these drugs have legitimate medical uses and may give the only possibility of relief for patients suffering from severe chronic pain. Many cancer patients rely on OxyContin and similar drugs.

But however difficult it may be to strike a balance, we must find a way to further enforce the laws so we do not have this exploding abuse of these drugs that are crippling many families and individuals and leading to the death of many others.

Prescription drug abuse is a very serious problem. According to the most recent study conducted by the Substance Abuse and Mental Health Services Administration, SAMHSA, in 2002, over 1.9 million Americans aged 12 or older had used OxyContin alone for nonmedical, in other words illegal, purposes. Prescription drug abuse is far more widespread than cocaine, heroin or ecstasy abuse. Only marijuana is more widely abused by Americans. The problem is particularly acute among our young people. For example, among 12- and 13-year-olds, more children abuse prescription drugs than even marijuana.

One of the first things that became clear to me during the hearing is that the Federal Government needs to obtain and share better information on how these drugs are falling into the wrong hands. One newspaper reported that the top 12 OxyContin prescribers under Medicaid in Florida wrote prescriptions totaling over $15 million. While that is a very large number, it does not include all of the non-Medicaid prescriptions. The government has no practical way of keeping track of who is prescribing these drugs, in what amounts, and to whom.

A number of States and many of my colleagues have proposals for setting up a computerized database to keep track of these drugs. While some may raise privacy concerns about such a database, if we do not get this information to law enforcement, we will never get a handle on the problem.

Second, there are simply too many ways for these drugs to fall into the wrong hands. As the gentleman from Georgia (Mr. NORWOOD) noted at the hearing, it is possible for children to go on the Internet and order OxyContin or other opiates without going to a physician. Even when children do not do that, they can often get the drugs by raiding their parents' medicine cabinets or getting them from their friends. We need more effective regulations and education to cut down on these very real and dangerous routes of drug diversion.

I am encouraged by the recent decision of the DEA to explore putting hydrocodone combination drugs, which are based on another drug similar to oxycodone, on Schedule II to reflect their real potential for abuse. I hope the DEA, FDA and other agencies will continue to reexamine their strategies to find more effective ways to combat this problem.

Finally, while it is clear that there are widely diverging opinions about what kinds of conditions these drugs are prescribed for, it is equally clear that the more uses the government approves, the more abuse we will have. There is a great deal of debate about whether OxyContin should be prescribed for moderate as opposed to severe pain. We will see this debate in connection with nearly every powerful drug because there will always be those who wish to push the envelope and approve the drug for more and more people, thus creating more and more potential for addiction and abuse.

Those of my colleagues who consider themselves sympathetic to so-called "medical marijuana" should take heed of this. While many of its proponents claim that marijuana would only be used medicinally, it is also used by many others for less serious conditions.

HONORING JOE LAMANTIA, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker. I rise today to congratulate my good friend and constituent Joe LaMantia, Jr., for being named the 2004 Border Texan of the Year. This is an honor given only to those whose record of service in south Texas is a model for all Americans. The award is given in conjunction with Hidalgo County's annual Border Fest, a heritage and cultural festival that celebrates the uniqueness and diversity of south Texas.

I can think of no one more deserving of this award than Joe LaMantia, Jr. Joe is a first-generation American with deep roots in South Texas. Following in his father's footsteps, Joe began his successful agricultural career in south Texas in Carrizo Springs. His agriculture operation consisted of pecan orchards, vegetables, and a cow-calf operation, plus a vegetable and fruit farm operation in Mexico and Chile. In 1965, he moved his family to the Rio Grande Valley to continue their agricultural business.

Due to the unpredictability of agriculture, the LaMantias made a transition into the beer distribution business as wholesalers of Anheuser-Busch products. That was the beginning of the LaMantia family-owned and operated business of L&F Distributors. The company began in 1977 in McAllen, Texas, with 11 employees. I witnessed a fast learning curve by the LaMantias. Today, L&F Distributors has grown to employ over 600 individuals in 22 counties in the great State of Texas.

Despite the demands of a growing and successful business, Joe has dedicated himself to improving the quality of life in his community. In 1974, Joe was appointed by Governor Dolph Brisco to the board of the Texas Department of Corrections. He was reappointed in 1983 by Governor Mark White, and served as the vice chair for over 10 years.

During his tenure, Joe saw firsthand the problems facing the Texas border region, specifically poverty, crime and high unemployment. He recognized that education was the key to improving these challenges faced by the community. A champion of educational opportunity, Joe established one of the first scholarships for women athletes at the University of Texas Pan American, the Ann LaMantia Anheuser-Busch Outstanding Woman Athlete Scholarship.

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The scholarship was named in honor of his wife of 30 years, Ann LaMantia, who passed away in 1983. Ann LaMantia served on the board of regents at Pan American University and, like her husband, was committed to higher education for the students of south Texas.

Since her passing, the LaMantias have continued to be dedicated to providing college scholarship opportunities for local students. Under Joe's leadership, L&F Distributors formed a partnership with the Hispanic Scholarship Fund in 1994 and in 8 years has raised over $5 million and awarded over 2,600 scholarships to students in south Texas. In 2002, L&F Distributors was recognized by the national organization as the largest contributing Anheuser Busch distributor to the HSF.

That same year, the LaMantias created a local educational nonprofit organization, the South Texas Academic Rising Scholars (STARS) Foundation, which provides scholarship awards to students in south Texas to attend the college of their choice. Joe serves as the founder and chairman of the board of directors, and in less than 17 months STARS has managed to raise over $2 million for south Texas students and has become the premier scholarship foundation in south Texas.

Mr. Speaker, this successful scholarship program has doubled the number of students who can have access to higher education. Joe, Jr. and his wife, Derrelene, have seven children and 26 grandchildren and consider their close-knit family their greatest asset. Joe is one of the hardest working entrepreneurs in south Texas. He is honest and a man of integrity, and I am proud to call him my friend. He truly deserves to be the Border Texan of the Year.

I urge my colleagues to join me in commending Joe LaMantia, Jr. for his tireless efforts on behalf of children and in congratulating him on receiving this prestigious award.

EXCHANGE OF SPECIAL ORDER TIME

Mr. KIRK. Mr. Speaker, I ask unanimous consent to speak in the gentleman from Iowa's (Mr. KING) stead.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ENDING MERCURY POLLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, the Congress and the President are preparing for a major debate on reducing air pollution. In this debate, partisans for and against greater environmental protection are both right. And they are both wrong.

The environmental community is correct in highlighting the growing danger of mercury pollution. Once considered an "average" pollutant, the EPA's Children Health Protection Advisory Committee warned last month that mercury is a powerful neurotoxin that accumulates in humans. Just one-twenty-fifth of a teaspoon of mercury can contaminate a 25-acre lake. Blood tested from Illinois pregnant women showed that they averaged 14 times the naturally occurring level of mercury in their blood.

Coal-burning power plants that have not yet been required to reduce their mercury emissions are the major source of this pollution. The Federal Government already requires all municipal incinerators and other sources of air pollution to scrub their emissions to remove most mercury. Raw political power and threatened litigation have delayed such requirements for coal-fired plants.

Enough of the delays. We need to clean up mercury pollution today. In eastern States, downwind from the rest of the Nation, mercury levels in the water are rising. The National Wildlife Federation recently released a study showing that the rainwater falling on suburban Chicago communities contained three times the naturally occurring level of mercury. With higher levels of mercury poisoning than other regions of the country, New England and the Great Lakes are becoming mercury "hot spots." This poses a threat to the Great Lakes, a critical ecosystem that is the source of drinking water for over 20 million Americans.

The scientific debate about the danger of mercury poisoning is now over. The real question is, how quickly can we reduce such pollution? When the Clean Air Act was written, there was little thought to how best to control pollution. The act imposed a rigid set of 1970s controls on each source of pollution, with many opportunities for polluters to challenge any action by the government in court. The worst example of what followed is the Federal Superfund cleanup program. Today, over half of all Superfund environmental cleanup dollars have been spent paying lawyers and not protecting the environment.

There is a better method. In the 1980s, the program to reduce acid rain was based not on endless court litigation, but on a system of tradeable credits that restrict the total output of pollution in a way that is more flexible than the litigious old regulatory system. The acid rain pollution credit trading system is a great success, leading to more environmental cleanup and less courtroom cost. This system cuts acid rain pollution in a way that is faster and cheaper than the old regulatory approach. President Bush proposes using such a system based on acid rain to also reduce mercury pollution. His approach could be effective but needs two major amendments by environmentalists here in the Congress.

First, the President's proposal allows more mercury pollution under a trading system than the old regulatory approach. Trading credits can be allowed but Congress must reduce the supply of tradeable credits to dramatically cut mercury pollution to levels at or below which would have been allowed under the old system.

Second, a flexible system also carries a danger for areas already contaminated with mercury. If credits to emit mercury can be purchased in an already polluted area, a trading system could worsen mercury hot spots that already exist. Congress should clearly define mercury hot spots, and we should allow emissions credits to be sent outside such a zone but not to be purchased to contaminate inside.

These two changes, restricting the supply of mercury emissions credits and higher environmental protection for mercury hot spot zones, could make a program modeled after the acid rain program work to reduce mercury pollution in our country. This is the kind of bipartisan approach that takes the best aspects of both sides to focus taxpayer dollars on cutting pollution rather than killing time in court.

Whatever the outcome of this debate, one thing should be agreed by bipartisan majorities in the Congress: the days of unregulated pollution from coal-burning power plants should be over. Period. The science is now clear and convincing that mercury pollution from such emissions represents a clear and present danger to the mothers and children of North America.

EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to speak in place of the gentleman from California (Mr. GEORGE MILLER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REGARDING JUSTICE SCALIA'S REFUSAL TO RECUSE HIMSELF FROM HEARING CASE CONCERNING THE VICE PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, Supreme Court Justice Antonin Scalia has done something no Democrat and no Republican has been able to do. Justice Scalia has united the country from Maine to California, from Washington to Texas. Even Texas. Here is just a sample of what editorials across America have been saying about Justice Scalia's decision to hear a case involving the Vice President:

Inappropriate. Unethical. Less arrogance, more impartiality. The appearance of impropriety is abusive and extreme. It taints the very essence of justice. Scalia's refusal to recuse himself let the sour tinge of politics ooze into the High Court's chambers. He's ducking the law.

In America, Mr. Speaker, Lady Justice is blind for a reason. Equal justice for all is a fundamental right of this country. Justice Scalia will soon run afoul of this because he decided to hunt fowl with the Vice President.

The facts, sketchy as they are, are these:

In early January, the Justice joined the Vice President aboard Air Force Two. They flew to Louisiana to spend days together in private while duck hunting on a private reserve owned by a local oilman. Nothing new there. The area they hunted in was declared a no-fly zone by the Secret Service and the ducks apparently abided by the Secret Service order. The trip followed a Supreme Court decision to hear an important case involving the Vice President. The case involves the right of the public to pierce the veil of private meetings the Vice President held with Big Oil and Big Business in public buildings to chart a public energy policy which has led us into two invasions, two occupations. There are huge issues at stake and the Nation must know that the Supreme Court will hear the case impartially.

If Justice Scalia does not remove himself from the case, the entire process will be forever tainted. Here is what the law says:

"Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

How could any rational person not question Justice Scalia's impartiality if he hears this case? His public response to date has been a mockery of the serious concerns expressed across the country. "Quack-quack" is how the Justice ended one answer in public at Amherst College. I kid you not. "Quack-quack," from a Justice of the Supreme Court. Perhaps in the future the fierce competition by law graduates to clerk in the highest court will include an audition for bird and duck calls. The Supreme Court decides the fate of lives and the course of our Nation for generations to come. Justice Scalia cannot let thoughtful, respectful concerns expressed by smart, independent voices across the country roll off his back like water off a duck.

This issue concerns not just Justice Scalia; but it goes to the honesty, integrity, ethics, and impartiality of the highest court. The stakes are too high and the right course of action too obvious for him to ignore.

Chief Justice Charles Evans Hughes as he was laying the cornerstone of the Supreme Court Building said: "The Republic endures and this is the symbol of its faith."

Justice Scalia defends America best by defending equal justice under the law. Justice Scalia must remove himself from this case for the good of the Court and for the good of the country.

COMMENDING AN AMERICAN WAR HERO FROM INDIANAPOLIS, INDIANA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, it is with great pride that I rise today to recognize an extraordinary young man who is an American war hero of Iraq and a fellow Hoosier, Specialist Dwayne Anthony Turner of the Third Battalion, 502nd Infantry Regiment, 101st Airborne Division. Specialist Dwayne Anthony Turner, an Army medic from Indianapolis, was awarded the Silver Star for demonstrating exceptional bravery, self-sacrifice and resolute fearlessness during a grenade and arms attack on April 13, 2003.

American soldiers were caught off guard when the attack began on a crowded street 30 miles south of Baghdad. Specialist Dwayne Anthony Turner was riding in his Humvee when the grenade hit. Bleeding from flying shrapnel that ripped into his legs, Specialist Turner dragged several soldiers to safety and administered aid to others while taking fire. More commonly known as Doc Turner, this young 23-year-old soldier saved the lives of two comrades and provided aid to 14 others after he was hit by shrapnel and shot a total of three times in the leg and arm. He did not cease assisting injured soldiers until he lost a significant amount of blood and was administered morphine. Specialist Dwayne Anthony Turner is the first soldier from the Fort Campbell-based 101st to receive the Silver Star for valor.

I would like to recognize Specialist Turner for his remarkable fortitude, courageousness, his spirit and selfless determination and would certainly ask the House of Representatives to join me in honoring this notable American war hero from my district.

Specialist Turner agreed to 4 years but was arbitrarily extended, Mr. Speaker, to 5 years.

Mr. Speaker, we would think that the United States of America, that the White House, that the Department of the Army would give Specialist Turner a standing ovation for the outstanding contribution that he made as an American, as a soldier and as a hero in Iraq. But not so. Mr. Speaker, upon Specialist Turner's return to Fort Campbell, understandably he consumed alcohol excessively, incurred intense and immense emotional trauma. His behavior became erratic. Instead of addressing what obviously is post-traumatic stress, the Army busted him down to a private, kicked him out of service, did not give him mustering-out pay, which ultimately caused this dear Army soldier to become homeless, notwithstanding the kind of contributions that he has made to a better America and what we were believing to be a better Iraq.

☐ 1645

I would like specifically to call this incredible, awful situation in terms of Specialist Turner's fate, in private, now nothing, the Army soldier, used to be soldier, to the attention of the White House. We often say that we support our troops. We get criticized when we do not support Iraq and the money that goes into Iraq, and I would ask the President and all of his soldiers there on Pennsylvania Avenue and those who are responsible for this incredible inhumane act against an individual who has done so much for this country to counteract, to reverse the vicious act that has been administered against him since he has been in this country by the United States Government. Make him whole, give him his mustering-out pay, and let the record show that he was, in fact, a specialist and not a private, a specialist when he received the honors that he received from the Army.

HONORING OUR AFRICAN AMERICAN CONGRESSIONAL PIONEERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. WELLER) is recognized for 5 minutes.

Mr. WELLER. Mr. Speaker, I asked for this time today because I felt as we finish up the month of February, Black History Month, it would be appropriate for this body to take a step back into history and remember the pioneering African American Members of this body as well as two men from my State, Illinois, who fought against the practice of slavery.

Mr. Speaker, the Members may not know this, but of the first 19 African American Members of the House, each and every one of them was a Republican. And of the 19 black House pioneers, most were freed slaves. My time only allows me this evening just to mention a few of them because I think they each have very impressive stories and records of serving this country and working towards the goal of civil rights for all.

The first African American to serve in the House was Joseph H. Rainey from South Carolina. Mr. Rainey's parents, Edward and Gracey, were slaves when their son was born in 1832 in Georgetown, South Carolina. Rainey's father was a successful barber in the area and through hard work was able to earn and pay for the family's freedom from slavery. After the Civil War broke out in 1861, the Confederacy conscripted Joseph Rainey to work on the military fortifications of Charleston's harbor. Rainey dreamed of escaping from the military drudgery to a life working without the stigma of color. The dream became reality when he and his wife boarded a ship bound for the West Indies. Rainey took on the family trade and worked as a barber in Bermuda, and his wife worked as a dressmaker. He studied the manners and conversation of his educated customers, and hearing that opportunities for African Americans were better than they used to be in postwar South Carolina, the Raineys returned home. Rainey was elected to the United States House of Representatives in 1868, took office in 1869, was a leader in the fight for civil rights.

Mr. Speaker, I am proud to announce on this floor tonight that our own House Republican conference, led by the gentlewoman from Ohio (Ms. PRYCE), has initiated a program called the Joseph Rainey Scholars to honor the memory of Congressman Joseph Rainey. The Rainey Scholars program aims to get African American students involved in government and to learn about the history of African Americans in the Congress. Currently, there are 10 college students participating in this program, which includes the option of being a congressional intern.

In 1871, Robert Brown Elliott was elected to the U.S. House as a black Republican from South Carolina. He had previously served as the State House Speaker, again was an outspoken advocate for civil rights and often noted the role of African Americans in our own Revolutionary War, the War of 1812, and on the side of the Union in the Civil War.

John Roy Lynch was elected to this body in 1873 as a Republican from Mississippi. Lynch was a Republican Party activist who served as a delegate to five Republican conventions. In fact, Mr. Lynch presided over the 1884 Republican convention in Chicago, serving as the first African American ever to preside over a national party convention.

Charles Nash, elected in 1875, a Republican, was the first black to represent Louisiana in Congress. John Mercer Langston was elected to the House in 1890 and later served as Consul General to Haiti. The first black Member of the United States Senate was also a Republican, Hiram Rhodes revels from Mississippi. Senator Rhodes took over the seat once held by the President of the Confederacy, Jefferson Davis.

Mr. Speaker, we salute these African American pioneers in Congress, and we remember the path they have made for African Americans to make a difference in our government and in our country.

Additionally, Mr. Speaker, I would be remiss if I did not mention two other major figures in the Republican Party, both from my home State of Illinois. Though while not African American, both played a big role in the fight for freedom, opportunity, and equality. First, of course, was our 16th President, Abraham Lincoln. We all know under Lincoln's leadership the Republican vision of equality was advanced with the Emancipation Proclamation of 1863, followed by Lincoln's insistence that the abolition of slavery be part of the 1864 Republican platform.

But, Mr. Speaker, I also wanted to draw to the Members' attention Owen Lovejoy from Princeton, Illinois, a community I represent in the 11th Congressional District. Owen Lovejoy came to Princeton, Illinois, in 1838 to assume the ministry of the Hampshire Colony Congressional Church. He was known as a fiery abolitionist who preached his views from the pulpit, causing much dissention in a community already divided over the slavery issue.

A strong supporter of Abraham Lincoln, Lovejoy, a Republican, was elected to the State legislature and then in 1856 began five terms in the U.S. House of Representatives. Lovejoy became known for his efforts on behalf of the abolition of slavery and was among the leaders in the House in advancing civil rights. His home was one of the most important stations in the underground railroad in Illinois. Runaway slaves were harbored by the Lovejoy family until arrangements could be made for them to travel to the next station on the way to Canada and freedom. Today the Lovejoy home stands as a reminder of Lovejoy's efforts.

Mr. Speaker, as Black History Month comes to a close, let us remember our heroes, those pioneers who stood for freedom and led the way to today's equality.

CLIMATE CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, in recent years there has been a significant conflict in our discussion and certainly differences of opinions from reliable sources about whether or not human activity is affecting the climate. So what I would like to do this evening in just the short time that I have is not to say that the Earth is warming, not to say that the Earth is cooling, not engage in the dispute as to whether human activity is causing the climate to change or the climate to warm. But what I would like to do is to present some observations from various independent scientists including the National Academy of Sciences that did a study to evaluate the International Panel on Climate Change, a study that was conducted by about a thousand scientists from around the world, to draw from the President's own scientists to make a determination as to what really are or what can be seen as observations of the indicators of whether we are engaged in a climate change.

If we observe the world the way it is now and the way it was 100 years ago and through an analysis the way it was 400,000 years ago, can we make some determination about the type of climate we have today, what we had 100 years ago, what we had 10,000 years ago, and what might happen in the future? To do this, there are certain understandings in the scientific community that the ocean, the land, and the atmosphere working together provide us with a type of balance in the heat distribution on the planet. No one would dispute that the Earth, the ocean, and the atmosphere work together through various means to make the type of climate that the planet has right now. The atmosphere and the elements that make up the atmosphere and all the different kinds of gasses are in a constant cycle with the Earth and the oceans. So that is not in dispute.

If we observe the planet today and 150 years ago, we will see that there is a warming trend both on the surface of the land, the surface and subsurface of the oceans. There is a significant retreat of glaciers around the planet, and the Arctic Sea ice is getting smaller and actually thinning. So if we look at these observations, someone could say that there is a natural cycle over the last 150 years and we happen to be in a warming trend. If we take the climate over the long range and we go back 10,000 years ago through an analysis of ice cores, certain seabeds, coral, crustaceans, et cetera, if we go back 10,000 years, we will see a natural range of fluctuation on the climate of the planet, a natural range of fluctuation due to a number of variables including the atmosphere, land, and ocean, the wobble of the Earth, the closeness we are to the sun, et cetera. There is a predictable change in the climate based on the last 10,000 years. In fact, we could go back 400,000 years and base that prediction.

What we are now seeing, though, in the last few decades of the 20th century and the first decade of the 21st century, are environmental variables that have not been seen for 400,000 years. If we look at what is making up our atmosphere and the kind of greenhouse gasses that we need in order for a distribution of the heat balance, we will see an increase in these greenhouse gasses, most notably carbon dioxide or CO_2, a more significant increase now than we have seen in the last 400,000 years. The amount of carbon dioxide that has been in the atmosphere over the last 400,000 years has been a predictable amount based on the historical records which we find in ice cores and so on; but that natural range of fluctuation, the amount of CO_2, the amount of greenhouse gasses in the atmosphere, was seen to have a pattern, a trend. But the increase in CO_2, carbon dioxide, that we have seen now in the last 50 years is larger, stronger than has ever been seen before.

So is it a natural bump up in CO_2? When we calculate the natural sources of CO_2 on the planet, and there are many, we will have a certain amount of CO_2 in the atmosphere. What is the percentage of CO_2 in the atmosphere? When we take in all of the natural variables, we still have more than we have ever had before.

When we take in another variable, which is interesting, human activity, this answers the question that human activity is increasing CO_2 in the atmosphere, changing the climate in ways that may not be predictable. Just a few facts to lay upon the table.

UNBORN VICTIMS OF VIOLENCE ACT OF 2003

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the majority leader.

Mr. AKIN. Mr. Speaker, the topic that I would like to take a look at this evening is the passing of a very important piece of legislation which is scheduled for this week, and that is the Unborn Victims of Violence Act.

But I would like to approach this standing back just a minute from a piece of legislation and try to put what we are trying to accomplish this week into context, in fact, into the American context. So I would challenge those, particularly those who are Americans, to answer a question, a very basic question, and that is let us say that someone from another country, and there were a television camera running, were to ask how would they define in a condensed sentence the uniqueness or the essence of what America is. What is it that has made America unique? What has created a Nation that people have come from all over the world to immigrate here? What has created a Nation where we have to have border guards to try to keep people out whereas other nations put minefields and machine gun nests to try to keep people in?

☐ 1700

What is it that made America unique, and how would you say that in one simple sentence?

I suppose one of the rules that people who have been involved in politics for some period of time know is that you are not supposed to ask a question unless you have an answer to the same question. So if I were asked to try to summarize what America is about, I would go to our birthday document, to the document that separated America into an independent and unique Nation, and that is the Declaration of Independence, our birthday document.

In that document you find a long and somewhat complicated sentence, but a very important sentence in terms of defining who we are and what has made us so unique. It is the sentence that says, "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness."

Now, the sentence does not end with "pursuit of happiness." It goes on to say that governments are instituted among men for the particular purpose of securing those rights, that is life, liberty and the pursuit of happiness.

Let us say we take this long sentence, and, as a former engineer myself, we put it into a formula. The formula is pretty straightforward. It has three parts. The first thing is there is a God; the second thing is God grants to mankind, to all people, and in particular our Founders were talking about Americans, certain unalienable rights; and chief among these are life, liberty and the pursuit of happiness.

And so it was based on this document, this simple three-point statement in a sense, that our forefathers declared this a free and independent Nation, and it is by this formula that we believe that all men everywhere are granted with certain unalienable rights, which has to a large degree motivated much of our behavior and defined America. It has also created in America, although it was there for the 170 years before, a culture of respect for life.

Now, how then does the piece of legislation that we are looking at connect to this culture of life in America? I think it is easy when you are discussing legislation to, first of all, talk about that there is some problem, and then you have a bill which is designed to solve the particular problem. So in order to help define the problem that we have in America legislatively, I have a copy here now of a testimony that was given by Tracy Marciniak before a committee, and I would like to read part of her testimony to help define what is going on and the need, the tremendous and important need, that we pass the Unborn Victims of Violence Act.

"I carried Zachariah in my womb for almost 9 full months. He was killed in my womb only 5 days from his delivery date. The first time I ever held him in my arms he was already dead."

The letter goes on. She is pointing to a photograph of her with this child in her arms.

"There is no way that I can really tell you about the pain I feel when I visit my son's gravesite in Milwaukee, and at other times, thinking of all that we missed together. But that pain was greater because the man who killed

Zachariah got away with murder. Please don't tell me that my son was not a real victim of a real crime. We were both victims, but only I survived.

"Zachariah's delivery date was to be February 13, 1992, but on the night of February 8, my own husband brutally attacked me at my home in Milwaukee. He held me against a couch by my hair. He knew that I very much wanted my son. He punched me very hard twice in the abdomen. Then he refused to call for help, and prevented me from calling.

"About after 15 minutes of my screaming in pain that I needed help, he finally went to a bar and from there called for help. I and Zachariah were rushed by ambulance to the hospital, where Zachariah was delivered by emergency cesarean section. My son was dead. The physician said that he had bled to death inside me because of blunt force trauma.

"My own injuries were life-threatening. I nearly died. I spent 3 weeks in the hospital.

"During the time I was struggling to survive, the legal authorities came and they spoke to my sister. They told her something that she found incredible. They told her that in the eyes of Wisconsin law, nobody had died on the night of February 8th. Later, this information was passed on to me. I was told that in the eyes of the law, no murder had occurred. I was devastated.

"My life already seemed destroyed by the loss of my son, but there was so much additional pain because the law was blind to what had really happened. The law which I had been raised to believe was based on justice was telling me that Zachariah had not really been murdered.

"It took over 3 years for this case to go to trial. The State prosecuted my attacker for first degree reckless injury and for false imprisonment, and he was convicted of those counts. They also prosecuted him under a 1955 abortion law, but they failed to win a conviction on the abortion count because that law required that they prove a specific intent to destroy the life of my unborn child. I do not fault the State authorities or the jurors. They simply did not have the legal right or tool for this type of case. The law simply failed to recognize that anybody who looks at the photo should be able to see that Zachariah was robbed of his life."

That, my friends, is the problem with our laws that we are attempting to fix, that we are attempting to remedy here, with the Unborn Victims of Violence Act. What the act does is it recognizes the fact that when there is a crime of this nature, it recognizes both people who were victims to that particular crime.

Now, there is talk that this law is unnecessary. There are some people who say, no, we do not really need to recognize the second person that is involved. But I would suggest that if one were to talk to the people who have lost their child, women who have been violently attacked in this way, and particularly those who have been attacked in this way close to the time when they are about to deliver, that they would suggest otherwise, that there are indeed two victims. When you talk to the grandparents, they would suggest that there are two victims.

I am 56 years old. I recently, just a matter of a month or so ago, received some very exciting news. I have six children. One of them just this last summer got married. In fact, he got married to a young lady who was working in my congressional office. They have gone off, he is in the Marines, and you can imagine what the news was. We heard that she was expecting her first child, which meant that I was expecting to be, for the first time in my life, a grandfather.

I would suggest that if someone were to attack her and to end the life that is inside her, that it would be a very difficult thing to try to convince me that there was not a person involved, that I did not need to be concerned about the fact that, oh, maybe you are a grandfather, or something like that. I think most of us see that in the most common-sense way.

So that is what is involved with this piece of legislation, to be able to recognize that when a crime, a violent crime, is committed against an innocent, pregnant woman, that there are two victims involved.

At this point, Mr. Speaker, I would like to yield to one of my colleagues for whom I have a great deal of respect, the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a great privilege for me to join my colleague from Missouri as he leads this critical Special Order among my colleagues on legislation that this Congress will take up tomorrow, the Unborn Victims of Violence Act. We heard much debate today, Mr. Speaker, on the subject of this legislation, and, for all the world, it seemed as though we were talking about a bill that had something to do with the debate over abortion.

This bill most certainly emanates around a respect for the life of a mother and the nascent life within her, but this is not a debate over abortion or the right to life, but rather this is a debate about justice. It is about the institution of Congress in Federal law recognizing, as 29 other States have recognized, the demands of justice when a woman and her unborn child are both the victims of a crime.

The Unborn Victims of Violence Act is simply legislation authored by the distinguished gentlewoman from Pennsylvania (Ms. HART) which recognizes that when a criminal attacks a pregnant woman and injures or kills her unborn child, that he has claimed two human victims.

The bill would establish that if an unborn child is injured or killed during the commission of an already-defined Federal crime of violence, then the assailant may be charged with a second offense on behalf of the second victim, the unborn child. The exact charge, of course, would depend on which Federal law was involved.

It may astonish many of those that look in on our debates and proceedings, Mr. Speaker, to know that under current Federal criminal law, an unborn child is not recognized as a victim with respect to violent crimes. For example, if a criminal beats a woman on a military base and kills her unborn child, he would be charged only with battery against that woman, because the unborn child's loss of life is not at the present moment even recognized as a crime under Federal law.

Therefore, as we engage in this critical debate on the House floor tonight, and as we move this legislation, I believe, with broad bipartisan support tomorrow, it is my hope that our intentions will be laid bare that this is not about the debate over the sanctity of life or some debate over the fault lines of the culture war, but, rather, this is simply a debate about justice and about the demands of justice.

To those, Mr. Speaker, who say that this is somehow an idea on the fringe of the American political debate, I offer as case in point this chart, which points to the fact that there are at the present moment, with the recent addition of Kentucky, 29 States in the Union, even, using my mathematical skills, nearly 60 percent of the United States of America in their various State laws, including my home State of Indiana, that recognize fetal homicide for all or part of prenatal development.

□ 1715

Mr. Speaker, 29 States recognize a criminal act, when performed against a pregnant woman, that criminal charges can be rendered, not only against the woman who is assaulted, but against the unborn child. And here Congress is with regard to Federal law, in a very real sense, Mr. Speaker, trying to catch up with what 29 States have already understood in their State legislatures and assemblies to be the demands of justice.

Now, as to the issue of whether or not this is by subterfuge a debate about abortion, I think it is important to point out, as pro-life as I am, and proud of it, this bill explicitly provides that it does not apply to any abortion to which a woman has consented, to any act of the mother herself, legal or illegal, or to any form of medical treatment, period. That is in the specific language of this legislation. Therefore, those who would argue that by subterfuge, somehow, in the language there is an effort to erode Roe v. Wade with a fetal homicide law on the Federal level, do so with a genuine lack either of understanding or lack of intellectual honesty.

In fact, it is well established that unborn victims laws do not conflict with the Supreme Court's pro-abortion decrees beginning in Roe v. Wade. The 29 State laws mentioned above have had no effect on the practice of legal abortion in those States. Criminal defendants have brought many legal challenges to State unborn victims laws based on Roe, but all such challenges have been rejected by State and Federal courts. The jurisprudence on this issue is overwhelming and decisive.

But as I close and prepare to yield back to the gentleman from Missouri who is leading us tonight in this debate, it would be wrong to spend the few moments that I have on this blue carpet tonight speaking of this issue as though it could simply be resolved in the cold confines of law schools and judicial chambers. When we talk about the demands of justice, I believe we are talking about the fundamental obligations of this institution to interpret the intangible obligations of the law. And as we come upon the very idea of a woman who is assaulted and as a function not only may have lost her life, but lost the life of her unborn child, and the wake and wash of grief that is left behind that, we cannot think of this in cold and sterile terms. So I close with two examples of the real world impact of crimes against unborn children.

Carol Lyons' 18-year-old daughter, Ashley, is pictured here; a beautiful young woman who, along with her unborn child, was murdered in Scott County, Kentucky, on January 7 of this year. And her mother, Carol Lyons, speaking of the law about which we debate tonight, said, "Nobody can tell me that there were not two victims. I placed Landon," her grandson, "in his mother's arms. I wrapped him in a baby blanket that I had sewn just before I kissed my daughter good-by for the last time and closed the casket."

Carol Lyons, whose 18-year-old daughter, Ashley, and unborn grandson, Landon, were killed just weeks ago, said, "Nobody can tell me that there were not two victims."

And of the legislation that we will consider tomorrow, another voice. This legislation has even come to be known euphemistically as Laci and Conner's Law, and there is scarcely an American who does not know the story of Laci Peterson and her unborn baby, Conner, a woman who was abducted on Christmas day and vanished and was found brutally murdered, with her 8-month child a victim as well. Her mother said the following: "Of those who would have us think of this type of an act as only having one victim," Sharon Rocha, mother of Laci Peterson, said, "please understand how adoption of a single victim proposal would be a painful blow to those like me who are left to grieve after a two-victim crime, because Congress would be saying that Conner and other innocent victims like him are not really victims, indeed, that they never really existed at all. But our grandson did live," Sharon wrote. "He had a name, he was loved, and his life was violently taken from him before he ever saw the sun."

This parent, and no parent within the sound of my voice, can fail to be moved by the tragic loss of both of these families or, in my judgment, fail to understand the opportunity we have as Congressmen and -women, Republicans and Democrats, in the next 24 hours to pass the Unborn Victims of Violence Act, not to engage ourselves in yet another tiresome debate on the fault lines of a woman's right to choose, but rather to engage ourselves in the expansion of justice, to look at the grief of these families and know what plain, commonsense Americans all know: that there are two victims and Federal law, as 29 other State laws have done, should recognize and address that with clarity.

With that, I yield back to the gentleman from Missouri with gratitude for his leadership on this issue and for hosting this important debate tonight.

Mr. AKIN. Mr. Speaker, I thank the gentleman for his pointed and well-taken comments.

It is now my honor to be able to yield the floor to the gentleman from Florida (Mr. WELDON), a doctor, and my esteemed colleague and good friend.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. Let me just commend my good friend and colleague, the gentleman from Indiana (Mr. PENCE), for the outstanding job I think he just did laying out many of the issues that have surrounded this debate. I agree with the gentleman, it is high time that we adopt the position that exists in 29 States; and I believe ultimately that most States will adopt this statute.

I also want to commend the gentleman from Indiana for his advocacy regarding the fence in Israel. I think that is a very, very important issue. The gentleman's resolution that he is trying to bring forward I think is very timely and very important. The fence in Israel is preventing hundreds of these suicide bombers from getting into Israel and killing people; and I think it is a tragedy, as the gentleman from Indiana does, that that case is before that court in Europe, and the Israelis are doing the right thing.

Getting back to the issue at hand here, I want to really commend my colleague, the gentleman from Missouri, for bringing this very important issue up. I am just going to speak as a doctor. We are going to hear from attorneys. We will hear, perhaps, from philosophers tonight on this issue. I practiced medicine before I came to this body. It was a joy; it was a pleasure practicing medicine. But there were some things that were unpleasant that I had to do. I will not mention them all; but one of them was, of course, the sad business of pronouncing people dead. We would frequently be called in to a hospital room by the staff, by the nurses and asked to assess the patient. The nurse was calling us to make a pronouncement of death. What do we do? Well, we check for a heartbeat; and, in cases where people are brain dead, we check for brain waves.

Well, science tells us that babies have brain waves and beating hearts very early in development. You can detect a beating heart at 17 days and brain waves at 40 days. Now, of course, with new modern technology, we have this new technology called 4-dimensional ultrasound where we can get a 3-D image on tape of a baby in the womb actually moving, and you can actually see them moving their face, opening their eyes, sucking their thumbs, moving around. They have the appearance of a human being, because they are a human being. And obviously, many of us understand that.

When we have one of the tragedies like we have seen and talked about tonight, Laci Peterson and this case in Kentucky is very, very heart-wrenching, and to say there is not a second victim to me defies logic. We desperately need this in Federal law. There have been cases that we have been unable to bring of double murders because we do not have a statute where punishments would have been meted out more significantly if we were able to bring the second murder case. So I think this is very timely legislation. It is very, very important.

I certainly not only commend my colleague, the gentleman from Missouri, for bringing this debate forward tonight, but I want to additionally commend the author of the legislation, the gentlewoman from Pennsylvania (Ms. HART), a great member who sits on the Committee on the Judiciary, and who has really been an outspoken advocate on this issue and, in particular, she is very knowledgeable about the law. So I am very, very pleased to support the legislation. I thank my good friend. I also want to thank the gentleman for standing up for the principles of our Constitution and seeing to it that the Constitution is properly interpreted in today's context of today's law.

Mr. AKIN. Mr. Speaker, I thank my colleague for his comments. It is an honor to work with him and serve with him. I appreciate his leadership on this and many other issues.

It is now my honor to yield to the gentleman from Arizona (Mr. FRANKS), who it is just an honor to serve with and someone who, though he has been here just merely a small number of months, considering how long some Congressmen have been here, one who has immediately been respected for his thoughtfulness and his articulate understanding of some of these questions. So I yield to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I think that sometimes when we begin to debate an issue that is before us, it is always important to ask ourselves why we are really here. And if there is any foundational purpose for this Congress, it is to protect the innocent in humanity. Sometimes we complicate that greatly. Perhaps one of our greatest abilities as human beings is to hide from something that we would rather not face, and I think that that is indeed the situation that we face today.

The Unborn Victims of Violence Act has been distorted in the minds of many people. It has been distorted in the speeches that have been made from this well to a great degree. I find that people on both sides of the aisle, on my side of the aisle, they try to say, well, this has nothing to do with abortion; and that is true. On the other side of the aisle they try to say, well, this is just a disguised pro-life bill. In a sense, both of those things are true, and I think it is time for us to face it directly.

The truth is, this bill is not about abortion. But the fact is, if it were not for abortion on demand, we would not even be debating this bill. We would not even be questioning whether or not this was important. Because most of the opposition to this bill comes from those who try very hard, and I understand their problem. I understand their difficulty; they try very hard to put this bill aside as a nonserious issue because it makes them face the reality of the humanness of this little unborn baby child. And that is a difficult thing to face, because, after all, when we consider America's history since Roe v. Wade, we have taken the lives of 10,000 times as many babies as people who died on 9/11.

So I understand the hesitation to face the reality here; but sometimes, there has to come a point in all of our lives where we just put aside those things that we know in our hearts are not true and embrace what is obviously a self-evident truth.

□ 1730

The fact is that there really are two victims in this situation. When a mother is assaulted and her child is killed, there are two victims, and I speak to some degree from personal experience.

I used to live in Albany, Kentucky, many years ago, and this is far before such a bill like this was even contemplated. There was a situation where a man had, with his bare hands, killed an unborn child of a mother on the streets of Monticello, Kentucky, and try as they might, the prosecutors had a great difficulty in being able to bring the right kind of charge against this person.

They brought a charge of manslaughter, but again, Roe v. Wade was mentioned as a defense. They said, well, there is no child here. Everyone in the court, everyone connected to the case knew there was a child, and I would suggest to my colleagues, Mr. Speaker, that the mother knew there was a child, and perhaps as tragic as it was that this child died in the streets alone. I do not think anyone felt the reality and the horror and the tragedy more than that mother. For us here in Congress to say to her that her child was not real, that her grief was not real, is just beyond description, in my opinion.

Mr. Speaker, it is time that we recognize the truth here. It is time we all asked the real question, and that is, is there really a baby here? Mr. Speaker, an honest look at the truth reflects the unavoidable reality that there is a child, and if there is a child, how can those of us in this body, whose primary, principal purpose for being here is to protect the innocent, how can we ignore that fact?

I just hope, Mr. Speaker, that people on both sides of the aisle will simply recognize the reality of the humanness of the child and the great mourning of a mother that loses that child to someone that would deliberately take that child's life or take that child's life incidentally to trying to assault her. It is time we stood up and did what was right, Mr. Speaker, and I hope that we will do that.

I just want to remind all of us that if we do not have the courage to protect the innocent, in the final analysis, no matter how erudite we are, we will never really find the true courage to protect that kind of liberty for anyone, and I pray that we respond in that manner.

Mr. AKIN. Mr. Speaker, I would like to thank my colleague for his appropriate comments and a challenge to all of us to recognize something that has been woven throughout America's past and her history over the years, a respect in the most basic sense, a respect for human life.

On this question about what does a mother feel when she is attacked and her child is killed, we have a letter from Laci Peterson's mother that I would share with my colleagues now, and it starts:

"I am writing to thank you for your ongoing efforts to pass 'Laci and Conner's Law,' the Unborn Victims of Violence Act," giving a bill number, "and to encourage you to redouble those efforts."

"On May 5, I and the other members of the family of Laci and Conner wrote to urge that this bill be passed as a tribute to Laci and Conner, and to allow true justice to be done in the future when such horrible crimes occur within the jurisdiction of Federal criminal law or military criminal law. I want you to know that I appreciate your efforts, all the more so because of some of the unfair attacks and criticisms to which you have been subjected in recent weeks by those who oppose the bill for misguided ideological reasons.

"I know that you have been working for years for this legislation, but I have only become aware of your efforts because of our recent tragic circumstances. I have been astonished and somewhat offended to see, in the news media, recent statements by some critics who say that those who have been working for years on this legislation are inappropriately 'exploiting' the public interest in the murder of Laci and Conner. I assure you that we do not see it that way. On the contrary, we believe that our case does provide a powerful illustration of why this type of law is absolutely necessary, and we urge you to continue to point to that connection. I intend to do the same, for as long as necessary to achieve the needed reform in the law.

"When a criminal attacks a woman who carries a child, he claims two victims. I lost a daughter, but I also lost a grandson. Fortunately, California law allows a double homicide charge in such a case, but if Laci and Conner had been killed in a Federal jurisdiction, or during commission of a Federal crime of violence, Conner's death would not be recognized or charged. Now that so many people are becoming aware of this defect in Federal law, I hope that the Congress will move swiftly to approve the Unborn Victims of Violence Act. I was heartened to read the White House statement of April 25, stating, 'The President does believe that when an unborn child is injured or killed during the commission of a crime of violence, the law should recognize what most people immediately recognize, and that is that such a crime has two victims.'

"Over the last several weeks I have heard the arguments of opponents of Laci and Conner's law, but they seem to me to miss the point. In the first place, they should stop trying to turn this into the abortion issue. California's unborn victim law has been on the books since 1970, and it does not affect the availability of legal abortion, nor have any of the similar laws in effect in more than half the States. The Unborn Victims of Violence Act explicitly says that it does not apply to abortion, or to any acts of the mother herself.

"Having said that, I have no difficulty understanding that any legislator or group opposed to abortion logically would also support this bill to protect the lives of unborn children like Conner from violent criminal actions, and I welcome their support."

But she goes on to say, "What I find difficult to understand is why groups and legislators who champion the pro-choice cause are blind to the fact that these two-victim crimes are the ultimate violation of choice.

"I have looked very carefully at the 'substitute' legislation proposed by the opponents of Laci and Conner's law, which they call 'The Motherhood Protection Act,' proposed in the House of Representatives," and, "This proposal would provide that if the victim of a Federal crime happens to be a pregnant woman, and the crime somehow disrupts her pregnancy, a harsher sentence would be assessed than otherwise. But the Lofgren proposal would enshrine in law the offensive concept that such crimes have only a single victim, the pregnant woman. This would be a step in the wrong direction.

"I hope that every legislator will clearly understand that adoption of such a single-victim amendment would be a painful blow to those, like me, who are left alive after a two-victim crime, because the Congress would be saying that Conner and other innocent unborn victims like him are not really victims—indeed, that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun.

"The application of a single-victim law," such as this particular amendment, "would be even more offensive in the many cases that involved mothers who themselves survive criminal attacks, but who lose their babies in those crimes. I don't understand how any legislator can vote to force prosecutors to tell such a grieving mother that she didn't really lose a baby, when she knows in the depths of her soul that she did. A legislator who votes for the single-victim amendment, however well motivated, votes to add injury to injury."

I would, Mr. Speaker, now like to yield to the gentleman from Pennsylvania (Mr. MURPHY), my colleague and respected Member of the House.

Mr. MURPHY. Mr. Speaker, I thank the gentleman for yielding, and, Mr. Speaker, I rise today in strong support of H.R. 1997, the Unborn Victims of Violence Act introduced by my fellow gentlewoman from Pennsylvania (Ms. HART).

When we reflect back, I must acknowledge there was a time in our history when sadly it was not considered a crime for a man to beat his wife, because she was not granted a protective legal status. That is, what we now see as both immoral and illegal at that time was not seen as illegal. Luckily, we now see how grievous and how cruel that error in legal definition was.

Similarly, we cannot escape our bleak history when African Americans were not given rights, when Irish immigrants were seen as subhuman, and therefore, acts of violence against them went unpunished. As we recognized the value of human dignity, then we are compelled to do so again today.

When we hear about an action of violence against a pregnant woman where the baby inside her is killed, in some States the act would be charged with murder, and in some States he would not.

Fortunately, when I was a State senator in Pennsylvania, my State enacted a law that imposed criminal penalties on individuals who intentionally murder unborn children in acts of violence, and 29 other States have seen fit to enact laws protecting unborn children from violence. When a criminal in those States attacks a pregnant woman and kills her unborn child, he has killed two people. No doubt, no question, no room for argument.

But the question before us today expands this issue to other States. When a man brutally beats a woman and in that process kills her unborn child, he has committed murder. What if that woman's baby was due the following day, had a nursery decorated and clothes folded neatly and arranged, a mobile swinging above the crib? In 21 States this is not murder; in 29 States it is.

It is time we consider the morality of the baby's rights to be protected. We must protect them until they protect themselves, in the womb and during their young years. It is their right, and it is our duty.

Think of this. If a man wants to end the pregnancy and the woman does not, and he beats her until the life within her, by whatever definition or stretch one might hold, if that life ends, do we tell the woman her desires mean nothing, her hopes mean nothing, her baby is a sacrifice at the altar of legalese, and she, as the mom, has no rights to her hopes and her dreams and her desires? Do we say to that mom her baby does not exist until someone defines it as so? Tell that to the mother. Tell that to the father. Tell them their baby was nothing.

I know that there are those that feel this will infringe on someone's rights, that this is a woman's issue. Well, I speak to my colleagues tonight as a father first and as a legislator second. This is not a woman's issue or a man's issue; this is a child's issue. These are lives we are talking about. I know that there are those who feel that this will infringe upon someone's rights, that this is a woman's issue, but a violent act must be punished, a violent act that is maybe even more heinous when committed against an individual so helpless that it needs the protections of its mother's body.

I think back on years when I used to work at McGee Hospital and Mercy Hospital in Pittsburgh, where I would see young babies born a month, 2 months, 3 months premature, perhaps born at 24 weeks, tiny little lives, and sometimes they survived and went on. Now I see some of them have gone on to graduate high school and college and have families of their own, and some did not make it, but I know very well the waves of grief that flowed over the families because they considered those children alive.

When a child is killed within the mother, by saying that is a child, by recognizing that as a murder, we are indeed protecting them. We are indeed saying something is right and something is moral, and we are attaching the right legal action upon that and protecting them.

Thomas Jefferson once said, "I tremble for my country when I reflect that God is just and his justice cannot sleep forever."

□ 1745

What we face now is a time of bringing to justice those who try and kill those children, and we bring protection to those children too. It is a time when we must do all these things and recognize how within this vast world we can sometimes play with all the definitions we want; but it is still a life, and it is still worthy of our attention.

Mr. AKIN. Mr. Speaker, I thank the gentleman from Pennsylvania. We appreciate his perspective and the challenge to each of us that we need to be about the business that is the fundamental business of our government, and that is to protect. To protect that fundamental right to life, which is so much the heartbeat and the central theme of our country from our very beginning, from our birth day.

I would make reference now just briefly to some polling data which may be of interest to some of my colleagues. Here is a poll that was taken, and I will read it specifically: "If a violent physical attack on a pregnant woman leads to the death of her unborn child, do you think prosecutors should be able to charge the attacker with killing the fetus?" The response to this was 79 percent of the American voters who were asked this question, 79 percent said, yes, that we should. The polling data indicates that there is a strong and simple understanding of the fact that such a violent attack as this is really an attack on two individuals.

We have, of course, voted this bill in the House in the past. In the 107th Congress, my first Congress, it was passed by 252 to only 172. It was passed in the previous Congress, the 106th Congress, by 254 to 172. So we have a record of having passed this before. I believe that it is time for us to get on with our business and move ahead with this bill and continue in our tradition of a deep-seated respect for life in America.

Now, when I started my comments not so long ago, I asked if we were to define America in one sentence, if we had to get the essence, the core, of what makes us who we are and we had to try to simplify that and put it into something that would be understood to someone from a foreign country that asked, what is the secret, why is America different. I believe the answer to that question is found in our birthday document, the Declaration of Independence, which is that great sentence, "We hold these truths to be self-evident: That all men are created equal and endowed by their creator with certain unalienable rights; that among these is life, liberty, and the pursuit of happiness."

That document goes on to say that it is the job of government to protect those basic rights. And so if we as Members of the Government of the United States fail to protect that basic right to life, that God-given unalienable right to life, if we fail to take this action, then we fail in our most fundamental purpose as a Nation. We, in fact, are almost turning our back on the organizing principle, our birthday document, and everything that Americans have held dear.

Now, this respect for life was not just reflected in one document years ago, but it has been part of our culture for years. Our founders bled and died and fought a great war for our independence to defend this basic principle. We have seen throughout our history challenges in the courts which have threatened the essence of personhood. There was, of course, the Supreme Court decision where the Supreme Court decided to stop looking at the Constitution and just started to get into the legislative business in Dred Scott, resulting in, or is at least partly responsible for, the great scourge of the Civil War, where we said that people really were not going to acknowledge this personhood.

We have seen this culture carried even forward to our own day. I think some of the most vivid imagery that perhaps many of us can recall came on September 11. It was not a matter of people saying words: it was the way that they lived their lives before everybody watching that showed this respect that America has for life, when we saw the big, strong police and the firefighters taking people that were in wheelchairs that were hurt or helpless, risking their lives to try to protect the lives of fellow Americans. This was not something that was orchestrated. This was something that we just did. It was an outpouring of the very heart of America.

Subsequently, as we started to go after those people who did not have the respect for life that we have in our culture developed through the years, these terrorists who make it their job of killing people, of taking life, how did we proceed? Did we do the very safest and simplest thing for us, which would have been to unleash a whole lot of nuclear devices on countries that were targets? Of course we did not. We took extra pains to make sure that we tried to minimize collateral damage. We tried to be very, very careful that nobody's life was taken except for people who were immediately responsible or culpable for these acts of terrorism. That has been done at a great risk to many of our own airmen and our own soldiers and all who are involved and even now defending us overseas as we discuss these important questions.

Mr. Speaker, in conclusion, I would call my colleagues back to the things that America has always stood for; that our young men and women have sometimes come home underneath a flag defending this very basic concept, a concept that is bigger than America, a concept that is being taken by America to the entire world, the concept that there is a God, and that every single person in this world is an heir to these unalienable rights, particularly this right to life.

So I close with this appeal that we must recognize this right to life in this situation where a little child is beaten to death. They must be recognized by law, and I urge my colleagues to pass the Unborn Victims of Violence Act.

Mr. Speaker, I yield now to the gentlewoman from Pennsylvania (Ms. HART), my respected colleague and the coauthor of this legislation.

Ms. HART. Mr. Speaker, I thank the gentleman for his comments and for his support for the legislation. I want to also emphasize the support we have heard today not only from our colleagues, but the support we have heard today from the Lyons family from Kentucky, the support that we have heard from a number of different families who have experienced this tragic loss of their daughter and their grandchild.

It is a very sad situation that we are talking about with this legislation, but it is one that we obviously can try to help prevent through a criminal law, through recognition of the mother and the child both as victims, and one that I think we would be remiss in fact in our work if we do not pass this legislation.

Recent polling shows that upwards of 80 percent of registered voters, and that includes 69 percent of registered voters who identify themselves as pro-choice, believe that prosecutors should be able to separately charge the attacker who attacks a pregnant woman and causes injury or death to her and/or her unborn child. Twenty-nine out of the 50 States already have legislation that recognizes that crime, the crime against the mother and the crime against the unborn child.

The language that we use, which has been somewhat controversial by those opponents of this bill, is where we describe a child in utero. This is actual language that this House has used before, and the House passed the bill unanimously. So that language was supported unanimously on a bipartisan basis in legislation that passed before I came to this Congress. I believe it was in the 106th Congress that they passed a bill called the Innocent Child Protection Act, which banned the Federal death penalty for a woman who is pregnant and they described the pregnancy as "carrying a child in utero," and defined that child exactly to the word as we have defined that child in our legislation.

Therefore, Mr. Speaker, it is obvious that this is not new. This language is well set and accepted by this House of Representatives, and anyone who tries to make a claim to the contrary is simply ignoring the truth. They are ignoring the facts.

The most important part, though, Mr. Speaker, is that we recognize families. We recognize women who have made a choice to carry their child to term, a mother to carry her child to term. A woman who is attacked, who may be murdered or may just be seriously injured and survive the attack, will have to live the rest of her life with the knowledge that someone attacked her and took that choice away from her, killed her child. It is important for us to recognize and allow our law enforcement and prosecutors to recognize that child, recognize that family's loss, and allow a prosecution of that crime.

Finally, Mr. Speaker, I want to bring up a couple of points about domestic violence. We have seen statistics that show that unfortunately the cause of death among pregnant women in States that actually keep those statistics, Maryland, New York, Illinois, among the ones that we saw, showed us that upwards of a quarter of the pregnant women who die, die as a result of a homicide.

Mr. Speaker, the recognition of that fact is important for us as well. It is a serious case of domestic violence when a woman is beaten to death, clearly. It is a serious case of domestic violence when both the woman and her child are beaten to death, her unborn child is beaten to death. It should be recognized by this Congress. It should be recognized by this Nation.

I encourage my colleagues to support our two-victim bill, the Unborn Victims of Violence Act, named in honor and remembrance of Laci and Conner Peterson; and I thank the gentleman from Missouri (Mr. AKIN) for yielding to me.

PENTAGON OPENS CRIMINAL FRAUD INVESTIGATION INTO HALLIBURTON

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, earlier this week the Pentagon did something that the House Republican leadership should have done many months ago, and that is they opened a criminal fraud investigation into Halliburton. The Pentagon is expected to investigate the overcharging of at least $61 million for fuel shipped from Iraq to Kuwait. Halliburton has also been accused of charging the government for meals it never served at dining facilities in Iraq and Kuwait. The company agreed to reimburse the government $27.4 million for potential overcharges related to the meals and $6.2 million to cover other potential overcharges.

Now, Mr. Speaker, all I can say is it is about time. I have been coming to the floor with a group of my Democratic colleagues to highlight these possible overcharges by Halliburton and called on the House Republican leadership to hold open hearings on whether or not Halliburton is overcharging the American taxpayer with its reconstruction work in Iraq. Instead, the Senate and the House, both controlled by Republicans, continue to turn a blind eye to possible waste and mismanagement by Halliburton in Iraq. Congressional Republicans even refuse to question the Bush administration on the billions of dollars of taxpayer money now going to Halliburton, much less create any special committee to oversee these funds.

I ask you, Mr. Speaker, what are my Republican colleagues afraid of? Why do they refuse to hold Halliburton accountable for the billions it is now spending in Iraq? Could it be that congressional Republicans do not want to draw more attention to the fact that the company profiting from the reconstruction of Iraq, Halliburton, has close ties to Vice President CHENEY? Back in 2002, Vice President DICK CHENEY said these words, and I quote, "Halliburton is a fine company, and I am pleased that I was associated with the company."

Now, how can the Vice President say that Halliburton is a fine company? Let us look at some of the facts.

Fact number one: Halliburton has acknowledged that it accepted, and I quote, "accepted up to $6 million in kickbacks in its contract work in Iraq."

Fact number two: Halliburton is now being investigated by the Pentagon for overcharging the American government for its work in Iraq.

☐ 1800

Fact No. 3, Halliburton faces criminal charges in a $180 million international bribery scandal during the time that CHENEY was the CEO of the company.

Fact No. 4, Halliburton has been repeatedly warned by the Pentagon that the food it was serving 110,000 U.S. troops in Iraq was dirty, and a Pentagon audit found blood all over the floor of the kitchens Halliburton supplies over in Iraq.

Fact No. 5, Halliburton is getting around an American law that forbids doing business with rogue nations. Thanks to a giant loophole, Halliburton is able to do business with Iran, of all nations, through a subsidiary in the Cayman Islands.

Mr. Speaker, how can the Vice President characterize Halliburton as a fine company? One has to wonder since Vice President CHENEY seems to condone such conduct if the company was any different when he was in charge. It probably makes sense for the Vice President to continue to praise Halliburton considering that the company continues to pay the Vice President hundreds of thousands of dollars each year. Vice President CHENEY tried to squash such a story when he appeared on Meet the Press last year. He stated, "And since I left Halliburton to become George Bush's Vice President, I have severed all of my ties with the company, gotten rid of all my financial interest. I have no financial interest in Halliburton of any kind, and have not had now for over 3 years." That was the Vice President's quote on Meet the Press.

But despite the Vice President's claims, the Congressional Research Service issued a report several weeks later concluding that because Cheney receives a deferred salary and continues to hold stock interests, he still has a financial interest in Halliburton. In fact, if the company were to go under, the Vice President could lose the deferred salary, a salary he is expecting to continue to receive this year and next year. While losing around $200,000 a year might not put a dent in the Vice President's wallet, he clearly still has a stake in the success of Halliburton.

The Vice President also neglects to mention that he continues to hold more than 433,000 stock options. The Congressional Research Service reports that these stock ties "represent a continuing financial interest in those employers which make them potential conflicts of interest."

This was not the first time that Vice President CHENEY has misrepresented his role in Halliburton. Just last month the Vice President stated, in reference to government manipulation by Halliburton during his tenure, "I would not know how to manipulate the process if I wanted to." But what the Vice President neglects to say is that Halliburton cashed in after Cheney took over Halliburton. Under Cheney's leadership, Halliburton doubled the value of its government contracts. According to a report by the Washington-based Center for Public Integrity, the company took in revenue of $2.3 billion on government contracts, which was up $1.2 billion from the 5-year period before the Vice President arrived.

It is possible that Halliburton is the right company to do this work, but then how does the Bush administration and the Republican Congress explain why there is so much secrecy surrounding the whole deal? Could it be that the Republican Congress and the Bush administration are concerned that the more light that is shed on Halliburton's use of taxpayer money, the more examples of waste and mismanagement are likely to be exposed?

Mr. Speaker, earlier this month since congressional Republicans refused to hold hearings on the billions of dollars handed over to Halliburton with no oversight, my Democratic colleagues in the other Chamber held a hearing in which a former Halliburton employee testified about the company's practices. Mr. Bunting purchased supplies for Halliburton in Kuwait last summer. According to Bunting, Halliburton spent too much on supplies for the reconstruction effort in part because it wanted to avoid seeking competitive bids from government suppliers. Bunting charges that Halliburton's supervisors wanted purchasers to buy from a preferred list of companies in Kuwait even when those companies charged high prices. Supervisors also told their workers to keep most purchase orders below $2,500 so that the company would not have to seek bids from multiple vendors. Now Bunting is a former employee of Halliburton's, and he is telling a group of Democratic Senators that the company is overcharging the American taxpayer.

Even with all of this information, the House Republicans continue to allow Halliburton to receive billions of dollars without any oversight from Congress. If Democrats were in the majority in the House, we would definitely be making sure that Halliburton was no longer ripping off the American taxpayer. In fact, if it had not been for the resourceful work and the dedication of two of my colleagues, Halliburton would still be robbing the taxpayers blind with outrageous gasoline prices.

Last year two of my Democratic colleagues on the Committee on Energy and Commerce, a committee on which I serve, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN) exposed the outrageous fact that Halliburton was inflating gasoline prices at a great cost to American taxpayers. In a letter to the OMB Director Mr. Bolten, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN) wrote that the independent experts that they consulted have been appalled to learn that the U.S. Government has paid Halliburton $1.62 to $1.70 to import gasoline into Iraq.

According to these experts, the price that Halliburton was charging the gasoline is outrageously high, potentially a huge rip-off, and highway robbery. During the relevant period, the average wholesale cost of gasoline in the Mideast was around 71 cents a gallon, meaning that Halliburton was charging over 90 cents per gallon just to transport the fuel into Iraq. Let me just repeat that again. The U.S. Government was paying Halliburton $1.62 to $1.70 to import gasoline into Iraq, but at that time the wholesale cost in the Middle East was around 71 cents a gallon. So Halliburton was charging 90 cents per gallon more just to transport the fuel from Kuwait. There is no way that could be justified. According to the experts, this exorbitant transportation charge is inflated many times over.

Compounding the cost to the taxpayers, this expensive gasoline is then sold to Iraqis at a price of just 4 to 15 cents per gallon. Although Iraq has the second largest oil reserves in the world, the U.S. taxpayers are in effect subsidizing over 90 percent of the cost of gasoline sold in Iraq. This is just incredible when we think about it.

Mr. Speaker, in light of this new information, the gentleman from California (Mr. WAXMAN) and the gentleman from Michigan (Mr. DINGELL) requested that OMB Director Bolten provide copies of all contracts, task orders, invoices and related documents issued to date regarding Halliburton's work in Iraq. The purpose was so Congress could conduct its own independent investigation of these issues on behalf of the U.S. taxpayer.

There is no question that this request from my Democratic colleagues was reasonable. After all, if Halliburton was grossly overcharging the American taxpayer for the transportation of oil, it was highly unlikely that the overcharges ended there. Over the past couple of months, we have learned of lots of other overcharges; and yet still my Republican colleagues are silent on the issue. We do not see the waste watchers, a group of Republicans who come down to the floor periodically to rail against waste in the Federal Government, a government that they currently control, and we do not see them coming down to the floor to rail about Halliburton's gouging of the Federal purse. We do not see any Republicans expressing the need for more congressional oversight of the current contracts going to Halliburton and others, even though these problems continue to be exposed in the media on a regular basis.

Mr. Speaker, it just appears to be another example of how the House Republicans have taken this House away from the people and handed it over to an elite few, corporate executives and other interests. I do not know how many more days are going to go by or how many more weeks are going to go by with continuing charges, often backed up in the media, about what Halliburton is doing and how it is abusing its situation in Iraq before the Republicans in this body finally demand that there be some oversight and some hearings to look into these issues.

Mr. Speaker, again we have a huge deficit. We have a lot of spending needs. How can we possibly justify continuing to waste this money on behalf of Halliburton? It just does not make any sense.

Mr. Speaker, I see the gentleman from Ohio (Mr. BROWN) is here, and I yield to the gentleman.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman. The gentleman from New Jersey (Mr. PALLONE) has put this into a perspective to sort of understand the whole operation in Iraq and what it has meant to this company which had very close ties to private citizen Mr. CHENEY, and still has very close ties to Vice President CHENEY. That context would be this: We are spending about 1.5 billion taxpayer dollars in Iraq every week, about $1.5 billion every week in Iraq. Some of it is military, some of it is construction, a whole host of activities in Iraq.

Not nearly enough of that money goes, frankly, for body armor for our soldiers. As we have seen with the Halliburton scandals, not nearly enough of that money goes to feed or house the troops, or for protective armor on Humvees. We also know where a lot of the money is going. Approximately one-third of the billion and a half, close to $500 million per week, is going to private contractors. Not the Pentagon, not government employees, not soldiers, not what we traditionally think of as a military operation; $500 million roughly per week is going to private corporations. Many of those contracts for these private corporations are unbid contracts. A decision is simply made, possibly by Vice President CHENEY, who was CEO at Halliburton and still is on the Halliburton payroll. Some of that money is given in unbid contracts to Halliburton and other companies. Halliburton has $2 billion in unbid contracts.

I have had regular meetings with Guard and Reserve families in my district. I do not think that the public understands, nor did I before I met with some of these families, when someone is in Iraq as a Guard or Reserve member, it almost always creates financial hardship for their family stateside. In other words, if you are making $30,000 or $40,000 working here, you give up that salary and go to Iraq with the Guard or Reserve, your family has significant financial pain as a result of your going overseas.

One woman told me her husband was driving a truck as a National Guard member, getting paid about $1,500 a month, between Kuwait and Iraq. Next to him was another gentleman driving a truck that worked for Brown & Root, a subsidiary of Halliburton, who was paid about $7,000 a month. The guy working for the taxpayers for the armed services in our Army was obviously wearing a uniform and getting paid $1,500 a month, and was a target of obviously terrorist acts and Iraqi sharpshooters and suicide bombers. The civilian was less of a target because he did not have a military uniform on and was paid four or five times as much.

That is what this privatization of the military has done, coupled with the fact that not only is he paid that $7,000, Halliburton is able to charge cost plus. They are able to charge the government the $7,000 plus a certain profit markup. So the more that they pay their private civilians, this truck driver or their executives especially who are in Iraq, the more they can add on to the price, the cost to the taxpayers, as a result of these cost plus contracts.

So we have Halliburton as a private contractor bringing in billions of taxpayer dollars, and we have the Vice President of the United States who still is on the Halliburton payroll. When you think about that, we as a Nation, our taxpayers are funding unbid contracts to one of America's largest companies which has direct ties to the Vice President of the United States, it is a pretty incredible phenomenon, something the national media which generally does not like, and some of the national media are actually owned by defense contractors. GE owns NBC, for example, so it is no surprise they do not want to talk about that, and the list goes on.

The fact is that Halliburton, a company which has gotten literally a couple of billion dollars in private contracts, has close ties to Vice President CHENEY.

Let me mention a couple of comments, and then let me mention a couple of other facts.

Vice President CHENEY said before the election, "What I will have to do, assuming we are successful in the election, is divest myself, that is sell my remaining shares that I have in the company."

□ 1815

CNN reported in late 2003, a congressional report found that CHENEY still owns, quote, more than 433,000 Halliburton stock options, including 100,000 shares at $54.50 a share, 33,333 shares at $28 a share and 300,000 shares at $39.50 per share. This is a company that gets billions of dollars in unbid contracts, the decision being made, perhaps by the Vice President, perhaps by the President, certainly somebody at the White House, and he has stock options in this company. That is one example.

Mr. CHENEY early this year said, "I severed my ties with Halliburton when I became a candidate for Vice President in August of 2000." He said that this year. Yet CNN reported along with 433,000 stock options, CHENEY still receives $150,000 a year from Halliburton. The Vice President of the United States is paid $3,000 a month from a company that gets billions of dollars in unbid contracts of taxpayer dollars. I am not saying that Vice President CHENEY is making all these decisions because he is on their payroll, but he is on their payroll. He receives, not $3,000 a month, $3,000 a week, $150,000 a year, $3,000 a week by Halliburton, yet these unbid contracts continue.

He also said this during the campaign: "What happens financially by joining the ticket with Governor Bush obviously means I take a bath in one sense," meaning he was going to make less money. The New York Times said Halliburton has agreed to let Mr. CHENEY retire with a package worth an estimated $20 million according to people who reviewed the deal. This contract is still giving and giving and giving and giving.

One more example. Then private citizen CHENEY in August of 2000: "I'll do whatever I have to do to avoid a conflict of interest. I'll eliminate the conflict. I can assure you. I've said repeatedly I will not tolerate or be a party to a conflict of interest while I'm Vice President. I'll do whatever I have to do to resolve that conflict." CNN just a few months ago said a congressional report found that more than 433,000 stock options he possesses is considered among the ties he retained or linkages to former employers that may represent a continuing conflict of interest. I do not know which is more astounding or which is more outrageous and which is, frankly, more immoral, the fact that he continues to get paid by this company while shoveling billions of taxpayers' dollars in unbid contracts to this company or the fact that Vice President CHENEY is not telling the truth about it.

This is an administration, as we are learning more and more, that falls short of telling the truth. Vice President CHENEY did not tell the truth about his willingness to cut ties with his company. He did not tell the truth about the unbid contracts. He is not telling the truth about the money he is still receiving from Halliburton.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURGESS). The gentleman will suspend.

The Chair must caution that it is not in order to refer to the Vice President in terms that are accusatory or personally offensive.

Mr. BROWN of Ohio. Mr. Speaker, I do not understand what that means. I appreciate the Speaker's comments. So if the Vice President said something and did another, I may say that; but if he said something and did another, I cannot say that he lied about it?

The SPEAKER pro tempore. The Chair would instruct that the gentleman should refrain from saying the Vice President did not tell the truth.

Mr. BROWN of Ohio. I would ask the Chair for advice on how I speak. If the President said something and did something else, if I am not supposed to say he did not tell the truth, what phraseology does the Chair allow me to use in this, I thought, open forum, open body where people can speak freely?

The SPEAKER pro tempore. The gentleman understands that it is not the purpose of the Chair to construct his remarks for him. The Chair would merely caution the gentleman that terms that are accusatory or personally offensive should not be permitted in the body.

Mr. BROWN of Ohio. I think it is pretty offensive that the Vice President is still receiving $3,000 a month from a company which is getting billions of dollars in unbid contracts and he is telling us he has severed ties with that company. I guess I will not say the Vice President lied about it. I am not allowed to say that. I do not quite know how to describe it. But let me move to something else.

So we have an administration where the Vice President has done what I just said. We have an administration where the President has said the Medicare bill would cost $400 billion; and I do not want to say the President lied, but then the Medicare bill we find out 7 weeks later cost $530 billion. We find that the President told us one thing about Iraq, I do not want to say he lied, either, but then we find out something else entirely different about Iraq.

We hear, and I would mention this, on the front page of a generally pretty conservative newspaper in this city, that the President's people, the administration said just a couple of years ago, way after September 11, we would have 3.4 million more jobs created in 2003 than there were in 2000, yet it turns out we have had 1.7 million jobs fewer. I do not want to say the administration did not tell the truth about that, but their predictions were way, way off. Then the President said, the administration said, the budget deficit would be $14 billion. It has turned into being $521 billion.

Mr. Speaker, I think we are seeing here a habit of prevarication, a tendency to tell us one thing and see something else, whether it is the Medicare bill, whether it is Iraq, whether it is the President's connections with this company that is getting billions of taxpayers' dollars and giving to the Vice President $3,000 a week and millions of dollars in stock options. It just does not really quite add up.

Mr. PALLONE. I appreciate my colleague from Ohio's comments. Regardless of how he has to phrase it, I think the bottom line is that there is a major inconsistency between what the Vice President said and what the reality is in terms of the amount of money and his connections to Halliburton. I have to say, though, "60 Minutes" did a report, I guess this was at the end of January, and I know that many of us have mentioned this before about this Halliburton subsidiary that is doing business with Iran. To me, although everything that we have mentioned is pretty bad, when this came out on the "60 Minutes" program back at the end of January, I was really more outraged by this than even all the other things that Halliburton was involved with.

This was on January 25, as I said, on "60 Minutes." Correspondent Leslie Stahl who was doing the report, the concern was on behalf of William Thompson, the New York City comptroller who oversees the $80 billion in pension funds for New York City workers or employees. What he was speaking about was the fact that New York City employees' pension funds are basically invested in several companies, including Halliburton, that through subsidiaries do business with the countries that President Bush has referred to as rogue nations, such as Iran and Syria, Libya and others. I just wanted to zero in on Halliburton. We could talk about the others, but tonight we are talking about Halliburton because of the potential conflict of interest with the Vice President.

What was said on "60 Minutes," again, and this is a quote, in the case of Halliburton as an example, this is Mr. THOMPSON speaking, they have an offshore subsidiary in the Cayman Islands that does business with Iran. That subsidiary, Halliburton Products and Services, Ltd., is wholly owned by the U.S.-based Halliburton and is registered in a building in the capital of the Cayman Islands, a building owned by the local Caledonian Bank. Halliburton and other companies set up in this Caribbean island because of tax and secrecy laws that are corporate-friendly.

Apparently the law says that an American company cannot do business with one of these rogue nations such as Iran, but you can get around it in some way because the law does not apply to any foreign or offshore subsidiary so long as it is run by non-Americans. But I would venture to say that even that loophole is being violated by Halliburton in this case because in this "60 Minutes" interview, I guess they actually went to the subsidiary in the Cayman Islands and they were not allowed to enter the building with a camera so they went in with a hidden camera and were introduced to David Walker, the manager of the local bank where the subsidiary is registered.

"60 Minutes" figured, well, they would find some kind of operation here, some kind of business, but to their surprise they were told by David Walker, the manager of the bank, that while Halliburton Products and Services was registered at this address in the Cayman Islands, it was in name only.

There was no actual office there or anywhere else in the Cayman Islands and there were no employees on the site. They were told, the "60 Minutes" reporters, that if mail for the Halliburton subsidiary comes to this address that they reroute it to the Halliburton headquarters in Houston.

Mr. Walker went on to say, the bank manager, and I quote, "If you understand what most of these companies do, they're not doing any business in Cayman per se. They're doing international business," says Walker. Would it make sense to have somebody in Cayman pushing paper around? I do not know. And it is mostly driven by whatever the issues are with the head office.

So what is basically happening here is the head office in Houston of Halliburton is calling the shots. Nobody is working at this local subsidiary. It does not even have an office. It has simply been set up so that Halliburton can do business with Iran. Think about it. Iran is on the list of rogue nations. You cannot do business with them. Of course, Iran exports terrorism around the world. So essentially Halliburton is benefiting from terrorism. Here we are. The President said that the reason we went into Iraq was because of the war against terrorism. The biggest company that has the contracts, no-bid contracts, in Iraq is Halliburton, which was formerly headed by Vice President CHENEY. They set up a subsidiary, probably contrary to the laws of the United States, that does business in Iran and Iran exports terrorism around the world, probably into Iraq as well, for all I know.

To me, it is unimaginable to think that the United States taxpayer is paying this company Halliburton which has had all these abuses but the biggest abuse of all in my opinion is that they are getting around the law and making money in Iran, which in turn is exporting terrorism that could potentially be used against the United States.

I see my colleague from Washington State is here. I am pleased to see that he is joining with us tonight and would yield to him.

Mr. McDERMOTT. I appreciate this opportunity to come talk, because I think that we saw on Sunday that the campaign we are about to enter into is one in which, one of the themes of this administration is going to be integrity. Integrity is a very interesting thing for them to run on. As one of the earlier speakers said, it is a good thing the White House is not made out of glass, because they would be sitting in shattered glass all over the place by the time this campaign is over. The issue you started on, you stopped. You did not tell the whole story. "60 Minutes" said, okay, so there is nothing going on in the Cayman Islands. Where is this being run from? Then they get a letter from Halliburton that says, well, the Cayman Islands subsidiaries actually run out of Dubai. So they get on a plane, they fly to Dubai, and they learn that this office shares office space and phone and fax lines with a division of the U.S. parent company which raises all kinds of questions about how independent is that. You put that there with the statement that the Vice President made, "I have a firm policy that I wouldn't do anything in Iraq even in arrangements that were supposedly legal. We've not done any business in Iraq since the sanctions were imposed and I have a standing policy that I wouldn't do that."

That is a quote from 8/27/2000. This is while he is in the middle of the campaign. This is the man who wants to run on his integrity. According to oil industry executives, this is from The Washington Post. That is a minor newspaper that has a little something to say about what is going on in this town. According to oil industry executives and confidential U.N. records, however, Halliburton held stakes in two firms that signed contracts to sell more than $73 million in oil production equipment and spare parts in Iraq while CHENEY was chairman and the chief executive of the Dallas-based company. Two former senior executives say that, as far as they know, there is no policy against doing business with Iraq.

You tell me that a company that is running a billion dollar operation has people who are executives and do not know that there are sanctions on Iraq? How bald can you be in what you are willing to say, whether it has any connection to what the facts are or not? Those Halliburton subsidiaries joined dozens of American and foreign-owned supply companies that helped Iraq increase its crude oil exports from 4 billion in 1997 to 18 billion in 2000.

□ 1830

The Vice President made a flat statement, I have a firm policy I would not do anything in Iraq. Meanwhile his company is helping Iraq quadruple its export of oil. This is the man whose integrity really runs deep, and he says I have nothing to hide or anything, but when it comes to meetings that they had in the White House on developing an energy policy, closed meetings, only invited the industry in, and they are developing the energy policy for the United States of America, a country that is addicted to oil, and when the Congress says we would like to see what those papers are that you did in there, he says, oh, no, that is executive privilege, I cannot show you what we are doing.

They took us to war, at least in part, on the basis of oil and the United States wanting to control oil. All we have to do is look at the machinations of Unical bringing a pipeline down through Afghanistan and then putting Hamid Karzai as the President who was, imagine that, an old Unical guy. He made $600,000 off Unical. And then we go over to Iraq and we see all the machinations there, and here is Halliburton in there, in the oil business, before the war started. And then we have the audacity to be told sitting in this room that there is an axis of evil out there, Iraq, Iran, and North Korea, and the very people sitting here have been doing business with Iraq and Iran.

Tell me about integrity. How are the American people going to believe any of that stuff? Still drawing pay from them, sitting in this room, occupying a seat of honor and importance, and doing business with the axis of evil. This is the man who says, I want to run on integrity.

And then just to complicate it further, the court case to try to get those reports away from him goes up to the Supreme Court. So he calls up his friend over at the court, Justice Scalia, and says, hey, how would you like to go duck hunting? Come on over and get over on Air Force II, and we will fly down to Louisiana. I have got a place down there, and I will put you up for the weekend, and we can shoot ducks.

Now, how can anybody have any belief in integrity when people stand up there and say there is not an appearance of impropriety with the Vice President, with a case before the Supreme Court, taking one of the Justices down on a private hunting trip for the weekend? What do my colleagues think they talked about, ducks? Maybe. Maybe they talked about the New Orleans Saints, or Mardi Gras is coming. I am sure business never come up. They spent 3 or 4 days down there, and they never talked about any of the problems that the country faces. Can one imagine that, that the Vice President of the United States and one of the Justices on the Supreme Court would sit and talk about fluff for 4 days and never discuss how this man can have the gall to say I want to run on integrity when he makes these kinds of flat statements?

The whole career, the whole business of the issue, if we could ever get an investigation in the House into what went on in giving us the information about weapons of mass destruction, we will find his fingers all over it from trips he made out to Langley to the CIA, and then everybody stands around and says we were misled. We were given all this bad information. Come on, give me a break. You are big boys, and you cannot have it both ways. You cannot talk out of both sides of your mouth.

Ultimately the people will figure it out. Abraham Lincoln said, "You can fool some of the people all of the time and all of the people some of the time, but you cannot fool all of the people all of the time." The end is coming for this integrity of the oil destiny.

I yield back and thank the gentleman for giving me a chance to talk about the Vice President.

Mr. PALLONE. Mr. Speaker, I appreciate what the gentleman said. And sometimes I think that we forget that not only these abuses are going on, but the circumstances in which they are going on, and all this money is being wasted.

And there was an editorial in the New York Times, I guess, January 30, and I am not going to read it all, but just the end. The whole thing was about Halliburton and all their abuses, and they wanted to remind us, and I would like to remind us, just by quoting a couple of sentences, "The United States is at war. The government is running deficits. Money is tight everywhere. But Halliburton won't even kick in its fair share. It continues to benefit from the Nation's largesse, while scouring the world for places to shelter as much of its American riches as possible."

It is bad enough that they have a subsidiary that is doing business in Iran and that there are all these overcharges and abuses, but keep in mind that this is happening while we are at war, the government is running record deficits, and money is tight, and things that we really need to spend Federal dollars on cannot be provided for, and in the middle of this they are involved in all this abuse.

I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY), who has been down here many times to address this same issue.

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for allowing me to share my thoughts on this.

I wanted to begin with something that may seem a little bit off point. I just returned from the White House meeting along with the Congressional Black Caucus that was kind enough to let me come along, in a meeting with Secretary of State Colin Powell and Condoleezza Rice and the President, and we were talking about the crisis in Haiti right now. And one of the reasons now given for our going to Iraq was to liberate Iraq, to bring democracy to Iraq. And we stand here right now at a moment when violence and thugs and M–16s are moving toward the palace of the democratically elected President of Haiti, Mr. Aristide, and there seems to be a reluctance for the United States now to get involved in saving a democracy.

Whatever one thinks of Mr. Aristide, some of us do not like some of the things the President does, or we are talking about the Vice President tonight, but we are going to wait until November, until there is another election. We are not even so sure about the last election. They talk about some irregularities in the Haitian election in 2000. We think there were some here, too, but we do not do anything. And I got to thinking that what if there was some oil in Haiti? Maybe there would be a little more interest on the part of the United States in really doing something.

Our hope is that the President understands, and I know he understands, but that in the light of there being an imminent bloodbath in Haiti, that the United States takes some action. It would be pretty ironic if we were trying to bring democracy to Iraq and yet we let democracy crumble in Haiti.

Let me get back to the point. I have been watching these ads on television that Halliburton has been putting on. They are pretty glossy ads, and they show soldiers, handsome young men and women, getting meals that Halliburton says that it is providing to our soldiers; and says that Halliburton has been doing all this great work, and I am sure that over the years they can proudly point to some of their accomplishments. But they are bragging about meals right now, and what we have found out now is that, yes, they provide meals, but they have also been charging for three times as many meals as were actually served in a major Army facility in Kuwait, that American taxpayers are paying millions and millions of dollars to Halliburton for meals that simply never got served. Whoops, a little mistake. Or is it just a mistake?

Maybe the gentleman has referred to it already, and he can stop me if he has, but the gentleman from California (Mr. WAXMAN) has been doing a wonderful job in calling for investigations of these overspendings on behalf of the American taxpayers. We should not be paying 1 cent more than we need to be spending, particularly in a war that, in my view, we should not have been involved in in the first place. But there we are, and Halliburton is there, too.

So he, along with the distinguished gentleman from Michigan (Mr. DINGELL), sent a letter on February 12 to the Director of the Defense Contract Audit Agency asking them to look into some of the problems based on information that was provided to them by whistleblowers. It is not always so easy to be a whistleblower, to stand up and risk one's job and sometimes risk all kinds of retribution to tell what is really going on.

Halliburton deserves scrutiny. They were awarded in 2001 a global logistics contract worth about $3.7 billion, 90 percent of this total value for work in Iraq, and here is what these whistleblowers are saying that Halliburton is doing: that they are engaging in these improper practices, telling employees that price does not matter. This is from the letter: "High-level Halliburton officials frequently told employees that the high prices charged by vendors were not a problem because the U.S. Government would reimburse Halliburton's costs and then pay Halliburton an additional fee. One whistleblower said that a Halliburton motto was 'Don't worry about price. It's cost-plus,'" which means they not only get their costs, but, on top of that, some profit. So do not worry about it.

"Wasteful spending: Ordinary vehicles were leased for $7,500 a month. Higher prices than necessary were paid for furniture and cellular phone service. Poor quality mobile homes were purchased and accepted even though much better units were available. Under Halliburton's cost-plus contract, all of these wasteful expenditures were passed on to the taxpayer. The company even sought to order embroidered towels at a cost of $7.50 each when ordinarily towels would have cost about one-third of the price."

Those of us who are involved in decorating our homes, maybe once in a while we are going to splurge on an embroidered towel. I do not think that we need to do that when we are trying to be cost-effective in a war in Iraq and have a little money left over to help some people at home.

"Avoiding competition among vendors: Halliburton's objective was to keep as many purchase orders as possible below $2,500 in value . . ." Because they are being frugal? No. The letter goes on to say: " . . . so its buyers could avoid the requirement to solicit quotes from more than one vendor. Instead of having multiple vendors submit competitive quotes for needed materials and selecting the lowest quote, Halliburton frequently sought only one quote from a single vendor."

"Inviting unjustifiably high quotes: It was routine for Halliburton buyers to copy a requisition, hand it to a single Kuwaiti vendor, and tell the vendor to submit any quote below $2,500 the next day. The focus was not on obtaining a reasonable price."

And there is a lot more in this letter, but in the summary here, it says, "Relying on an inadequate list of preferred vendors: Halliburton's supervisors provided buyers with a list of preferred Kuwaiti vendors. Many of the preferred firms were unreliable or charged 'outrageous' prices. Supervisors did not encourage buyers to identify alternative vendors and, in some cases, wanted to use a higher-priced vendor on the preferred list rather than a new, cheaper vendor.

"According to the whistleblowers, improved business practices would yield significant savings."

And they talk about "Mr. Bunting," one of the whistleblowers, "estimated that competition could reduce costs by up to 15 percent. The former procurement supervisor explained that when he obtained three quotes instead of just one, he typically saved up to 30 percent." So we are paying top dollar, unnecessarily high prices.

And just what is this company and its relationship to the Vice President?

Because that is what we are talking about here today. The integrity of this administration is in question.

□ 1845

And when Mr. CHENEY says in 2000, July of 2000, before the election, said, "What I will have to do, assuming we are successful in the election, is divest myself, sell any remaining shares that I have in the company," the fact is a congressional report found that Mr. CHENEY still owns more than 433,000 Halliburton stock options, including 100,000 shares at $54.50 per share, 33,333 shares at $28.00, and 300,000 shares at $39.50. That is from CNN in September of 2003.

Then he says in January of this year, "I severed my ties with Halliburton when I became a candidate for Vice President in August of 2000." I do not know what "severed" means. I clearly do not understand the meaning of the word "severed," because, to me, this is a pretty good and lucrative tie. "Along with 433,000 stock options," and this is a quote from CNN, "CHENEY still receives about $150,000 a year" from Halliburton.

I would like people I may have severed ties from to have that kind of deal. Severed to me means no, I do not get any money, but that is clearly not the definition of the word to Mr. CHENEY.

So I think, look, there are just so many questions here, and I do not know if this issue would even come up so much if we could count on this company spending taxpayer dollars in the way that they should be spent. But it is not one issue, it is not two issues, it is time after time after time. Every time the light is shined on what Halliburton has done, we find taxpayer dollars that are being wasted there. We cannot afford to do that. The Vice President of the United States should take some responsibility for that. It is a company he was CEO of. This is a company he continues to gain benefits from, and I think it really does raise a matter of where does the buck stop, where is the responsibility and the accountability, and, fundamentally, it raises questions of integrity, of ethics.

So I appreciate the gentleman letting me raise the issues.

Mr. PALLONE. Mr. Speaker, I appreciate the gentlewoman coming down tonight to talk about this. I know she has done it before. Particularly when she raises the issues of the ads Halliburton is running. I have seen some of them, but I forgot about the fact in the middle of all this, they are spending money to basically tell people how wonderful they are while an investigation is going on. The bottom line is the Pentagon now is actually finally conducting an investigation. What you and I have said is we should have hearings here in the Congress.

I go back again to that New York Times editorial that I mentioned before that says keep in mind that while Halliburton commits all these abuses, the United States is at war. I cannot imagine that if this was World War II or another major conflict, but I will use World War II as an example, it is what we call war profiteering, and anyone who was associated with that, we have seen the old movies where there is an old World War II movie where they picture the war profiteers. They are the enemies of the State. They are like no different in the public's mind than Nazi Germany or the countries that were fighting the United States, because they were making a profit at the expense of the taxpayers during a time of war.

So, given the fact that all this has been exposed, and we do not have to go through the facts again, but everyone in the kickbacks on the contract work, which Halliburton actually admitted, the overcharging for the meals, the fact that you have the subsidiary and the questionable aspect that was brought up in 60 Minutes, why in the world are the Republicans not having hearings, bringing out how the United States might be wasting billions of dollars in a time of war?

I do not even have to add the deficit and the spending that we might want to see on other things more important for the average citizen. Just the fact this is happening at a time of war and this company may be making a profit on the war, it is just incredible to me.

All we are asking is that our Republican colleagues in control of the House have some sort of hearings and bring this up. That is all that you mentioned in the letter from our colleagues on our committee, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN), want. That is all they are asking be done, and still the Republicans refuse to do it.

We are just going to come down here and continue to come down here until some effort is made by the majority party to have hearings and to have some accountability. We just cannot keep bleeding with all this money that is going into this company. It just does not make any sense.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BISHOP of Utah). The Chair would remind Members that it is not in order in debate to directly accuse the President or the Vice President of lacking integrity or of "speaking out of both sides of their mouth."

GREAT WORK BEING DONE BY 10TH MOUNTAIN DIVISION, FORT DRUM, NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, we have certainly heard a lot of information here this evening. Of course, both sides in this House have not only the right, they have the obligation to speak out when they believe that things are not right. It is an election season, and we are hearing a lot of political discourse and rhetoric. We hear a lot of it from the Presidential campaign trail. While it is their right and while it is their obligation, we all know, we should know, that words have consequences, and the words spoken here in this House do resonate across the country.

I would never question anyone's motives or patriotism, but, at the same time, Mr. Speaker, I just cannot help but point out, last week I traveled to the countries of Iraq and Afghanistan, it was my second trip to Iraq, my first trip ever to the country of Afghanistan, and had a chance to see what was happening there on the ground.

Mr. Speaker, we hear about Afghanistan and Iraq and the capture of Saddam Hussein in December. In an effort, I guess, to minimize the importance of that, and let me say that was important and we are safer because that man is in custody, but in an effort to minimize the importance of that significant event, we heard rhetoric that, well, it does not really matter, because we should not have been in Iraq in the first place, we had not finished the job in Afghanistan.

Mr. Speaker, I want to take a minute tonight and talk about what I saw going on in the country of Afghanistan, and I wanted to talk about the great work that is being done by the 10th Mountain Division out of Fort Drum, New York.

Mr. Speaker, General Austin in Afghanistan with the 10th Mountain Division spoke to us, and as part of his briefing he shared with us a picture, and the picture was so dramatic that I wanted to share it with this House, and, in fact, I wanted to share it with the country.

Mr. Speaker, this is a picture of what our guys in Afghanistan are doing to end the war on terror in that country, to reclaim that country for its people, and, in the end, to make us safer here at home.

Here you see some of our young soldiers. Here is a man, and I do not remember whether he was Taliban or al Qaeda, but he lived in a house on a steep mountainside. He thought he was relatively immune from prosecution in that perch because he could see anyone coming up the hillside to apprehend him. So he was sitting by his campfire one morning taking his morning meal, and this very large helicopter, half of it landed on his roof, and he was apprehended by our forces. You see him being loaded in the back of the helicopter to come and face whatever charges were brought against him.

Mr. Speaker, this is a dramatic, dramatic photo showing what lengths our fighting men and women will go to in order to end the conflict in Afghanistan, and I believe they are well on the way to ending that. In fact, Mr. Speaker, I would go so far as to say as soon as the snow melts out of the passes in those mountains on the border area between Afghanistan and Pakistan, we are very likely to see the very beginning of the end for those groups who mean to harm our troops and innocent Afghani citizens and those individuals who want to prevent the return of civil society to Afghanistan.

So, Mr. Speaker, I know it is a little bit off the point of what we have just been hearing, but, in fact, there are some good things going on in the world. Our troops are doing a masterful job on the ground, both in Iraq and Afghanistan. I am proud of them. I am proud of our country.

Just for the record, Mr. Speaker, I was over there, but I did not consume any meals, so we will not have to reimburse the people for those.

But, once again, I wanted to point out just the dramatic aspect of that photo. Think of the risk that pilot is taking in order to apprehend that individual and bring him to justice, the loadmaster in the back of that craft that essentially landed the helicopter on that man's roof. You can imagine the surprise of that individual as he was brought into United States custody.

IMPORTANCE OF SERVICE ECONOMY IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. DREIER) is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, I do not normally use this forum of Special Orders to address our colleagues, but tonight I want to spend some time talking about a very important issue. I want to talk about hamburger-flipping jobs. Actually, I want to talk about the claim made by some politicians and pundits that the American economy is turning into an economy of hamburger-flipping jobs.

Now, we all know that hamburger-flipping jobs is a buzzword. It is a phrase intended to sum up a lot of complex changes that are going on in the American economy. Obviously those changes are impacting jobs. They are impacting businesses, they are impacting families, and they are impacting communities. Talking about hamburger-flipping jobs is a way to say that our economy is in decline. It says we are losing, quote/unquote, good jobs, and in their place we are creating bad jobs, second-rate jobs, no-future jobs.

Sometimes the same people talk about dishwashing jobs, or janitor jobs, or retail jobs, especially at Wal-Mart or Target or K-Mart. People use buzzwords because they reduce complicated ideas to a simple digestible package, and in this case we are talking about a whole host of very complex economic trends.

It is no surprise that people turn to buzzwords. We no longer have to worry about viewers nodding off to sleep during long-winded speeches. They have 200 cable channels from which to choose, and obviously the unlimited Internet, so they can clearly move on for seconds.

But, Mr. Speaker, I hope that our colleagues will bear with me as I go through this, because I think it is absolutely critical to dispel the utterly ridiculous, factually inaccurate, completely fictitious assertion that the American economy is heading downhill and that we are replacing good jobs with hamburger-flipping jobs.

Exposing the charade of the hamburger-flipping jobs argument is absolutely critical, because these buzzwords are at the heart of a concerted attack on the fundamental basis, Mr. Speaker, of our economic strength, an attack on the fundamental basis of America's economic strength.

There are serious people who want to turn back the clock on our economy, threatening very real gains that have been made by millions and millions of American families.

Now, it is buzzword time again, Mr. Speaker. Talking about hamburger-flipping jobs is a way to demean our, quote/unquote, service economy. What do we mean by service economy? We do have an economy that is increasingly based on services, that is true. That means jobs that serve people, serving people well, customers, clients, taxpayers, patients and students. This new service economy is, I believe, a good thing. But as I have said, this is a very complicated subject. It is big.

When we talk about the U.S. economy today, we are talking about an $11 trillion economy, and that is just in 1 year, Mr. Speaker. The forces, changes, trends and technologies that are in play here are global, so the impact is even greater than our Nation's $11 trillion economy, and the changes run deep. We need to look at changes that have impacted our country and our economy over the last century, and particularly over the last two decades, the last 20 years. These changes over the last two decades are key to this story.

The hamburger-flipping jobs argument is basically a way of saying that the changes in our economy mean things are getting worse or will get worse for most Americans. But in fact, Mr. Speaker, things are getting much better, and they promise to get even better for America in the future.

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This is an economy that is increasingly based on skilled workers. We do have a more global economy with complex business, trade, transportation, communications, and cultural links. We have new technologies making their way into so many aspects of our lives, and mostly in ways that are very, very good. By and large, these forces are working together in ways that are making the American economy work better in 2004 than it did 2 decades ago back in 1984.

Now, I am using the term "economy" in the broadest sense, because each of these factors, services, skilled workers, globalization, trade, transportation, communications, and technology, is dramatically changing the way Americans do the things that make up our lives: work, shop, go to school, go to the doctor, be entertained, and have fun. In short, the people who claim that we are creating a hamburger-flipping jobs economy are asking us to turn back the clock on the past 20 years of change.

Now, every change has not been good, obviously, and even the good changes that we have undergone on an overall basis have not been good for everyone. But I think we are clearly on the path to a better future, and dramatic course changes at this point could be very, very bad; would, in fact, I believe, be very bad for Americans.

Now, Mr. Speaker, we have been talking about 20 years of change. I have not been talking about it just by accident. In fact, one of the reasons why I am here is that I believe we are now 20 years into a profound and dramatic period of economic change in America. One of the most striking things about the hamburger-flipping jobs buzzword is all the concepts it embodies. Those concepts have been around for a long time. It is basically a political and economic urban myth listening to that term: hamburger-flipping jobs.

When I listen to different politicians talk about hamburger-flipping jobs and what they see as a declining economy, I swear that I have had a flashback to 1984. The spirit of the rhetoric, the basis of the ideas, the sense of foreboding, and being on the wrong economic track reminds me of Walter Mondale's run for President in 1984. Now, I have recently gotten my hands on his nomination speech before the Democratic Convention in that year.

It is a remarkable read, Mr. Speaker, and not because it stirs the soul. It is remarkable to see in such explicit detail the platform on which Mr. Mondale ran for President back in 1984. He said that taxes were too low, the deficit was going to destroy our economy, we needed to adopt a nuclear freeze and negotiate annually with the Soviet Union. These were the big issues of his campaign back in 1984; and as we all know, he was, thank God, trounced by Ronald Reagan. Walter Mondale did not actually use the term "hamburger-flipping jobs," but he said a few things that show that in 1984, the Democratic Party standard was firmly entrenched, deeply tied to that intellectual camp believing that hamburger-flipping jobs as a pejorative were the wave of the future.

Speaking of the Reagan administration, the candidate Walter Mondale said, "They crimped our future. They let us be routed in international competition, and now the help wanted ads are full of listings for executives and for dish washers, but not much in between." He did not quite say hamburger-flipping jobs, Mr. Speaker, but there it is, the claim that most of the jobs that were being created were for dish washers.

He went on to say, "When the American economy leads the world, jobs are here, the prosperity is here for our children. But that is not what is happening today. This is the worst trade year in American history. Three million of our best jobs have gone overseas."

Again, that is Walter Mondale talking in 1984 about where we stood. He said, "It has been devastating, the worst trade year in American history. Three million of our best jobs have gone overseas."

And as if Walter Mondale had a vision of 2004 and the fact that leading American companies are investing in facilities in places like China, India, Europe, and Mexico, creating new jobs in those new countries, Mondale said, "To big companies that send our jobs overseas, my message is, we need those jobs here at home, and our country won't help your business unless your business helps our country." That was Walter Mondale in 1984. Now, this certainly sounds a lot like the political rhetoric regarding Benedict Arnold CEOs that we hear today.

We also did some research, Mr. Speaker, to find the earliest reference that we could come up with to the term hamburger-flipping jobs, and lo and behold it was in 1984. We found an article in the New York Times that was basically about this very same issue: the concern that good American manufacturing jobs were disappearing, often moving overseas and being replaced by low-paying service jobs, the dreaded hamburger-flipping jobs. At this point, Mr. Speaker, I would include in the Record an article in the New York Times which I am going to talk about.

[From the New York Times, Sept. 4, 1984]

"High Tech," Narrated by Walter Cronkite

(By Steven Greenhouse)

It is late afternoon at the Fanuc Limited factory at the foot of Mount Fuji in Japan, and not a worker is in sight—not a human one at least. The huge metallic arm of a robot swivels around and places a small mechanical part into the machine it is building. In this way, Fanuc's robot-filled, computer-controlled factory can run eight-hour shifts without anyone working inside.

That's the haunting opening scene from the probing hour-long CBS documentary, "High Tech: Dream or Nightmare?" which is to be aired tonight at 8. In narrating this timely documentary, Walter Cronkite makes clear that these 21st-century manufacturing techniques are a boon to productivity. With robots replacing people, there's little need to worry about absenteeism, alcoholism, strikes, shoddy workmanship or overtime pay.

However, Mr. Cronkite questions just how good this brave new manufacturing world is for the nation's workers. By forcing dozens of aging factories to be closed and thousands of workers to be thrown out of their jobs, robots and other high-tech production techniques have created what Mr. Cronkite called "the blue-collar blues." Indeed, one expert interviewed predicts that technological change alone will cause a shortfall of six million jobs for American workers by 1990.

The show addresses several of the key issues facing the United States as it embarks upon another industrial revolution: What is going to happen to the hundreds of thousands of workers whose jobs are taken away by machines? By destroying many high-paying factory jobs, are high-tech production techniques going to turn the United States into a nation of $50,000-a-year systems managers and $3.50-an-hour janitors and hamburger flippers? In other words, is high tech going to polarize the United States and cause its great middle class to disappear?

Mr. Cronkite also examines an important corollary economic question: How healthy is the nation's shift from a manufacturing economy to a service one? He asks whether this shift is going on faster than it naturally would—or should—as a result of imports from countries that heavily subsidize their industries or pay one-tenth the wages of what American companies pay. The cameras also look at the unevenness of the nation's recovery. Thriving Silicon Valley is contrasted with ailing Rust Bowl cities like Cleveland and Youngstown, Ohio, which one expert described as "Manufacturing Appalachias."

Mr. Cronkite interviews Lee A. Iacocca, Chrysler's dynamic chairman, who says the nation should be doing more to preserve its ailing manufacturing base. "You can't just have video arcades and drive-in banks and hamburger joints," Mr. Iacocca says.

None of the workers or economists interviewed takes a Luddite view suggesting that high tech be scrapped because it throws workers out of jobs. But they caution that unions may vigorously oppose the introduction of robots—Mr. Cronkite calls them "steel-collar workers"—if blue-collar workers are merely victims of high-tech, if they do not share in the benefits resulting from high-tech's more efficient production techniques.

"I think the real issue is the social cost of the change—who pays for it, how it's paid," said Harley Shaiken, a technology expert at Massachusetts Institute of Technology.

Mr. Iacocca suggests that government, labor and management should undertake a massive retraining program to salvage the lives of 45-year-old workers laid off at Youngstown's steel mills and Detroit's assembly plants. Mr. Shaiken proposes government assistance to help the jobless move to areas where jobs are abundant. And Thomas R. Donahue, the secretary-treasurer of the A.F.L.-C.I.O., suggests a shorter work week to help spread the jobs that remain.

The documentary is more cerebral, more theoretical than most. It is long on interviews—most of them excellent—with experts such as economists, corporate executives and robotics pioneers. At the same time, the show is short on interviews with workers whose lives have been turned topsy-turvy by technology. One or two detailed interviews with these victims of technology would have made the show more compelling.

The documentary is at its most interesting when is shows how the antiseptic new high-tech factories operate. An enjoyable and informative takeoff on Chaplin's "Modern Times" was a speeded-up sequence showing the construction of a jumbo jet in Boeing's highly automated factory.

The camera work in that sequence and many others is superb. By zooming in on computer screens, for example, the photographer helps make some of these difficult new technologies comprehensible. In addition, the camera conveys the eerie, often alienating qualities of these technologies.

At the program's conclusion, Mr. Cronkite asks what is going to happen to the workers of the 1990's—that is to say, to children now in school. He wonders whether high tech will provide enough jobs to match what will presumably be their impressive skills and education. That, however, may be the stuff of another documentary.

Mr. Speaker, the article that I talk about is a news analysis of the probing hour-long PBS documentary that was entitled "High-Tech: Dream or Nightmare?" Again, this is back in 1984. It was an article about a television documentary by then the Nation's leading TV personality, Walter Cronkite. Remember, this was 20 years ago, 1984, the very early days of cable, before satellite television. The networks were really king and spoke to a majority of the American people.

The New York Times describes the haunting opening scene of the documentary: a robot-filled, computer-controlled Japanese factory. No human workers in sight. The article reads, "Walter Cronkite makes clear that these 21st century manufacturing techniques are a boon to productivity.

"However, Mr. Cronkite questions just how good this brave new manufacturing world is for our Nation's workers. By forcing dozens of aging factories to be closed and thousands of workers to be thrown out of their jobs, robots and other high-tech production techniques have created what Mr. Cronkite called 'the blue-collar blues.' Indeed, one expert interviewed predicts that technological change alone will cause a shortfall of 6 million jobs for American workers by 1990."

Again, this was a New York Times piece in 1984 giving an account of the Walter Cronkite documentary.

It goes on to ask, "What is going to happen to the hundreds of thousands of workers whose jobs are taken away by machines? By destroying many high-paying factory jobs, are high-tech production techniques going to turn the United States into a Nation of $50,000-a-year systems managers and $3.50 an hour janitors" and, yes, Mr. Speaker, "hamburger-flippers?" As I have said, hamburger-flippers is the buzzword for the very, very negative service economy, and we see it used that way back there in 1984.

I quote again, Mr. Speaker: "Mr. Cronkite also examines an important corollary economic question: How healthy is the Nation's shift from a manufacturing economy to a service one?" Again, that is 1984, the New York Times reporting on the Walter Cronkite documentary.

Now, Mr. Speaker, Lee Iacocca, referred to in this article as Chrysler's dynamic chairman, was always better at turning a phrase than most. He argued in the piece that the country needed to protect its manufacturing base saying, "You can't just have video arcades and drive-in banks and hamburger joints."

That kind of argument, Mr. Speaker, has a timeless feel to it. We heard a lot of it in 2003, and we will continue to hear a lot of it in 2004. It is just so amazing that we go back and hear the exact same thing having been said 20 years ago.

I believe that stepping back and looking at this issue over a longer time frame like this 20 years is actually very important for us to understand just how mistaken and how really dangerous the hamburger-flipping analysis that was offered in 1984 and is being offered in 2004 is, and that Cronkite documentary and the New York Times were right when they said massive changes were under way in America. The U.S. was entering a period of profound economic and technological change. To say it was the dawn of a new industrial revolution probably is not the best choice of words, because the fundamental change in the economy was the shift from the heavy industry-based economy of the middle 20th century to the more technologically and skill-based new economy of these past 20 years, from 1984 to 2004.

It is not easy to describe the new economy, Mr. Speaker; but some aspects are very clear. It used more communication technologies to connect people from all corners of the world. Information technology, digital technology, and the Internet exploded during that 20-year period. It was faster. Business adopted just-in-time production schedules that relied on very precise planning and transportation models, and there was a lot of change. That was true for business, and it was true for people as well.

I want to focus on this last concept first, namely, change. The new economy, some call it the service economy, but I think a better name for it is the 21st century economy. It meant a lot of change, and change that has happened very quickly. To give an example, the pace of economic change in the past 20 years compared to the preceding era of economic stability, which I would say ended up in a period of stagnation; I looked at the list of companies in the Dow Jones industrial average. The Dow Jones has compiled an average of the stock prices of a select handful of the Nation's leading businesses since 1884, and it is intended to reflect the market generally, the Dow 30. Now, from 1963 to 1983, the Dow Jones average included 30 companies. Over those 20 years, 26 of the 30 companies were the exact same. Only four dropped off and were replaced by new companies. Now, that is obviously stability that we saw from 1963 to 1983; and for the most part, during that period of time it was good, it was comfortable, and it was stable.

The 26 companies, Mr. Speaker, that stayed the same through the entire 20-year period are Allied Chemical, Aluminum Company of America, American Can, AT&T, American Tobacco, Bethlehem Steel, DuPont, Eastman Kodak, Exxon, General Electric, General Foods, General Motors, Goodyear, Inco, International Harvester, International Paper Company, Proctor and Gamble, Owens-Illinois Glass, Sears Roebuck, Standard Oil of California, Texaco, Union Carbide, United Technologies, U.S. Steel, Westinghouse, and Woolworth. Those were 26 of the 30 companies that remained constant during that 2-decade period from 1963 to 1983. Of course, by the mid 1970s, the economy was not performing well, to say the least. I will discuss that more later. But as I said, the line between comfortable stability and very uncomfortable stagnation can be quite thin.

Looking at the Dow Jones Industrial Average over the period of transition into this 21st century economy, that is, the past 20 years, shows a very, very different picture. From 1984 to 2004, there was a remarkable turnover of 16 new corporate faces among the 30 included in the Dow Jones Industrial Average, those 30 businesses. Today, the Dow Jones Industrial Average's 30 includes the following companies: 3M, Alcoa, Altria Group, American Express, AT&T, Boeing, Caterpillar, Citigroup, CocaCola, DuPont, Eastman Kodak, Exxon, Mobile, General Electric, General Motors, Hewlett-Packard, Home Depot, Honeywell, Intel, IBM, International Paper, Johnson & Johnson, J.P. Morgan Chase, McDonald's, Merck, Microsoft, Proctor and Gamble, SBC Communications, United Technologies, Wal-Mart, and Disney.

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The new companies read like a Who's Who of the economy of today, including Boeing, Citigroup, Hewlett-Packard, Home Depot, Intel, Johnson and Johnson, JP Morgan, Microsoft, SBC, Wal-Mart and Disney.

This list may be the most succinct way to respond to the hamburger flipping jobs argument, Mr. Speaker. The new economy, the service economy, the 21st century economy, the changes in the American economy over the past 20 years have seen the rise of these new corporate giants and the industries and technologies they represent. They represent the revolution in computer software and hardware, the revolution in telecommunications, the revolution in global finance, the global entertainment business, the revolution in retail, distribution and supply management. They are now key faces in the American economy.

Those companies that survived, those that were there throughout the last 20 years, like AT&T, General Electric, General Motors, Eastman Kodak, Exxon, IBM and Proctor & Gamble, all adopted those same technologies and techniques to make themselves 21st century economy leaders. In other words, change swept through those companies even when the names stay the same.

Change is scary, I will acknowledge that, Mr. Speaker. It is scary for businesses, and businesses are not actually alive. Businesses are really just organizations of people, and we all know that change is scary for people. Change often leads to uncertainty and confusion, at least temporarily, and even when it is not affecting some directly, it does create anxiety. No doubt about it, the 21st century economy has brought change and anxiety.

Tracking the early history of the hamburger flipping job political urban myth, I came across another absolutely striking article from the New York Times. This article was just 2 years after the previous one that I mentioned. This one was written in 1986. In terms of our 20-year time frame, this was still basically the start of this process of moving towards the 21st century economy.

The article is entitled The Average Guy Takes It on the Chin. It is by Steven Greenhouse. He authored the article that I quoted from earlier about Walter Cronkite's documentary, and it is a rhetorical precursor to the message of the two Americas that we are hearing about today in this Presidential campaign.

This article from 1986 begins: "For millions of breadwinners, the American dream is becoming the impossible dream. Even the most basic tenet of the dream, that a young family will be more prosperous in its middle age, has grown more elusive. The statistics tell the harsh story of Americans struggling just to stay in place economically."

Obviously this was not a good news piece written back in 1986. It tells the story, which was very real in that year, of the economic stagnation that struck this country in the 1970s, which culminated with the wrenching economic downturn that we saw in the early 1980s. Well, the economy began to grow in 1983. It was entering the period of profound change that I have talked about, and the eventual outcomes were not clear obviously at that point.

Frank S. Levy, a professor of public policy at the University of Maryland, is quoted as saying, "From the end of World War II to 1973, everybody was getting better off, but from 1973 through now," that was 1986, "that has stopped," he said.

The article goes on to say, "Economists generally agree that the only way workers can manage to make substantial strides in real earnings during the years ahead is through steady and strong productivity growth, which very few economists are predicting now."

And it says, "Many economists point out that other countries such as Japan and West Germany have achieved higher growth in productivity. Some even suggest that the United States may be starting to undergo the same wrenching economic decline that the British have experienced in recent decades."

Now, remember again, this was written in 1986, Mr. Speaker.

I mention that quote because at the beginning of this past 20 years, there was a very real concern, fear some would say, that foreign countries like Japan and West Germany were more productive and were more successful. They would dominate the 21st century economy. In fact, many here in this Congress at that time, I remember very vividly standing here listening to those who would argue that we had to model the U.S. economy after the economies of Japan and Germany, their industrial planning models.

Now, Mr. Speaker, of course, jobs are key, and the prospect that they will be scarce does breed anxiety. Again, this 1986 New York Times article goes on to say, "As young workers enter the job market, many can find only low-paid jobs in the service sector." It goes on to quote Sandra Shaber of Chase Econometrics who said, "For every 25-year-old I read about making $300,000 on Wall Street, there are hundreds of 25-year-olds working as fast-food people or hospital orderlies earning $3.50 an hour."

Now, there it is, Mr. Speaker, the vision of the service economy, meaning one well-paid Wall Street success story and hundreds of 25-year-olds working in fast-food chains and cleaning bedpans.

In my view, the New York Times article obviously failed in predicting the future, but it actually did an excellent job in summarizing the recent economic history up to that point back in 1986. The problem was slow productivity. They were right on target.

The article highlights, "When asked the reason for lagging income growth, economists speak with rare unanimity: Slow productivity is Public Enemy No. 1," these economists said back in 1986. It goes on to quote Audrey Freeman, executive director of the Conference Board. She said, "In the long term, the only way to get wages to increase without inflation is to increase productivity, but we haven't been doing very well in that department." Again, that was said in 1986, portending the future.

The fundamental problem was productivity. They got that right, Mr. Speaker, but the economists in this article got just about everything else dead wrong. Here is what they had to say about the ongoing transition to more services in the economy. They said, "As the Nation's economy moves from manufacturing to services, the productivity problem compounds. It is generally easier to turn out more widgets per hour than to squeeze more hourly output from lawyers, travel agents or hamburger flippers."

Not to belabor the point, but I would quote again from the article, "The experts are not optimistic about the outlook for productivity growth. 'I really don't see productivity growth coming back to the 3 percent levels that we had in the 1950s,' said Douglas P. Handler, a productivity specialist with Wharton Econometrics.' And, 'There is very little on the horizon that would cause us to be optimistic about productivity improvements over the remainder of this decade.'" Again, this was written in 1986, 18 years ago at the beginning of this move that started 20 years ago towards this 21st century economy.

Finally, I cannot pass on the fact that the author goes out of his way to point out that the one group of people that is not able to see how bad things were in the American economy in 1986 were the American people.

In the face of all the economists in the article, the author notes, "Nonetheless, households are stubbornly refusing to change their spending habits. And spirits, despite the grim income statistics, remain high. According to the University of Michigan Survey Research Center, consumer confidence is far higher than it was during the recent times of double-digit inflation, interest rates and unemployment."

Well, Mr. Speaker, this article is a great example of the kind of anxiety about technology replacing jobs and service jobs being bad, foreign countries like Japan being better prepared for the economy of the future than America, and productivity being dead in the water with no hope in sight.

As I said, this article was from 1986, nearly 20 years ago, but if you listen to the political debate today in 2004, you hear many of the exact same themes: Technology threatens jobs, losing jobs to lower-cost foreign competitors. You can almost take every reference to Japan and simply change the country name to China, and you get a tangible sense that the future is not good.

I am not going to go chapter and verse through all the doom and gloom predictions and warnings of those who think that America and its people are actually threatened by the 21st century economy. We do not have the time to do that, and it is obvious to those who have been listening to this national debate over the years, whether the issue was trade with Mexico, the creation of the global trade rules of the WTO, trade with China, or the recent bursting of the Internet bubble.

Instead, let us remember that 20 years is a pretty long time. Yes, we hear many of the same concerns in 2004 that were voiced in the late 1980s, but we can now judge how accurate, how sensible, how thoughtful those concerns were 20 years ago. In fact, I believe that we can look at how things played out over the past 20 years, the dire predictions and the reality, and learn a thing or two about how the similar line of thinking would impact our future going forward.

So did America turn into a Nation of a few $50,000-a-year systems managers and an army of $3.50-an-hour janitors and hamburger flippers, a handful of Wall Street wizards lording it over a middle America of fast-food servers and hospital orderlies? Did the American dream become the impossible dream? Remember, we are no longer in the world of economic or academic theory when we answer these questions. For a moment, we do not need projections from the Conference Board, Chase Econometrics or Wharton Econometrics. We have just lived these 20 years from 1984 to 2004.

Did the American dream die over the last 20 years? For nearly all Americans, nearly all Americans, the answer is a resounding no. Did Japan take over the global economy as was predicted? The answer, an obvious no. Did U.S. jobs decrease? Another obvious no.

Over those 20 years, over those 20 years the U.S. economy put 40 million people to work, and pay was up. Did incomes fall? No. Pay and real incomes increased. As I said earlier, the forces that ended up shaping our economy over those 20 years actually impacted just about every aspect of our lives, your lives, Mr. Speaker. A focus on better services, more skilled workers, more global integration, more international trade, better transportation, revolutions in communications and technology, they impacted every corner of life here in America.

So let us take a moment to take a broader look, step back and think about the big activities in our economy and in your life. Are you consuming more or less? For most people the answer is a lot more, and, remarkably, much of the stuff we buy is relatively less expensive and usually more technologically advanced than it was 20 years ago. Is your television set bigger? Almost certainly. Do you have more choice in what you watch? I am from Los Angeles, so I am biased about the quality, but say what you will about the products of the American entertainment industry, there are many, many more choices available to viewers in 2004 than there were in 1984.

Do you have a computer in your home today, and did you back in 1984? Do you use the Internet? Do you communicate with friends and family over e-mail? Do you go on line to check the weather forecast or movie times, or shop for something that is hard to find, or hear about sales at your favorite stores? You did not do any of those things 20 years ago, Mr. Speaker.

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Did you have a cell phone 20 years ago? Again, this is an easy one. You probably do today, and almost certainly did not 20 years ago. Many millions of Americans feel better because they have their cell phones with them and can contact family and friends in a pinch.

Do you travel more? Fly more? Are you driving a better car than you did in 1984? The answer to all of those questions is almost certainly yes, as automakers have stretched themselves to the brink putting new technologies into cars that get better mileage, break down less, are safer, are environmentally cleaner and are packed with technology. Think about the times you had to take your automobile back to the shop 20 years ago juxtaposed to today. The kind of technology that is packed into the cheapest car in 2004 was considered to be cutting-edge technology in 1984.

Has health care improved? Now, people are concerned about health care costs, obviously. And now is not the time to go into that debate. We talk about it regularly around here. But, clearly, since 1984, the number of new treatments and improvements in new technologies have been staggering. We can and will debate about how to pay for it all, but there is no denying that health care in America has taken a huge leap forward, and I am convinced that we are now on the brink of a new biotechnology revolution.

Is education improving? Again, education is never good enough, but we have made great strides in education since the middle 1980s.

We could go on all day thinking about how things have changed over the last 20 years, but it is clear they have changed a lot. The U.S. economy is turning out bigger, better, and more advanced products and services. There is no question that the doom and gloom predictions of 20 years ago proved to be way off the mark. Contrary to the Mondale prediction of 1984, the U.S. economy did not crash and burn.

So did the service sector slow U.S. productivity growth, as was outlined in that Steven Greenhouse article in the New York Times in 1986? The answer: a resounding no. Did most twenty-somethings end up working in fast food and other low-skilled jobs while a few made it big? The answer is no. Did computers and robots replace millions of workers and leave them unemployed or flipping hamburgers? The answer is no. But that is actually a complicated issue that we need to get into in greater detail.

Now, Mr. Speaker, if we want to know the why behind the fact that 20 years ago there were predictions of doom and gloom and then those 20 years ended up resulting in such great strides, we need to look at the core economic question. That question is: Did American productivity go up? The answer is, yes, it went up dramatically.

In fact, productivity has been going up so rapidly, and we have all heard this recently, some people now think that the problem is not productivity; they think it is now a jobs problem. Remember that scary New York Times piece in 1986? "The Average Guy Takes It on the Chin," was the title of the article. Greenhouse and his gaggle of economists and productivity experts pointed out that increasing productivity was key to the future. They were right in 1986 when they said that productivity was key to the future. The thing they got wrong was their prediction of doom and gloom. They missed the productivity revolution that was emerging then and there right before their eyes.

They predicted the hamburger-flipping jobs future. In 1986, that was excusable, because predicting the future is tough. I know, because I am sorry to say I did not buy Microsoft, Intel, and Cisco stock back in the mid-1980s. But some people still serve up the same ideas that we heard in 1984. It is like they were locked in a time capsule for the past 2 decades and missed the massive economic changes that have occurred.

The fact is, Mr. Speaker, something happened to American businesses on the way to the hamburger-flipping future, or, more accurately, a number of things happened. As I mentioned earlier, American business underwent a revolution in computer software and hardware, a revolution in telecommunications, a revolution in banking and finance, a revolution in transportation and delivery, and a revolution in retail distribution and supply management.

We saw companies like Citigroup, Hewlett-Packard, Home Depot, Intel, Johnson & Johnson, JP Morgan Chase, Microsoft, SBC, Wal-Mart, and Disney become part of the corporate elite. Overnight and express delivery services exploded. The Internet became a place of business with eBay, Yahoo!, Amazon and Google getting started back then.

Just as important as those success stories is the fact that the revolutionary business practices and technologies infiltrated just about every level of American economic life. The corporate dynasties that survived the past 20 years, AT&T, GE, General Motors, Eastman Kodak, Exxon, IBM, and Proctor and Gamble, remade themselves into 21st century economic leaders. American small business remade itself as well. Computers, cell phones, pagers, credit cards and scanners are part of nearly every business in America today, even very small businesses.

Does your dry cleaner take credit cards? Does your auto mechanic have a diagnostic computer to check your car? The buzzwords for business and the economy of the last 20 years are concepts and strategies like supply chain management, just-in-time delivery, distribution centers, information management, customer relations, forecasting and planning. It is about adding value to the raw materials and basic goods.

To businesses, the result was a massive jump in their ability to serve their customers better. And I do not just mean customers like you and me, but business customers too. The ability to harness technologies that improved planning, customer service, and communications created jumps in productivity and efficiency. To customers, whether the customer is General Motors being served by a parts supplier or a family being served by Wal-Mart, the result has been greater choices and lower prices.

I am going to repeat something here: the ability to harness the new technologies, use technologies, those technologies created the increased productivity and efficiency. That is the key here, because machines do not harness technology, Mr. Speaker, people do. And that is why people, millions and millions of smart, skilled, hardworking Americans have been at the heart of the revolution of the 21st century economy.

Again, in our search for a suitable buzzword, the "services economy" really does not do it. It is a "business serving customers economy." Still not catchy, but business serving customers is really more accurate.

We do have a service economy. Providing a service of some kind to someone represents 65 percent of everything produced in America, and those services account for over 80 percent of U.S. jobs. The 20-year-old predictions that the service economy would be based on hamburger-flipping jobs or dish washers, lawn workers, and retail salespeople clearly missed the mark. We have lived through the 20 years creating this 21st century economy. We are in the Internet Age, the 500-channel, 50-inch-TV age, the prices-are-falling-at-Wal-Mart age. This is not the hamburger-flipping economy.

Mr. Speaker, jobs concern people. Mom and pop always want their kids to be able to get a decent job, if for no other reason so that they do not have to keep supporting them. That was at the heart of family anxiety in 1984 and 1986, and that will remain the biggest economic question in 2004 and 2006. And we lived through the Internet bubble in the late 1990s. We know that every boy and girl in America is not going to be a Silicon Valley multimillion dollar entrepreneur or biotechnology engineer. Mom and pop are practical enough to understand that. But that is not the problem. The important question is what are the 21st century economy jobs going to be? What will Jimmy and Nicole be doing in 6 years? The fact is that they, like most American workers, will be in the business of serving someone tomorrow, next year, and in 2010.

Of course there will still be fast-food jobs, retail jobs, lawn care, janitorial, and house-cleaning jobs. There will be construction jobs. There always will be. And as the number of people in America grows, and we are approaching 300 million Americans in this great land of ours, the number of those jobs will grow. But our economy created 40 million new jobs over the past 20 years. Forty million jobs since the birth of the argument that the service economy meant nothing more than hamburger-flipping jobs.

So let us get down to brass tacks. What kinds of jobs are the American people doing in the 21st century economy? And I am going to go through this litany here, Mr. Speaker.

Network and communications administration, business administration and management, computer engineering technology, electronics engineering technology for all the machines that are not computers, health information technology, legal support, accounting, marketing, advertising, customer relations, news and information reporting, tax preparation and planning, highly specialized transportation and delivery, human resources support, pension and benefits management, purchasing and global sourcing, demand forecasting, inventory control, warehousing, and distribution.

Now, Mr. Speaker, these are not CEO jobs. They are not get-rich-quick jobs. But they are good jobs using very valuable skills. They are service jobs that are a part of just about every kind of business in America today. They are not Bill Gates, and they are not hamburger-flipping jobs.

Think about the big and growing sectors of our economy. Think about what you spend your money on, Mr. Speaker: health care; biotechnology and pharmaceuticals; elderly care; education; movies, entertainment and digital gaming; recreation; telecommunications, cable, satellite TV and radio, phones, cellular and wireless networks; fashion; insurance; real estate; autos, maintenance and repair; mass transit; investments, whether you call it the stock market, pensions, or securities. We all know that more than half the American people are members of the investment class, as many as six in 10. Government services, which is, as we all know, almost unimaginably big. Leisure, hospitality, and tourism.

Then there are the businesses that serve other businesses: engineering, environmental protection services and technologies, risk management, export and import financing, express delivery, high-tech manufacturing, and biomedical informatics.

Mr. Speaker, the 21st century economy, the business serving customers economy, is based on all of these things. Not robots, robot technicians, and a bunch of fast-food workers and lawn workers. As we have made the transition of the past 20 years, more than half of all service jobs and a large majority of new service jobs paid above the average wage. And as I said earlier, low-paying hamburger-flipping, retail and janitorial jobs continue to grow as our population grows, but executive and professional jobs are growing much, much faster.

If the American economy of the past 20 years, this new 21st century economy that has revolutionized the way businesses serve their customers, is so great a success, why is any of this an issue? How can somebody in 2004 say that we are becoming an economy of hamburger-flipping jobs and not be ridiculed and laughed off the national stage?

A big part of the answer is that our economy has been undergoing a big long transition, which is the 20-year story, but we live day to day and year to year in an economy where things get better or worse. In economic terms, we have trends, which are the long-term big picture, and cycles, which are shorter term. The trends can last a couple of decades, even the better part of a century. The cycles are business cycles that last a couple of years or maybe one decade.

Most economists, or at least economic historians, would agree that our Nation's economic history has been dominated by the Industrial Revolution and the creation of the global industrial economy. We had a largely agrarian economy when our country was born. America then underwent a long transition, a transformation, really, to being the world's leading heavy industrial economy. That long economic transition took up the bulk of our Nation's history. It was well under way by the 1840s and probably climaxed in the 1960s.

Big historical trends rarely have bright-line starting and stopping points. Politics and history can work that way with elections, assassinations, wars and treaties providing clear historical dates to look back on. Economic change is different, Mr. Speaker. Even big dates, 1929 and the stock market crash or 1930 and the Smoot-Hawley Tariff Act, are really not that significant when looking at big trends. The big economic trends in the first part of our Nation's history was the transition from the agrarian economy to the industrial economy.

☐ 1945

That was a transition that probably took 100 years. There was no single point where 1 day, or 1 year, America had an agrarian economy, and the next year it was industrialized. And single events were not that important. Instead, the spread of increasingly heavy machines, in early factories, railroads, and on farms, were key. And technologies always take time to go from invention to standardization and widespread use.

Mr. Speaker, we are now clearly in the second transition. Heavy industry is no longer the king of the American economy. Instead, businesses, large and small, are harnessing technologies and skilled workers to create an economy based more on providing better service to customers than on the specific product itself. This has been going on for 20 years now. Twenty years happens to coincide with the birth of that political urban myth where everyone ends up with a hamburger flipping job. Over those 20 years, jobs are way up, incomes are way up, and technological improvements are spreading throughout our lives. Very few Americans would take the 1984 life-style outlook that they had over the 2004 life-style, but we have had business cycles over those 20 years as well.

We have had years of booming growth, we have had years of slow growth. We have had two actual recessions when the economy shrank. We have had lean times that did not fit the academic test of a recession, but certainly felt like a weak economy:

In the midst of any one of those lean times, the fact that the economic trend over the previous decade was very good really did not matter much. Things were worse than the year before or the year before that. In addition, during the first part of the current 20-year economic growth trend, time had not passed enough to tell the difference between a trend and a cycle. The start of a trend can look a lot like the upside of a cycle.

The economic slowdown that began in 2000, the final year of the Clinton administration, was clearly the downside of the cycle that began in 1992, the final year of the Presidency of George H.W. Bush. In the past 20 years, we had at least two cycles, one ending in a recession in 1991, and the other in a recession in 2001. We are almost certainly into a third cycle with growth again picking up.

The U.S. economy has been growing strongly for the past 2 years. It grew at a staggering 8.2 percent annual rate in the third quarter of last year, surpassing even the most optimistic projections and marking the strongest pace in nearly two decades, 20 years. Unemployment claims are dropping, and workers' wages and benefits have climbed in recent months. Family incomes are up. Consumer spending is up. Inflation is low. The housing sector has been very strong, and business productivity, as we all know, has been incredibly strong.

At this point in the business cycle, the big economic issue has been jobs. Remember, in the short term, we are coming off of some years like 1999 and 2000 where unemployment reached such low levels that most economists could not imagine numbers so low. In that context when the recession and slowdown in 2001 resulted in 6 percent unemployment, it created real concern, especially among the recently unemployed, and that is understandable.

Politics reacts far more to the short-term cycle than the long-term trend, so it is easy to see why everyone is talking about the struggles of recent years rather than the incredibly good news of the last 20 years. But as we deal with the political realities of the short term, we must not lose sight of the big picture.

The hamburger flipping job argument is not just false, it is actually a dangerous thing. Twenty years ago this kind of rhetoric did not get the chance to hurt our economy because hard-working and innovative Americans kept right on forging new technologies, revolutionizing what businesses do and how they do it, and improving the way Americans go about living their lives.

But today, thanks to the short-term business cycle we are coming out of, the hamburger flipping argument resonates with a lot of people, and it is resulting in some very misguided and dangerous proposals. It is generating calls for protectionism, calls for policies that stifle the very environment that has allowed skilled American workers to harness new technologies and bring about our booming 21st century economy.

Mr. Speaker, attempts to undermine the principles that are the foundation of this economy threaten the progress and prosperity that has come about over these two decades. That is why debunking the hamburger flipping argument once and for all is not just critical to understanding the good news of the last 20 years, it is essential to ensuring that our future remains bright as well.

HAITI NEEDS OUR HELP

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland (Mr. CUMMINGS)?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, Haiti today is facing an economic, political and humanitarian crisis so severe that the United States Government and the United States Congress have no choice but to immediately act. Daily, Haitians are dying as a result of the violence. These deaths are intolerable, and the United States simply cannot sit back and watch a country in our own hemisphere spiral into chaos.

Our government has voiced concern that Haitians, desperate to escape the escalating violence and poverty, will flood American shores. As a matter of fact, Mr. Speaker, just this evening there are reports that boats are coming towards the United States from Haiti filled with people fleeing literally for their lives.

We should be more concerned about the drastic conditions that led to the desperation and hopelessness of these Haitians refugees. The Congressional Black Caucus calls upon the President and the international community to work with the elected leadership in Haiti to bring about an end to the political turbulence and stop the attempted coup d'etat that is mounting in that country.

Mr. Speaker, let me be absolutely clear. It is imperative that the United States involve itself with an international force to create stability in Haiti before more lives are lost. We cannot afford to lose another day or another life due to our inaction. Because of the urgency of the Haitian crisis, my colleagues in the Congressional Black Caucus and I went to the White House and laid out our concerns today before President Bush. I must say, it was a good meeting with the President.

We explained to the President that we were tired of turning on our televisions every day and hearing about the slaughter of Haitian people. We explained to him that we believed with all the sincerity in our hearts that this was an urgent situation, and that the President of the United States was facing a very critical moment in his Presidency, and that he could do so much to turn this situation around.

We explained to him that there are so many people throughout the world who for various reasons had gotten or created within their minds a very negative view about the United States of America, but this was a time when he could act and turn some of those views around and show that not only was he a concerned President, but he was indeed a compassionate President.

So we had an opportunity, a rare opportunity I must admit, to meet with the President of the United States today, the Congressional Black Caucus did. Twenty Members were there, and we were very pleased to also have an opportunity at the same time to meet with Condoleezza Rice and Colin Powell.

Let me just pause here to say that we expressed to Colin Powell, the Secretary of State, our gratitude for all of the hard work he had been doing over the past several weeks. It was Colin Powell that stayed in contact with many Caucus members. It was Colin Powell that tried to find ways to diplomatically resolve this matter, and at the same time we felt that things had not moved to the degree that we wanted them to; and so, therefore, we had asked to meet with the President.

Now, when we met with the President today, when the Congressional Black Caucus met with the President, there were several things that we wanted him to do, and to his credit he gave the utmost consideration to these things. Number one, we asked that he immediately make a statement to the world about his concern for the Haitian people, for his concern towards President Aristide, and his concern about this wonderful democracy that we have in Haiti that is under attack.

When I say wonderful democracy, Mr. Speaker, I do not mean to say that Haiti does not have its problems, it does. But our point was that there is a democracy in the sense that President Aristide was duly elected, and just as we have gone around the world to protect democracies wherever we felt the need to do so, it was our belief that because he was elected, no matter what one's views might be towards the way he governs his country, that the United States should make sure that this democracy, which is only 650 miles from our shore, should be sustained.

□ 2000

So basically we were asking him for three things and our goals were very simple. One, we wanted to make sure that there would be a laying down of weapons so that we might find some peace. As you know, Mr. Speaker, the rebels have all kinds of ammunition and all kinds of weapons. We realize that in order for us to move to any kind of resolution, one of the first things that has to happen, there has to be a laying down of arms. Number two, we said that we wanted the rule of law to be restored. The rule of law, of course, is very important. It is almost impossible to have any kind of peace when people are in chaos and they are not obeying the rule of law. We can see that very clearly just here recently as we looked at our televisions and saw the looting that was taking place and we saw some of the human harm that had been taking place. Clearly, a major problem with the rule of law. And, number three, we asked the President to make sure that there was some diplomatic resolution with regard to Haiti.

As we went into more detail, we asked the President to make a statement as soon as possible, and he said he would, making it clear that the United States stands for this democracy and that we have a major, major concern about the fact that so many people are being harmed and that it was our hope that a peaceful resolution would come to that land. Number two, we also asked the President to create a humanitarian corridor. He expressed great interest in this. What we mean by a humanitarian corridor, Mr. Speaker, is create a way by which humanitarian assistance such as food and medicine and water, because one of the major problems in Haiti right now is that there is insufficient water and food for so many, and these are the people that we do not hear so much about. These are the people who are suffering and dying, but the fact is that all we hear is about the rebels and the harm that they have done.

So the number two thing that we asked for was this humanitarian corridor; and we asked that the President, if he deemed it appropriate, and we think that it is almost necessary, to send troops in and work with our allies to make sure that organizations like the Red Cross and others have a way to get that humanitarian aid to the people that need it and so that they would be protected. The President said that he would indeed consider this.

Finally, Mr. Speaker, we asked him to consider sending in from 300 to 400 troops to maintain the peace. As we keep up with the news with regard to Haiti, it is clear that there is a steady march by the rebels towards Port-au-Prince. As you know, Mr. Speaker, that is the capital of Haiti. That is where President Aristide lives, and we were concerned that if President Aristide, if the rebels come into Port-au-Prince, that the death of President Aristide would be imminent. I think the President understood that, that is, President Bush understood that. He understands clearly that we are dealing with an urgent situation, and he said that he would take that into consideration and would get back to us as soon as possible.

So we have faith that the President will do the right thing. We have faith that, as he looked into our eyes and we looked into his, he understood that this was not about politics, but this was about life. He understood, we do believe, that this was not about simply trying to save a President, but it was about saving the President of Haiti and also making sure that we save many, many lives. I think that as he looked into our eyes, he could see the sincerity and could see that we realize clearly that if we did not take action and that he did not take action, that the blood of the people of Haiti would be on all of our hands. And so we had a very good meeting, but it is only a beginning. We have vowed to try to work with the President, with Secretary Powell, and Condoleezza Rice to make sure that a peaceful resolution comes to Haiti as soon as possible.

Mr. Speaker, so often as we look around the world and look at the difficult problems that face so many people and countries across the world, it must be difficult at times to try to figure out for a President and for his advisers as to where you intervene and where you do not. But one thing has been clear with regard to United States policy and that is that we have consistently done everything in our power to hold up democracies that are in trouble.

Clearly, the democracy in Haiti is in trouble. And so the President has made it clear that he will issue a statement sometime this evening, and we look forward to that statement. He assured us that he would address the issues after consulting with Ms. Rice and Secretary Powell, would address the issues with regard to the humanitarian corridor and with regard to sending troops in to quell the violence and make sure that there was a diplomatic resolution taking place.

And so it was a very proud moment for the Congressional Black Caucus. It was a moment that shall definitely live in the DNA of our brains forever. Because one of the things that I guess hit me as we were sitting there is that 100 years ago, none of us were here. One hundred years from now none of us will be here. The question is what do we do now for our fellow human beings? And although they may be 700 miles from our shore and although we may not feel a relationship with them, not all Americans may feel a relationship with them, the fact is that they are our brothers and they are our sisters. I am always reminded in these situations, Mr. Speaker, of the song that says:

No man is an island
No man stands alone.
Each man's joy is joy to me
And each man's grief is my own.
We need one another, so I will defend
Each man as my brother and each man as my friend.

And so the Congressional Black Caucus has decided to stand, to stand for people who are going through great difficulties, to stand for children who as we speak find themselves in boats heading for a land of opportunity. Stand. We decided to stand for a President that finds himself in great difficulty. Stand. We decided to stand for democracy, democracy that this country hails as being one of the greatest forms of government that ever existed. We continue to stand.

With that, Mr. Speaker, I would like to yield now to the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. I am glad to be here to not only address the House but also the American people. I think what is so very, very important and proud to be a Member of the U.S. Congress on this day, of making sure that we do the right thing under the circumstances. Right now, Mr. Speaker, we have not only one but two carriers with Haitians that are being interdicted by the U.S. Coast Guard right now. I do not think that there needs to be a mountain of evidence to even show that there are individuals in Haiti that are being persecuted as we speak, that are losing their lives, that are being beaten for either being for the pro-government or anti-government forces that are there. And then you have innocent individuals that are in the middle of all of this gunfire and violence that is taking place, children, women, people, young men, older men that are there just trying to be citizens of a country. A democracy as shaky as it may be, it is still a democracy.

We recently met with the President, just today, and I am glad that members of this caucus and Members of this United States Congress shared with the President the importance, the fact that we are America and that we wear the breastplate of righteousness as it relates to standing and fighting for democracies. If we support or we are against President Aristide, that is not the issue here. The issue is that a democracy is being overthrown by a gun as we stand idly by and make tough talk about Haitians leaving Haiti. To not do anything about the killing and the fighting that is going on right now in Haiti and in the same breath say Haitians stay in Haiti, don't take to the sea, it does not work toward logic to a diplomatic solution or a political solution of what is taking place now in Haiti.

I have said it before, and I will say it again tonight, our policy should not be driven on how many Haitians are face down in Haiti on the ground or are floating face down in the waters around Haiti and the United States. I will tell you that it is not healthy for our hemisphere; it is not healthy for our policy of making sure that we put forth democracies in the Caribbean and in this hemisphere, and it works against logic. So I urge the President, though we urged him earlier today, let individuals that are carrying guns know in Haiti, as they are getting more and more equipped as the hours go by.

Just a week and a half ago, there were 1960-style rifles that these rebels, thugs, whatever we want to call them or they identify themselves as, 1960-style rifles that can shoot maybe three or four bullets. Now they are almost up to par with U.S. troops. They are wearing full body armor, armored helmets, AR–15s, M–16s, American made, I must add, carrying a magazine of bullets of 40 to 50 rounds, banana clips, radio capabilities; and they are holding press conferences. If we expect for the people of Haiti, a human being, to keep their family in that kind of environment, thinking that they are just going to suck it up and take the bullets, then we are in for a rude awakening.

I want to talk about U.S. taxpayers. If we play defense of having our Coast Guard out there waiting in a 5-mile radius from each other, planes flying over to detect boats and things of that nature, all those resources focused on Haiti, what is happening to some of the other countries where we know we have a footprint of terrorism in the Caribbean? It is not Haiti, but I think it is important that we understand that and take that under heavy consideration.

I know that the American people are compassionate people. And if we are in Iraq justifying our presence of being there, of saying that we stand for democracy and we stand for the lives of the Iraqi people, then definitely 650 miles off the coast of the continental United States, we should stand for a democracy if we had an international force there to be able to stop the violence and start diplomatic talks.

I want to thank the gentleman for allowing me to address the House tonight. I know that we have to continue to follow this situation, but I would also like to add before I close that the Haitians that are on boats now, we have to remember international law and our own laws, if they can prove persecution, if they fear persecution, if returning back to Haiti, what the President said earlier today cannot stand. It is almost like we are sending them back to be murdered. So it is important that we set up the opportunity for them to receive the due process that they deserve. If we agree or not with illegal immigration, it is important that we ask other countries to do the same, that we do things by the book and by the law.

Mr. CUMMINGS. I want to thank the gentleman for his statement.

☐ 2015

Question: I know the gentleman has been very concerned about this issue because one of the reasons I know he has an extraordinary sensitivity, as there are many Haitians that live in his district. Is that right?

Mr. MEEK of Florida. That is correct; and, Mr. Speaker, it is the highest concentration of Haitians in the United States. And I will tell the gentleman this: the Haitian people have been so involved in this country's history. They fought with us for our independence, and they are major, major contributors to not only our economy. We have a positive trade relationship with Haiti, and they create many U.S. jobs. Because of that positive relationship that is very important, Mr. Speaker, whichever side that people may fall on this issue, we cannot allow democracies to be taken over by gun and violence, and that is the bottom line.

Mr. CUMMINGS. Mr. Speaker, not only are the Haitian people going through what they are going to in Haiti, but one of the things I think a lot of people do not realize is that some 75 to 80 percent of people in Haiti live in pure poverty, and I know that when one combines the need for humanitarian assistance such as clean water with the violence, it has got to be painful just as it is painful to us. I would imagine for many of the gentleman's constituents, it is very painful, too, knowing that they have relatives that are going through all that, and then the violence makes it even more difficult for them to live any semblance of a normal life and definitely almost precludes any kind of assistance for going in; and I think that is one of the reasons why we talked today with the President about this humanitarian corridor.

Mr. MEEK of Florida. Mr. Speaker, that is 110 percent right. We have to look at the stage the way it is set. I think it is important for us to understand the U.S. has asked U.S. citizens and mission workers to leave Haiti for their own safety. The French have advised their own citizens, which is justified. Canadians have done the same and other representatives from other countries that are there.

There are a number of U.S. citizens still in Haiti. That is still something for us to take into account. Because 97 percent of social services in Haiti, including schools and educating the children, are by missions. They are privatized. I mean, it is not like the government has the ability to be able to put forth an education system. So when that breaks down, that means that the elderly are not receiving the care that they have received before in the past. Children are not receiving the kind of care that they need, prenatal care for women that are pregnant, some of the very things that are there. The AIDS and HIV work that this country is invested in, should invest more but has invested in, is all going to go for naught and having to rebuild all of that if we do not stop the violence.

We have people that are pro-Aristide and that are against Aristide; but one thing they have in common, Mr. Speaker, is that we must, yesterday, stop the violence. They know that has to happen. And unless we stop that from happening, we are not going to be able to come up with a diplomatic or political solution to this situation.

So, Mr. Speaker, I think that Members of this Congress should continue to press on, and I am glad that we met with the President and Secretary Powell and also Dr. Rice, National Security Adviser; and the President's Chief of Staff, Mr. Andy Card. We have taken it to the highest levels that it can be taken to in this country and in the international community. Very little has to be done by us to prevent drowning of Haitians and Haitians face down in the streets of Haiti and very little, very little of a presence and leadership.

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman and the gentlewoman from California (Ms. LEE), who will be coming up next, for being a part of that meeting today because it was indeed a very historic meeting. So while there is very little to be done, it must be done immediately.

Mr. MEEK of Florida. Yes, sir.

Mr. CUMMINGS. Because the longer we wait, the worse it gets. And so I really appreciate the gentleman's participation in the meeting today with the President.

Mr. MEEK of Florida. Mr. Speaker, I thank the chairman.

Mr. CUMMINGS. Mr. Speaker, I yield to the distinguished gentlewoman from Northern California (Ms. LEE).

Ms. LEE. Mr. Speaker, first let me thank our chairman of the Congressional Black Caucus once again for his leadership not only in unifying the Congressional Black Caucus around such an important issue but also in terms of insisting that we move forward not only in terms of our position but in terms of trying to make sure that we are actively involved in trying to help save lives, and that is really what we are doing. So I thank the chairman very much for his leadership.

This has been, as it relates to Haiti, in some respects a very sad time for many of us. Just last night we were here again talking about the fact that we wanted our government to actively engage in attempting to forge a cease-fire, to insist that the rule of law be adhered to, and to insist that the Haitian constitution be complied with. We were told again last evening at about 5 o'clock that we needed another extension, that the opposition was not going to comply with any political agreement. And here we are again tonight. Still the opposition has not agreed to a political settlement. More lives are being lost. The thugs are moving into Port-au-Prince. And at least tonight, however, under our chairman's leadership, we have had a chance to talk to the President directly and to Dr. Rice and to Secretary Powell to convey our sense of urgency, which I hope they understood and felt during our meeting. Because we are witnessing right next door the world's oldest black nation deteriorate. We are witnessing right next door in our own hemisphere thugs carrying M–16s and M–50s, weapons, I understand, that probably are made in the United States of America. Where they are getting these weapons from, who knows. Here we are witnessing once again tonight, as we felt last night and witnessed last night, the lack of action by our government to stop and to prevent a violent overthrow, a violent coup d'etat of a duly-elected, democratically elected President. We would not tolerate that anywhere else in the world. We just would not tolerate it.

So today I believe our meeting put forth the Congressional Black Caucus's sense of urgency to the President, and also I believe, Mr. Speaker, what it did was convey to him that we understand that saving lives and not allowing a violent overthrow of a government that is duly elected is not a Democratic issue, and it is not a Republican issue, but this is a bipartisan issue. It should be nonpartisan. It should be nonpartisan. We are talking about saving lives and preventing bloodshed, preventing a possible civil war from erupting. This is serious business, and there is no way we should sleep, really, and I am very glad that my colleague, the gentleman from Michigan (Mr. CONYERS), has called for a Haiti watch, 24 hours. As co-chair with the gentleman from Michigan (Mr. CONYERS) of the Haiti task force, I cannot think of anything that is more important right now.

We have written to the President. We have communicated with Secretary Powell. Not just this week, but the Congressional Black Caucus has been sounding the alarm for months really with regard to this unfortunate moment with which we are faced. And so now is the time that our great country can step up to the plate and can say to both sides that peace is the only option. There are no other options. Again, as I said earlier, how does one negotiate a political settlement with thugs carrying M–16s and M–50s? So we do not need any more extensions with regard to the political settlement that President Aristide has embraced, that CARICOM has embraced, that the international community has embraced. I mean, this is useless at this point.

Tomorrow, I understand, the Security Council will meet. They may consider a resolution calling for international security forces; and if that happens, I sure hope that our government does not block that. In fact, I wish and I hope that we support that effort. But minimally we should allow the world community to come together to say no to this violence and insist on a cease-fire and insist on upholding a democratically elected government.

Eight million Haitian lives are at stake, Mr. Speaker. There is no way that any of us should allow any of these people to die on our watch, on our watch. History will record whether or not we just stood there and said, so be it. We did not especially like this policy of the Aristide government or that policy and hands off at this point. History is going to record if we took that position and did nothing that the lives of these 8 million people are in our hands and the blood will be on our hands if, in fact, the bloodbath occurs, which is what we tonight are trying to prevent.

So let me just say to the Speaker, to the chairman, that I think the President, and I know Secretary Powell and Dr. Rice, got it. I know they got it. But what is important is what are they going to do with what they got. They cannot just say we abhor the violence and it is bad and it is wrong for folks to kill each other. We are the most powerful country in the world. So the question is, what are they going to do tonight? What are they going to do?

So I want to thank again the Congressional Black Caucus for stepping up to the plate. Hopefully, the rest of the House of Representatives at least will step up to the plate tomorrow and join us in our efforts. I think we need to make sure that every Republican and every Democrat in this House stands for democracy in our own hemisphere, stands for an end to the violence, and stands for United States support for a cease-fire and an end to this carnage that is taking place in Haiti.

I thank the chairman for his leadership, and let us hope that we are waking up America.

Mr. Speaker, I rise tonight to call on the Bush administration to lead the international community in supporting efforts to pass a U.N. Security Council resolution, provide international forces, and do everything possible to prevent violence and save Haitian lives.

At any moment, the democratically elected President of Haiti could be overthrown any minute and at risk is the safety of over 8 million lives in Haiti.

Time is of the essence, and the Bush administration has failed to adequately address the dire need for a solution.

Far too many lives have been lost, too many children have been orphaned and fear has begun to set in.

Nevertheless, our administration has minimized their involvement to diplomacy—which to date has been inadequate.

The Bush administration has done nothing to help Haiti since coming into office except embargo economic, social, and most importantly now political assistance to Haiti.

Even if we look directly at the support the administration has given since January, I believe they have done nothing to save one Haitian life.

The administration was well aware of the political stalemate facing the country and the need for elections, yet they did nothing to bring the opposition to the table and on January 12, the term of the 47th legislature came to a close with the departure of 83 Deputies and 4 senators left.

Later that week, on January 15, the CARICOM community came out and said, "We are all committed to free and fair elections, dedicating resources from our respective countries, with the help of other countries in the hemisphere, to create a framework from which we are able to guarantee free and fair elections."

CARICOM held talks on Haiti in an effort to end the political impasse and unrest and developed the CARICOM proposal that we are still asking the opposition to accept an agreement which was endorsed by the president over a month ago.

The administration still bided its time, and allowed the opposition to impede the democratic process.

The administration allowed the Organization of American States to do its diplomatic duties toward Haiti, and the OAS convened an emergency meeting to discuss Haiti. OAS endorses the CARICOM proposal, condemns the escalating violence in Haiti, and adopts Resolution 861.

After allowing even more time to pass, the Bush administration finally felt pressure from the international community and this Congress to act.

A team of international diplomats from the United States, Canada, France, CARICOM, and the OAS traveled to Haiti on February 21 in an attempt to broker the same peace plan that the opposition parties had rejected over a month ago.

Why was it a surprise that they would reject is again on February 23.

Why did our administration allow the opposition another 24 hours to say no—again?

Many have speculated that the additional 24 hours to accept the CARICOM plan was necessary because the opposition was in a position to accept it, but the ultimate outcome was: More violence, more lives lost, more cities burned, and more fear spread throughout the country.

President Aristide accepts the peace plan and opposition are given until February 23 to accept or reject it.

Any legitimacy that the opposition had is gone.

They have repeatedly refused to support the democratic process by continually rejecting any offer to resolve the conflict peacefully.

Now is the time to move toward averting a disaster and stop the violence by pushing our administration to lead the international community in protecting the dually elected President, the people of Haiti, and upholding the Haitian Constitution.

If we allow this coup to occur, we will be responsible for the deaths of thousands because we sat on our hands and refused to bring light on the real criminals, killers, and antidemocracy forces involved in this coup d'etat.

We, the members of the Congressional Black Caucus, friends of Haiti, and supporters of democracy will not allow the current crisis in Haiti to be ignored.

We marched up to the White House today, and refused to leave until our urgent message was heard.

We met with Secretary Powell, Dr. Rice and ultimately President Bush.

We told them that the time is now to enforce a cease fire, laying down arms, honoring the rule of law, and honoring the Haitian Constitution.

Bush must show some leadership and speak out against the violence and disregard for the rule of law in Haiti.

President Bush should speak out in support of the democratically elected President of Haiti and provide President Aristide the assistance he needs to promote peace on the ground, allow free and fair elections to take place, and uphold the Haitian Constitution.

Democracy in Haiti is in grave danger. Turmoil rages on the ground, in the streets, at the university, through the halls of the government, and in the homes of Haitians.

Haitians are dying, and it is apparent that the hope for peace is diminishing.

If we believe in the power of democracy and the potential for global peace we must not turn a blind eye to our neighbor and long-time ally.

The United States must stop dragging its feet, lead the charge at the United Nations' Security Council meeting tomorrow, and answer the call for assistance from President Aristide.

The United States of America cannot give more time for more people to get killed.

Haiti, our neighbor and a sovereign democracy, has stood by us through thick and thin.

Haiti remains the world's oldest independent Black nation.

We must work with our neighbor, to secure peace in our region, and uplift Haiti's proud history.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentlewoman for her statement. And as she was speaking, I could not help but think about the book entitled "Seize the Time." And that is what this is all about, seizing this moment and doing what needs to be done to save a lot of lives. So I really do appreciate what she has done. I thank her for being at the meeting today too.

Ms. LEE. I thank the gentleman from Maryland (Mr. CUMMINGS). We must seize the time. We cannot wait any longer.

Mr. CUMMINGS. Mr. Speaker, I yield to the gentleman from Michigan (Mr. CONYERS), the dean of the Congressional Black Caucus and one who has been very strongly involved in this issue.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS). I am delighted to participate in this Special Order. And we have all agreed that the original objective of this was to discuss black history, and that has been postponed until next week; and it will be given thorough consideration here.

What we are talking about tonight is world history, and the events that I just want to comment on turn around the meeting with Senator DODD last evening, with Senator DEWINE, the gentleman from Florida (Mr. MEEK), the gentlewoman from Florida (Ms. CORRINE BROWN), the Canadian ambassador, and the French ambassador. The French ambassador to the U.S., the Canadian ambassador to the U.S. And what we were talking about there was the importance of getting our international bodies committed, CARICOM, the Organization of American States, the Security Council and the United Nations and how that could be gone about.

□ 2030

I was encouraged by the positions taken by both ambassadors, particularly the French Ambassador. Our colleague, the gentlewoman from California (Ms. WATERS), points out that in South Africa there is a readiness to intervene. It was a very positive meeting.

Today we had nearly two dozen Members of Congress, including the Chairman of the Congressional Black Caucus, the gentleman from New York (Mr. RANGEL), the gentlewoman from California (Ms. WATERS), the gentlewoman from California (Ms. LEE), the gentleman from North Carolina (Mr. WATT), the gentleman from New York (Mr. OWENS), the gentleman from New Jersey (Mr. PAYNE), the gentleman from New York (Mr. MEEKS), the gentleman from Florida (Mr. MEEK), the gentlewoman from Florida (Ms. CORRINE BROWN), at least a couple gentlewomen from California, maybe all three, and the gentlewoman from the Virgin Islands were with us.

Now, we asked to see the President. We were greeted by the Secretary of State, Colin Powell, and the Chief Security Adviser, Dr. Condoleezza Rice, and Mr. Andy Card, and we had a very intense, frank exchange that led to the reconsideration of whether we were going to meet with the President of the United States.

I suppose in the course of history it may not be considered important that there was a reconsideration that led us to meet with the President of the United States, and it was on the basis of our collective arguments to the two Cabinet members that we were at a precipice, that this was so immediate that continued political negotiations were really not appropriate. After all, many parts of the north have been taken by rebels, drug lords, gangsters, ne'er-do-wells and a legitimate political opposition. The second largest city in Haiti has already been captured.

Yesterday, at 5 o'clock p.m., the final offer that Secretary of State Powell had worked so hard on was rejected. It is not hard to interpret from that that the decision had been made to move forward and to take over the country; that they did not want to negotiate, even though President Aristide had quickly agreed to every condition in the proposal that was being brokered by the Secretary of State.

So the question that remains now is what are the steps that we ought to take, and we expect to hear from the President to speak about our opposition to any violent overthrow of any nation in the Western Hemisphere less than an hour away from our shores. So this is quite important.

I should mention that our colleague, the gentlewoman from Illinois (Ms. SCHAKOWSKY), was with us, and she was with us at the press conference earlier, and that our colleague the gentlewoman from Texas (Ms. JACKSON-LEE), was likewise at both events.

Now, there are several ways that we can approach this matter. One is to assume that we can still negotiate politically toward a settlement, which some had argued was a precondition to us sending in support. The only problem with that is that if the rebels and the assorted groups that are demanding now to oust the President with no agreement whatsoever, that there would be nobody left for us to negotiate with if that were to occur. In addition, the country would be in ruin.

Furthermore, it is not hard to perceive that if there was an outbreak of violence between these two groups, Lavalas and the citizens loyal to their government and those who want Aristide's ouster, that it would be the largest bloodbath in recent Haitian history, and that it could result in the assassination of the President of Haiti.

It was out of that concern that we wanted to make sure that we insulate the Government of Haiti, as well as the President. That was based on the simple premise that if we cannot protect the head of the government, then we cannot protect any of the other 8 million people there. So it was important that we have this meeting.

Now, I want to take this moment to praise the President of the United States for agreeing to see us and agreeing to consider the proposal laid out by the Chairman of the Congressional Black Caucus and others that were present. This constitutes a reconsideration of immense proportions, because I do not think that the President has been looking at this from the point of view of the members of the caucus and our contacts in Haiti.

We do have a member of the caucus that has personally visited this country on three occasions. It now turns out, thanks to a Senator in the other body, that a plane will be provided for us to make sure everyone in the Caribbean, that all the millions of occupants and citizens of this independent nation struggling economically and socially to survive will know that the Congressional Black Caucus, 39 men and women strong, are completely behind the order and the legal process that requires that under no circumstance can violence be used to resolve internal political differences, not just in the Western Hemisphere, but anywhere in the world, for that matter.

That is what we stand for. That is why we helped create the United Nations. That is why we have worked on issue after issue on the planet, whether it be in Eastern Europe, the Middle East or anywhere else.

So I join proudly the members of the caucus, who comported themselves extremely properly. They were duly aware of the circumstances between the Congress and the White House, and I think this was, as the gentleman from Maryland (Chairman CUMMINGS) has said, an important, and, yes, I believe a turning point in the destiny of this small, but great, nation.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentleman for his statement. I want to thank him also for his leadership and thank him for his participation today in our meeting.

I now yield to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I thank the chairman for yielding. I, too, want to join with the others in thanking him for his leadership for the past year and a half, but particularly on today, on this day where crisis and time is of the essence.

I want to thank the gentlewoman from California (Ms. LEE) and the gentleman from Michigan (Mr. CONYERS) for their leadership on the Haiti Task Force. One always has to thank the great gentlewoman from California (Ms. WATERS) for simply being Maxine Waters.

Mr. Speaker, it is indeed again another one of those times where it is true that the Congressional Black Caucus is indeed the conscience of the Congress, and I would hope that with today's meeting we have awakened the conscience of those individuals that are currently at 1600 Pennsylvania Avenue, that we must not stand idly by as a Nation, a Nation that believes in democracy, and allow a people to die and a democracy to be wiped out.

We are indeed the world's only superpower, and just off our shores, in our hemisphere, is a case of democracy being dismantled by individuals who, by every account that I have heard, are violent, are thugs and criminals. In fact, the opposition is supposed to be peaceful, though they will not get to the negotiating table or agree to anything that has been put on the table so that this can be resolved in a peaceful way.

But because we are the only world superpower, it seems to me that we would have the ability to drive to get people to the table, to make that kind of difference, to save the lives, so that we can never see people dying in the streets, as we did just a short time ago in Rwanda.

In fact, I appeal to Americans that even in being selfish about this, when you think about what is going on in the world, if you want to be selfish about this, you know, if you have instability in Haiti, there could be instability here. In fact, people are coming now. The President says, "Don't come." But they are going to come if their lives are on the line. They are going to go somewhere, and they are going to try to come here.

I think it is in our best interests to make sure that we intercede and have peaceful negotiations take place, and those negotiations are obviously not going to take place unless there is something affirmatively done to cause it to happen. We have the strength and the ability to do that.

Now, we do not have to do it alone. Clearly there are others that have agreed that they will come. They are just looking for a word; they are looking for some kind of indication to say, "Go do this," so we can bring Canada, we can bring France, and we can bring CARICOM along with us.

□ 2045

Now, I will start wrapping it up, because I know that we have a lot of Members who want to say something in regards to this. I will conclude by saying that without military intervention, be it the United States, not just by ourselves, or an international military intervention at this point, I fear that the leaders of Haiti with the most guns will feel that they can rule Haiti. It becomes the law of the jungle. And I seriously cannot see how those who would kill and destroy the institutions that currently exist, such as hospitals and other institutions that are being burned, will bring this great country back up. Let us act now, because the camera of history is roaming. Let it not be on our time that we say that we stood by and did nothing, allowing democracy to topple and people and bloodshed to fill the streets.

Mr. Speaker, I urge the President of the United States to do something to act, to lead, to save lives and save democracy in the country of Haiti.

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for his statement and his leadership.

Mr. Speaker, I yield to the gentlewoman from California (Ms. WATERS), my friend and colleague, who has just spent a phenomenal amount of time in Haiti and has been just a tremendous adviser to all of us in the caucus and has given so much blood, sweat, and tears and passion to this cause. I yield to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I would like to first thank the gentleman from Maryland (Chairman CUMMINGS) for the tremendous leadership he has provided to the members of the Congressional Black Caucus and ultimately to this House. Today he organized the members and we took the extraordinary step of going to the White House to present our case. I would like to thank the chairman for the leadership that he provided in the room with the President, with Secretary Powell, with Dr. Condoleezza Rice, and others. He presented our case and he presented it well. It was supported by other members of the Congressional Black Caucus as we added to the presentation. In the final analysis, Mr. Speaker, we were able to paint the picture to lay out the case of what is going on in Haiti at this moment.

What we have is this, Mr. Speaker. We have the President of Haiti whose back is up against the wall. We have the President who signed on to a peace agreement that was presented by the international community, led by the United States of America. We have the President with a dwindling police force; and members of his police force are being killed every hour, not simply by the opposition, but by thugs and ex-military folks who have been in exile and who have come back into Haiti to join in this mayhem. He is sitting there asking for help. He has reached out to the United States. He has done everything that we have asked him to do, and he is waiting for some help.

In this coalition that we have, the United States, France, Canada, the OAS, the U.N., and CARICOM, it is time for somebody to step forward. We made our case to the President tonight because we want this great Nation to step forward and to lend a helping hand to this small, poor country in this hemisphere. We think it is the right thing to do. We want our country to lead. But as we stand on this floor tonight, we are saying to France, we are saying to Canada, we are saying to CARICOM, the U.N., OAS, all of them, somebody please step forward and avoid the blood bath that we feel could happen at any time.

We believe that not only should the United States provide some leadership, but this peace proposal was based on a presentation by CARICOM. This is the CARICOM proposal that was put on the table. Our friends in Jamaica and in the Bahamas and other states of the Caribbean who are so intricately involved in this must step forward. As I stand here, it is necessary for Jamaica to be in contact with South Africa in order for South Africa to be able to respond under the banner of CARICOM.

And so our message is not only to the President. We think he should lead, we think we should lead, but to all of the others who are in this coalition. Those friends of ours in the Caribbean, in CARICOM, who put this proposal together know what happens to small nation states. They understand what has been happening to Haiti for years. They too have to receive immigrants from Haiti who have been escaping Haiti for years. Finally, we thought they were settled under Aristide and this presidency. We know that we had the problems of people who did not want Aristide, who was responsible for the coup d'etat, the same people are involved that did not want him in the first place; the same folks who have enriched themselves on the backs of the poor people there and do not want change.

But I suppose we could stand here all night and discuss the history of Haiti and talk about how Haiti has been undermined, how we have had people right here in the Congress of the United States, both Houses who have worked against Haiti for years. But rather than talk about all of that, this time should be used to make the plea, to say to our President, move now; to say to CARICOM, it is your proposal, enforce it. If the opposition does not support it, it is time to move ahead and stabilize this little country, save the lives, avoid the blood bath and emerge as honorable in all of this, honorable people, an honorable country that reached out a helping hand and did the right thing at the right time. We cannot wait any longer, Mr. Speaker.

Mr. CUMMINGS. Mr. Speaker, let me just say this: we in the Congressional Black Caucus stand very strongly behind this effort to bring peace to this land of Haiti, and we will continue to stand, and we do appreciate the meeting that we did have with the President today. But in echoing the words of the gentlewoman from California (Ms. LEE), we want the President to act. Words are nice, but now he must act.

CONGRESSIONAL BLACK CAUCUS UNITED ON HAITI

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, let me begin by thanking the gentleman from Maryland (Mr. CUMMINGS), the chairman of the Congressional Black Caucus, for calling this Special Order; and let me commend my colleagues, each of them, who gave eloquent speeches and for their involvement.

We have an issue here that the Black Caucus stands united on. We are together. This is an issue that is extremely serious, because the people of Haiti have endured more than their share of struggle, unrest, and bloodshed.

This January marks the bicentennial of the independence of Haiti in 1804, the world's first black republic and the second country in the Western Hemisphere to gain its independence, a country that defeated the mighty armies of Napoleon, where Napoleon sent his own brother to fight in Haiti and Haiti defeated the great French military. And in their defeat of the great French military, the French government became poorer. They needed funds. They expended tremendous amounts of money on the war. Secondly, Haiti produced more income for the French republic than all of the 13 Colonies in the United States put together. What they exported, what was taken out of Haiti were valuable items.

So we have a nation very strong and proud and important. We had a nation that Simon Bolivar lived in. He was a liberator of South America. He was in Haiti, and he lived there and he studied the valiance of the Haitian Army and went back and fought the Spanish and South America and Bolivia became an independent country. We have Haiti that caused the French, as I mentioned, to lose their financial resources and, therefore, had to sell to the United States the Louisiana Purchase, the Louisiana territory which was controlled by the French. That opened up the west. The Lewis and Clarke expedition started in St. Louis and went and explored the United States of America, once again Haiti's connection to the growth and development. In the battle of Savannah, 800 Haitians fought in the Revolutionary War for our independence from Britain. As a matter of fact, the United States would not recognize Haiti for over 50 years until after the Civil War because they always had a fear that Haitians would come through Florida and then, because there were more black people in the South than whites, they thought that this Haitian Army could lead liberations through the States of the South of the United States of America, so they would not recognize Haiti because they did not want a Haitian diplomat to come to the United States. It was not until after the Emancipation Proclamation, after the Civil War, that the United States Government appointed Frederick Douglass to be the council general to Haiti. The U.S. waited until they felt comfortable that a black diplomat could come to this country.

So Haiti is involved with us. Our Marines went there in the 1900s and controlled, and we ran the country and we allowed dictators, Papa Doc and Baby Doc, to run that country.

So we have a responsibility. We should be there currently. We should be there to tell those thugs and drug dealers and the former soldiers of Generals Cedras and Biambraz and the former police chief Michel Francois who was one of the coup plotters when President Aristide was sent out of the country, those thugs and criminals and drug dealers are coming back into the country. Who could we negotiate with when we see bans of thugs running down the street and President Aristide, who speaks six languages, French and Spanish fluently, he will speak in Spanish or in English and Patois, his own language, and Latin? We are saying that he is a person that we cannot negotiate with and we are going to deal with drug dealers and thugs and gangsters and murderers and former people from the old army?

The answer is clear. We need to stand up now. We need to send resources into Haiti. We need to join with the international community, the French, the Canadians, the Venezuelans, the friends of Haiti who will come together, the Jamaicans, the South Africans. We must act; we must act now.

NOW IS THE TIME FOR ACTION IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, I would like to join my colleagues in this vital discussion on Haiti. I want to first pay tribute, proper tribute to the people who are on the Haitian Task Force who have kept the caucus position going. The gentleman from Michigan (Mr. CONYERS), the gentlewoman from California (Ms. LEE), the gentlewoman from California (Ms. WATERS), and a few others have established a firm record of negotiations and letter-writing and they have allowed us to make a paper trail and a record of consideration and compromise that brings us to the point where we are today, and all that has been done, and now it is time for action.

□ 2100

Today, we decided to take action after being frustrated in numerous meetings where nothing was accomplished. We asked for a meeting with the President of the United States. We asked for a meeting with the President of the United States, and I stand here as a member of the Congressional Black Caucus who must admit I was more surprised than anybody else that we finally got the meeting with the President of the United States. It took some drama. We were sitting there talking to two of the President's representatives for an hour before finally he agreed to meet with us, and I will not go into all of that. I will not also go into the background of what is happening presently in Haiti unnecessarily.

I have two items I will submit for the RECORD at this point. One is a press release that I issued today, February 25, and also a letter to Colin Powell which I sent on February 19.

OWENS PLEADS FOR FRENCH EMERGENCY ACTION TO SAVE DEMOCRACY IN HAITI

In response to the dangerous escalation of the violence driven by a thug army in Haiti Congressman Major Owens offered the following motion at a Wednesday (February 25th) meeting of the Congressional Black Caucus: "To halt the escalating violence and the possible assassination of democracy in Haiti all of the members of the Congressional Black Caucus should immediately go to the French Embassy in Washington to plead for the dispatch of French forces to protect the government and the democratically elected President of Haiti."

"This White House and its agents are like Pontius Pilate pretending to wash their hands while the democratic nation of Haiti is assassinated," proclaimed Owens in a speech on the floor of the House of Representatives on February 24, 2004.

The Congressman from Brooklyn, which has a large community of Haitian Americans further charged: "At least one former CIA asset has been identified as a leader of the band of savage guerrillas. The people of the United States must turn their backs on this conspiracy and demand that the democratic nation of Haiti, the democratic government, the duly-elected President of Haiti be supported by the United States Government and that Aristide be allowed to serve out his next 2 years without any compromise with bands of thugs in the street."

In a letter sent last week to Secretary of State, Colin Powell, Owens insisted that: "History will hold the United States accountable for the situation in Haiti! Years of hostile U.S. policy with regard to Haiti has brought about the current political crisis and deteriorating economic and social conditions there."

The Congressman, who from 1991 to 1995, served as Chairman of the CBC Task Force on Haiti, is applauding other current actions being taken by the CBC: A demand for a meeting with President Bush; a CBC Delegation trip on Haiti on Friday, February 27th; a demand for a second meeting with CIA and U.S. State Department representatives; and united actions with students and other Haitian support groups.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 19, 2004.

Hon. COLIN POWELL,
Secretary of State, Department of State, Washington, DC.

DEAR SECRETARY POWELL: I am disturbed by the failure of your office to take immediate steps to stop the mass murder in Haiti. Haiti is on the brink of civil war and the Bush Administration stands in the shadows waiting for the destruction of Aristide.

I call on you and the Bush Administration to take immediate steps to defend the democratically elected government of Haiti. Advisory from the United States must be dispatched at once to reinforce the police in Haiti and restore law and order.

History will hold the United States accountable for the situation in Haiti! Years of hostile U.S. policy with regard to Haiti has brought about the current political crisis and deteriorating economic and social conditions there. In addition to placing an economic stranglehold on Haiti the Bush Administration has emboldened the political opposition in its quest to topple the democratically elected President of Haiti. President Aristide must be allowed to serve out the remainder of his term without interference from the United States. There must be no regime change in Haiti! President Aristide was democratically elected by the people of Haiti and the United States is obligated to respect the will of the Haitian people.

The United States and the international community must act in collaboration to resolve the political impasse in Haiti. The United Nations must begin meeting immediately in order to prepare for a long-term peaceful resolution to Haiti's political and economic situation. Immediate action must begin now to avert more violence and mass exodus of Haitians. The French are considering sending peacekeepers and the Canadians have offered nearly $1 million in medical and food aid. The United States can not shirk its responsibility to the Haitian people. The U.S. must cooperate with the international community to restore law and order and provide humanitarian aid to Haiti now! Your lack of resolve in discouraging anarchy and restoring democracy in Haiti is unconscionable.

What is the Administration waiting for? How many more Haitians must die before the international community led by the United States takes the necessary steps to guarantee the maintenance of democracy in Haiti. Send police advisors to restore democracy in Haiti now!

MAJOR R. OWENS,
Member of Congress.

The important thing is why are we so reluctant to protect the democratically elected government of Jean-Bertrand Aristide in Haiti? What has Aristide done wrong? Why do we continually hear that Aristide is no better than the thugs and killers and drug dealers who are opposed to him? Why do we continually hear that he is to blame? What are the charges against Jean-Bertrand Aristide? Does he build palaces like Saddam Hussein all over the place using the money of the taxpayers of Haiti in a profligate manner? Is he himself in some way a debaucher? Has he traveled around the world and shopped and spent the money of his government? What are the charges against Jean-Bertrand Aristide? Why is he considered to be equal with the thugs and the drug dealers and killers who are now forming the opposition against him?

The truth of the matter is Jean-Bertrand Aristide was elected by the people of Haiti not once, but twice. They seem to lose sight of the chronology. Aristide was elected in 1991. The Army of Haiti deposed him. He was driven out of the country. He spent a large amount of time here in Washington in an apartment while he was exiled.

We finally convinced President Clinton to use armed intervention to restore the Government of Haiti. Aristide went back to Haiti, and although he had spent 3 years away from his government and had only 2 remaining, our government says, well, you ought to just only serve out your remaining 2 years, do not stay any longer. He complied with that. This is a man who is not obstinate or stubborn. He complied. He stepped down after 2 years, and another President took over, Mr. Preval, for 5 years, and then Aristide was reelected overwhelmingly after Mr. Preval had finished his 5 years.

Now we have an orderly transition in Haiti for the first time in history, orderly transition under the Constitution of Haiti. What is Aristide guilty of? If he has obeyed, like George Washington as a leader, very popular, he could have gotten a mandate from the people to stay in for life and all these kinds of things dictators do. He has not done that. We have not accused Aristide of having weapons of mass destruction. So why are we equating Aristide with the opposition, a band of rebels and violent people who want to overthrow the government that is duly elected?

I tell you why. There is a band of families, some say 6, some say 10, a band of rich families who have run Haiti the last 100 years. The rich have always been able to pick the governments. They have always been able to control the governments through the army. Aristide disbanded the army, and he cannot be thrown out by an army. So they have thugs and killers and drug dealers organized to throw out Aristide so they can work their will on the people.

Aristide is a great man. He should not be left to a fate of assassination. Our government should act to protect this democratically elected Government of Haiti.

HAITI CRISIS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be able to rise to join my colleagues of the Congressional Black Caucus for what I think is one of the more important presentations to this House and to our colleagues and to the Nation, and that is, what is the role of the most powerful democracy in the world if it is not to look just a few miles to the south to be able to engage with a long-standing ally, in fact an ally that stood shoulder to shoulder with the Founding Fathers of this Nation and bled on our behalf so that we might be free. Today we find ourselves standing alongside of our Haitian brothers and sisters seeking justice and freedom for them.

I want to thank the Chairman of the Congressional Black Caucus for his leadership and my many colleagues who have spent hours upon hours working to secure the freedom of the Haitians. As mentioned, those Members, from the gentleman from Michigan (Mr. CONYERS) to the gentleman from New York (Mr. OWENS), to the gentleman from New Jersey (Mr. PAYNE), the gentlewoman from California (Ms. LEE) and the gentlewoman from California (Ms. WATERS), working with all of us in our respective responsibilities, have stood for the cause of justice, but also for saving lives.

Mr. Speaker, this is no time for silence because silence will only render a death sentence to every Haitian who seeks freedom in this century.

I am saddened by the fact that it seems there are inner workings in the State Department and other places that, rather than promote the democratization and the existence of the democracy of Haiti, there seems to be an undermining of a duly elected democratic government. The meeting today, as called by the Congressional Black Caucus because of the emergency crisis in Haiti, first with the Secretary of State and Dr. Rice, was certainly a door opener, but it was clear that we needed to meet with the President of the United States. Tonight I thank the President for this meeting, and I hope that out of the meeting and what was presented to the President in seriousness and in the backdrop of the impending crisis and bloodshed in Haiti, in Port-au-Prince, that he will act now in the next 24 hours.

Mr. Speaker, we are only 650 miles away from Haiti off the coast of Florida. Right now in those waters is a boat of refugees, more expected to come. The Congressional Black Caucus, with its expertise, gave to the President the instructions, and it should not be viewed as dominance. It should be viewed as collaboration.

It is imperative that military assistance go to Haiti now because what the people in Port-au-Prince are facing is an insurgence of violent thugs with guns and M–16s, while they are raising their hands and their fists and clubs and sticks. There will be bloodshed in the streets.

We need a humanitarian corps that will allow safe water and food to come in now. You can see the film all over the airwaves of the United States, mothers holding babies in their arms, banging on the gates of the United States Embassy which is safe by the 50 marines that are there.

Can we do more for the Haitians? It is imperative that we gain the moral high ground by talking to the Canadian officials, the French officials, CARICOM and our allies around the world to join us in stopping the bloodshed in Haiti.

It is important for the American people to understand that no action will create thousands and thousands and boatloads of Haitians coming to this shore for survival, and I know that the American people do not want to see the continued death of Haitians as they drown in the waters off the coast of Florida. That is what will occur.

In addition, what we need to do is to join in supporting the legislation of the gentleman from Florida (Mr. MEEK) to provide temporary protective security for the Haitians that may be coming to this country. More importantly, we need also, Mr. Speaker, to reform the immigration laws that will allow those Haitians who are fleeing because of political persecution to come to these shores, as do their Cuban brothers and sisters. Mr. Speaker, we can do no less.

Mr. Aristide accepted the peace plan that was presented by the U.N. Security Council and the United States, but the opposition, the insurgents, have not. Why are we condemning a man that was elected democratically, stepped down, allowed a new President, has come back and has indicated that he will end his tenure in 2006? I hear tell that there is a proposal to select some random ministerial person in the government, some member of the judiciary, ex-member of the judiciary percolating in the Secretary of State's office or the Secretary of State or the State Department. Mr. Speaker, that will not work. That person has no base of support, and those who are supporting the President, President Aristide, will go into the streets. Insurgents will take over, and it will be immediate collapse.

Mr. Speaker, it is time now for us to be heard, the Congressional Black Caucus. This is a mercy plea. It is imperative that we save the lives of those there, military assistance now and humanitarian aid. We thank the President, and we expect and hope to hear from him and the administration within the next 24 hours.

Mr. Speaker, I will insert my full statement at this point in the RECORD.

"AM I MY BROTHER'S KEEPER?" GENESIS 4:9

1. Perhaps one of the more thought-provoking questions in the Bible is that one asked by Cain: (a) Cain had killed his brother because God had accepted Abel's offering, but not his own—Gen 4:3–8; (b) when the Lord inquired concerning Abel, Cain's response was: "Am I my brother's keeper?" (Gen 4:9).

The answer is, Mr. Speaker, "yes we are." They are our brothers and we must be their keepers. I rise this evening to once again revisit the escalating political crisis in Haiti. I, along with members of the Congressional Black Caucus (CBC) met with President George Bush, Secretary of State Colin Powell, and National Security Advisor Dr. Condoleeza Rice to discuss the immediate need for the establishment of a humanitarian zone with foresight in Haiti. I also want to mention the leadership of Ranking Members CHARLES RANGEL and JOHN CONYERS for re-emphasizing that this was an issue of life and death.

We stressed to President Bush that the United States must support democracy and that the rule of law is paramount. Instead of political ideologies, we need to preserve the innocent lives in the region where over 70 have been killed and dozens wounded to date. Violence, chaos, and anarchy cannot be allowed to oust the democratic government.

The deadly uprisings in this war-torn nation come at the hands of the same factions that ravaged Haiti several years ago. Reports show that two of the rebel leaders are the most notorious torturers of the death squads, having already earned a reputation of infamy in a massacre that took place before Jean-Bertrand Aristide returned to power.

Louis-Jodel Chamblain is a former military leader who once orchestrated the most recent coup d'etat in Haiti in 1991 with a brutal paramilitary group. Guy Phillipe, a charismatic former soldier and loyalist to President Aristide, fled Haiti 3 years ago in exile to the Dominican Republic to escape charges of drug-dealing and treason. Phillipe and Chamblain crossed the Dominican border back into Haiti a week ago to join their gang of former police and soldiers.

We cannot allow innocent Haitians to die at the hands of thugs who want to thwart the establishment of democracy. We hope that, after our meeting, the President will call for an affirmative plan to respond to the Opposition Party's rejection of peace proposals offered by the Caribbean Community (CARICOM) and the Organization of American States (OAS). Our acquiescence and inaction will soon suggest support of the opposition; therefore, it is time that we acted to demonstrate our strong commitment to democracy, constitutional government, peace, and the rule of law.

Humanitarian aid and military assistance are critical needs for the Haitians given the threat that demonstrators may thwart the delivery of food and other relief items. There has already been a cry for assistance by President Aristide. Haiti, the poorest country in the Western Hemisphere, with only 4,000 police officers for 8 million citizens has formally requested humanitarian aid and security forces.

As we work with the government of Haiti to explore the role of the international community in averting civil war, we must also begin to look beyond the current crisis. For example, Haiti continues to be in dire need of food aid and medical assistance. The current unrest could set off an exodus of refugees. Furthermore, there is an uncertainty as to the timing and fairness of the next elections is promoting suspicions and instability. We must anticipate the work that will have to be done in order to effectively and humanely process the imminent influx of refugees by improving our immigration screening and detention processes.

I do not believe that Haitian refugees receive a fair chance to satisfy the requirements for entitlement to an asylum hearing. Also, I am disturbed by the lack of parity between the Haitian refugees and the Cuban refugees. While Haitian refugees are detained and then removed from the United States, Cuban refugees who reach American soil are welcomed. They are admitted or paroled into the United States, and a year later they are eligible for adjustment of status to that of lawful permanent residents. This difference in treatment is unfair and unjustifiable.

I will support a bill sponsored by our colleague Mr. MEEK of Florida to designate Haiti under Section 244 of the Immigration and Nationality Act to allow Haitian refugees to obtain Temporary Protective Status (TPS). I have signed on to join my brother today in fact to take leadership in this crisis.

Furthermore, I will introduce a piece of legislation, the "Comprehensive Immigration Reform Act of 2003." Section 502 of this bill responds to Attorney General Ashcroft's decision in *Matter of D–J–*, 23 I&N Dec. 572 (AG 2003), in which he denied bond release to a Haitian on the ground that giving bond to undocumented refugees who come to the United States by sea would cause adverse consequences for national security and sound immigration policy.

This legislation would permit the adjustment of status for Haitians who meet the following categories: (1) The individual would have to be a native or citizen of Haiti; (2) the individual would have to have been inspected and admitted or paroled into the United States; and (3) the individual would have to have been physically present in the United States for at least 1 year.

The Caucus advocates positive action by the U.S. Government to support peaceful and democratic efforts to alleviate the violent and unsanitary conditions to prevent the spread of diseases such as HIV/AIDS. Collaboration by and assistance from the United Nations will be key in the effort to stimulate the participation of the international community. The Haitian people must implement the organic constitutional and democratic principles to indicate its contrition and willingness to effect change. With the plan to institute a democratic form of governance must accompany maintenance of the rule of law so as to ensure the development of a framework of fundamental rights. Violence will not bring about peace, but fair and transparent electoral process will.

Mr. Speaker, I hope that our words are heard and that this Nation will move to end this problem before a full-scale civil war results. Action today will translate into an investment that will benefit innocent Haitian lives and the immigration challenges that do not diminish. I urge this administration to do the right thing and to provide the humanitarian aid and security provisions necessary to save these lives.

And as the song by the great Ben E. King goes:

Oh, stand by me
Oh stand, stand by me, stand by me
If the sky that we look upon
Should tumble and fall
Or the mountain
Should crumble to the sea
I won't cry, I won't cry
No, I won't shed a tear
Just as long as you stand
Stand by me

WE CAN NEVER SAY ENOUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, much has been said, but then you can never say enough when the lives of thousands of people are at stake. You can never say enough when bloodshed is imminent, when chaos is all around.

I have been told that the primary responsibility of leadership is to lead, and I want to commend the gentleman from Maryland (Mr. CUMMINGS), Chairman of the Congressional Black Caucus, for his leadership on this and many other issues with which we have been confronted. Recognize that in times of crisis you have to act; you have to do something. You cannot just sit back and wait and hope.

So, Mr. President, I join with all of my colleagues. I join with those in the international community, those who expect this country, a world leader, to take the initiative and the responsibility to lead, to bring together international thought, international action, establish a real presence in Haiti, establish a presence that will say to the people, come and let us reason together. Otherwise the whole island may be utterly destroyed by the edge of the sword; if not the sword, then the M1s, the grenades, the homemade bombs.

Mr. Speaker, this is a situation where it is difficult to see how our country, the United States of America, the protector, guarantor of rights, if we do not see the humaneness of intervention, and we are not talking about intervention to take over, we are not talking about being oppressive, we are talking about enough presence to settle the climate, to create the environment where people can at least sit at the table, work out an agreement, settle in.

So, Mr. President, I hope that you have heard what my colleagues have been saying. I hope that you and your advisers are listening, and I hope that you understand that the fate of a Nation is actually hanging in the balance, and to imagine that we have the power, we have the ability to save that Nation.

I think it is our duty, it is our responsibility, it is our heritage. It is only what could be expected of a Nation that wants to be the leading Nation of the world. Then we have to take that responsibility. We have to lead, and the best way to demonstrate leadership is to send in enough force to have a presence to bring about a peaceful solution to this imminent bloodbath that is about to occur.

□ 2115

Please, Mr. President, listen to the voices of reason and take action now.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. LORETTA SANCHEZ of California, for 5 minutes, today.

Mr. RODRIGUEZ, for 5 minutes, today.

Mr. FROST, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. WELLER) to revise and extend their remarks and include extraneous material:)

Mr. TERRY, for 5 minutes, today.

Mr. WELLER, for 5 minutes, today.

Mr. MURPHY, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today. Ms. JACKSON-LEE of Texas, for 5 minutes, today.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House Reports that on February 24, 2004 he presented to the President of the United States, for his approval, the following bill.

H.R. 743. To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

ADJOURNMENT

Mr. DAVIS of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Thursday, February 26, 2004, at 10 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 108th Congress, pursuant to the provisions of 2 U.S.C. 25:

BEN CHANDLER, Kentucky 6th.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6786. A communication from the President of the United States, transmitting a report, consistent with the War Powers Resolution, to inform Congress of the decision to deploy a security force to Port-au-Prince, Haiti, to augment the Embassy security forces, pursuant to Public Law 93-148; (H. Doc. No. 108-163;) to the Committee on International Relations and ordered to be printed.

6787. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil [USCG–1998–3417] (RIN: 1625–AA19) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6788. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Caloosahatchee River Bridge (SR 29), Okeechobee Waterway, Labelle, Florida. [CGD07–02–141] (RIN: 1625–AA09) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6789. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities [USCG–1998–4302] (RIN: 1625–AA07) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6790. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Areas, San Francisco Bay, CA [CGD11–03–001] (RIN: 1625–AA11) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6791. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone for Outer Continental Shelf Facility in the Gulf of Mexico for Green Canyon 645 [CGD08–03–028] (RIN: 1625–AA76) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6792. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Anchorage Area; St. Lucie River, Stuart, FL [CGD07–03–110] (RIN: 1625–AA01) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6793. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade [USCG–2001–8825] (RIN: 1625–AA28) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6794. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Houston Ship Channel and adjacent waterways between Buffalo Bayou and Morgans Point, Houston, TX [COTP Houston-Galveston-03–004] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6795. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Port of Texas City Channel, Turning Basin and Industrial Canal, Texas City, TX [COTP Houston-Galveston-03–005] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6796. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Military Ocean Terminal Sunny Point and Lower Cape Fear River, Brunswick County, NC [CGD05–03–205] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6797. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Mile Marker 88.1 to 90.4 Above Head of Passes, New Orleans, LA [COTP New Orleans-03–029] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6798. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Salem and Hope Creek Generation Stations, Delaware River, Salem County, New Jersey [COTP PHILADELPHIA 03–003] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6799. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, New Jersey [COTP PHILADELPHIA 03–005] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6800. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; St. Croix, United States Virgin Islands [COTP San Juan 03–176] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6801. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC [CGD05–03–207] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6802. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Chesapeake & Delaware Canal [CGD05–04–003] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6803. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Delaware River [CGD05–04–015] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6804. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Delaware River [CGD05–04–021] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6805. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Chesapeake & Delaware Canal [CGD05–04–022] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6806. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Corpus Christi—Port Aransas Channel—Tule Lake, Corpus Christi, TX [CGD08–04–005] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6807. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; East Pascagoula River, Pascagoula, MS [CGD08–04–002] (RIN: 1625–AA09) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6808. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Alabama River, Montgomery, AL [CGD08–04–001] (RIN: 1625–AA09) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6809. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, NJ [CGD05–03–111] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6810. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project [CGD13–03–025] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6811. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Salem and Hope Generating Stations, Delaware River, Salem, NJ [CGD05–03–113] (RIN: 1625–AA00) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6812. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Distributions of Stock and Securities of a Controlled Corporation (Rev. Rul. 2004–23) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6813. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Request for Comments Concerning the Treatment of Amounts Required to Be Capitalized in Certain Transactions to which 1.263(a)-5 Applies [Notice 2004–18] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6814. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Foreign Tax Credit Abuse [Notice 2004-19] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6815. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Abusive Foreign Tax Credit Intermediary Transaction [Notice 2004-20] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6816. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2004-25) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6817. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2004-16) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REYNOLDS: Committee on rules. House Resolution 536. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules. (Rept. 108-428). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PLATTS (for himself and Mr. Tom Davis of Virginia):

H.R. 3826. A bill to require the review of Government programs at least once every 5 years for purposes of evaluating their performance; to the Committee on Government Reform.

By Mr. RANGEL:

H.R. 3827. A bill to amend the Internal Revenue Code of 1986 to protect American jobs; to the Committee on Ways and Means.

By Mrs. BIGGERT:

H.R. 3828. A bill to authorize funding for University Nuclear Science, Engineering, and Health Physics Programs at the Department of Energy for fiscal years 2005 through 2008; to the Committee on Science.

By Mr. CANTOR:

H.R. 3829. A bill to amend the Internal Revenue Code of 1986 to provide that interests in certain domestically controlled investment partnerships are not treated as United States real property interests; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 3830. A bill to amend title 31, United States Code, to provide reasonable standards for congressional gold medals, and for other purposes; to the Committee on Financial Services.

By Mr. CASTLE (for himself, Mrs. McCarthy of New York, Mr. Tom Davis of Virginia, Mr. Shays, Mrs. Johnson of Connecticut, Mr. Kirk, Mr. Quinn, and Ms. Ros-Lehtinen):

H.R. 3831. A bill to extend the sunset on the assault weapons ban for 10 years; to the Committee on the Judiciary.

By Mr. CASTLE (for himself, Mrs. McCarthy of New York, Mr. Quinn, Mr. Kirk, and Mrs. Johnson of Connecticut):

H.R. 3832. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes; to the Committee on the Judiciary.

By Mr. CROWLEY (for himself, Mr. Lewis of Georgia, and Mr. Owens):

H.R. 3833. A bill to direct the Secretary of Transportation to establish a pilot program to facilitate the use of natural gas buses at public airports through grants for energy demonstration and commercial application of energy technology, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Florida (for himself, Mrs. Wilson of New Mexico, Mr. Hastings of Florida, Mr. Shaw, Mr. Case, Ms. Ginny Brown-Waite of Florida, Ms. Roybal-Allard, Mr. Cunningham, Mr. Hinojosa, Mr. Issa, Mr. Green of Texas, Mr. Foley, Mr. Filner, Ms. Ros-Lehtinen, Ms. Corrine Brown of Florida, Mr. Mica, Mrs. Davis of California, Mr. Lincoln Diaz-Balart of Florida, Mr. Crenshaw, Mr. Hunter, Mr. Doolittle, and Mr. Pombo):

H.R. 3834. A bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate such facilities, and for other purposes; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. Stupak, Mr. Conyers, Ms. Kilpatrick, Mr. Kildee, and Mr. Levin):

H.R. 3835. A bill to amend part C of title XVIII of the Social Security Act to prohibit the operation of the Medicare comparative cost adjustment (CCA) program in Michigan; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEFFEL (for himself, Mr. Brady of Pennsylvania, Mr. Doyle, Mr. Fattah, Mr. Holden, Mr. Kanjorski, and Mr. Murtha):

H.R. 3836. A bill to amend part C of title XVIII of the Social Security Act to prohibit the operation of the Medicare comparative cost adjustment (CCA) program in Pennsylvania; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUGHTON (for himself, Mr. Portman, and Mr. Moran of Kansas):

H.R. 3837. A bill to amend the Internal Revenue Code of 1986 to limit the deduction for charitable contributions of patents and similar property; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Shays, Mr. Simmons, and Mr. Johnson of Illinois):

H.R. 3838. A bill to provide grants to local governments to assist such local governments in participating in certain decisions related to certain Indian groups and Indian tribes; to the Committee on Resources.

By Mrs. McCARTHY of New York (for herself, Mr. Frost, Mr. Owens, Mrs. Jones of Ohio, Mr. Ruppersberger, Mr. Stark, Mr. Serrano, Ms. Woolsey, Mr. Rangel, Mrs. Maloney, Ms. McCollum, Mr. Grijalva, and Mr. Brady of Pennsylvania):

H.R. 3839. A bill to authorize the Secretary of Homeland Security to make grants to address homeland security preparedness shortcomings of units of municipal and county government; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT:

H.R. 3840. A bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their allotments under the State children's health insurance program for any fiscal year for certain Medicaid expenditures, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PALLONE (for himself, Mr. Andrews, Mr. Holt, Mr. Payne, Mr. Rothman, Mr. Pascrell, and Mr. Menendez):

H.R. 3841. A bill to amend part C of title XVIII of the Social Security Act to prohibit the operation of the Medicare comparative cost adjustment (CCA) program in New Jersey; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER (for herself, Mr. Rangel, Mr. Ackerman, Mr. Bishop of New York, Mr. Crowley, Mr. Engel, Mr. Hinchey, Mr. Israel, Mrs. Lowey, Mrs. Maloney, Mrs. McCarthy of New York, Mr. McNulty, Mr. Meeks of New York, Mr. Nadler, Mr. Owens, Mr. Serrano, Mr. Towns, Ms. Velázquez, and Mr. Weiner):

H.R. 3842. A bill to amend part C of title XVIII of the Social Security Act to prohibit the operation of the Medicare comparative cost adjustment (CCA) program in New York; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado (for himself and Mr. Beauprez):

H.R. 3843. A bill to better provide for compensation for certain persons injured in the course of employment at the Rocky Flats site in Colorado; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of New Mexico:

H.R. 3844. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of New Mexico; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. AKIN (for himself, Mr. TANCREDO, Mr. DOOLITTLE, Mrs. MYRICK, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. SHADEGG, Mr. BARTLETT of Maryland, Mr. MILLER of Florida, Mr. SESSIONS, Mr. FROST, Mr. LIPINSKI, Mr. WILSON of South Carolina, Mr. COOPER, Mr. ADERHOLT, and Mr. REYES):

H. Con. Res. 367. Concurrent resolution saluting the life and courage of the late Commander Lloyd "Pete" Bucher, United States Navy (retired), who commanded the U.S.S. Pueblo (AGER-2) at the time of its capture by North Korea on January 23, 1968; to the Committee on Armed Services.

By Mr. PETRI:

H. Con. Res. 368. Concurrent resolution recognizing The Garden Club of America on the occasion of its 91st annual meeting; to the Committee on Government Reform.

By Mr. SANDERS:

H. Con. Res. 369. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of Matthew Lyon; to the Committee on Government Reform.

By Ms. WATERS (for herself, Ms. LEE, Ms. WATSON, Mr. BROWN of Ohio, Mr. CONYERS, Mr. EMANUEL, Mr. PALLONE, Mr. RANGEL, Mr. LEWIS of Georgia, Ms. CORRINE BROWN of Florida, Mr. HASTINGS of Florida, Mr. DAVIS of Illinois, Ms. MAJETTE, Mr. OWENS, Ms. NORTON, Mr. MEEKS of New York, Mr. CLYBURN, Mr. PAYNE, Mr. WATT, Mr. BALLANCE, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Ms. KILPATRICK, Mrs. JONES of Ohio, Mrs. CHRISTENSEN, Mr. CUMMINGS, Ms. JACKSON-LEE of Texas, Ms. WOOLSEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DELAHUNT, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. KUCINICH, Mr. TOWNS, and Mr. FATTAH):

H. Con. Res. 370. Concurrent resolution expressing the sense of Congress that the United States should support the principles of democracy and constitutional rule in the Republic of Haiti, and for other purposes; to the Committee on International Relations.

By Mr. HILL:

H. Res. 534. A resolution providing for the consideration of the bill (H.R. 1769) to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States; to the Committee on Rules.

By Mr. WELLER (for himself, Mr. BALLENGER, Ms. HARRIS, and Mr. SOUDER):

H. Res. 535. A resolution expressing the concern and support of the House of Representatives for local elected officials under threat of assassination, kidnapping, forcible displacement, and coercion by terrorist organizations in the Republic of Colombia; to the Committee on International Relations.

By Mr. WELDON of Pennsylvania:

H. Res. 537. A resolution recognizing the exemplary contributions of the Gilmore Commission to the homeland security of the United States, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Armed Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 110: Mr. CARDOZA.

H.R. 111: Mr. FROST and Mr. BARTLETT of Maryland.

H.R. 284: Mr. CLYBURN.

H.R. 290: Mr. BOUCHER and Mr. LOBIONDO.

H.R. 339: Mr. BURNS.

H.R. 476: Mr. WEINER and Mr. LANTOS.

H.R. 610: Mr. WU.

H.R. 677: Mr. ACEVEDO-VILÁ, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Ms. NORTON, and Ms. WATSON.

H.R. 713: Mr. CONYERS and Ms. BERKLEY.

H.R. 776: Ms. LOFGREN.

H.R. 840: Mr. MCNULTY.

H.R. 880: Mr. LANTOS.

H.R. 962: Mr. RANGEL, Mrs. JONES of Ohio, Mrs. DAVIS of California, Mr. GUTIERREZ, and Mr. SCHIFF.

H.R. 977: Mr. KILDEE, Mr. THOMPSON of Mississippi, and Mr. MARKEY.

H.R. 1002: Mr. SAXTON.

H.R. 1010: Mrs. MALONEY.

H.R. 1127: Mr. GRAVES and Mr. ROHRABACHER.

H.R. 1214: Mr. EMANUAL and Mr. LAMPSON.

H.R. 1377: Mr. JACKSON of Illinois.

H.R. 1426: Mr. MCDERMOTT.

H.R. 1434: Mr. LEWIS of Georgia.

H.R. 1472: Mr. CONYERS.

H.R. 1532: Mr. POMEROY, Mr. SNYDER, and Mr. GERLACH.

H.R. 1582: Mr. KOLBE.

H.R. 1613: Mr. HOLT, Mr. NADLER, Ms. NORTON, and Mr. ROTHMAN.

H.R. 1634: Mr. FILNER.

H.R. 1726: Mr. RAHALL.

H.R. 1767: Mr. GARRETT of New Jersey, Mr. RAMSTAD, and Mr. BACHUS.

H.R. 1824: Mr. BEAUPREZ, Mr. PRICE of North Carolina, and Mr. PAYNE.

H.R. 1863: Ms. WOOLSEY, Mr. BISHOP of Georgia, Mr. OLVER, and Mr. INSLEE.

H.R. 2011: Mr. LIPINSKI.

H.R. 2154: Mr. KINGSTON.

H.R. 2217: Mr. GORDON.

H.R. 2227: Mr. FORD and Mr. WAMP.

H.R. 2260: Mr. QUINN and Mr. GORDON.

H.R. 2293: Mr. BALLENGER and Mr. FLAKE.

H.R. 2318: Mr. CHANDLER.

H.R. 2497: Mr. HOEFFEL.

H.R. 2761: Mrs. MALONEY.

H.R. 2768: Mr. BEAUPREZ.

H.R. 2823: Mr. RAHALL and Mr. BRADLEY of New Hampshire.

H.R. 2824: Mr. GARRETT of New Jersey, Mr. VAN HOLLEN, Mr. SESSIONS, Mr. HAYES, and Mr. WILSON of South Carolina.

H.R. 2840: Mr. NADLER.

H.R. 2900: Mr. MICA and Mr. LEWIS of Kentucky.

H.R. 2932: Mr. HOLT.

H.R. 2971: Mr. MCDERMOTT.

H.R. 3002: Mr. KOLBE.

H.R. 3015: Mr. BOOZMAN.

H.R. 3048: Mr. FLAKE.

H.R. 3058: Mr. CHOCOLA.

H.R. 3194: Mr. TIERNEY, Mr. WEXLER, and Ms. KAPTUR.

H.R. 3242: Ms. SLAUGHTER, Mr. POMEROY, and Mr. LAMPSON.

H.R. 3307: Mr. TIBERI and Mr. MILLER of Florida.

H.R. 3324: Mr. MARSHALL.

H.R. 3341: Mr. BALLANCE and Mr. BOUCHER.

H.R. 3344: Mr. MCINTYRE and Ms. WOOLSEY.

H.R. 3451: Mr. BISHOP of Georgia.

H.R. 3480: Ms. LOFGREN.

H.R. 3528: Mr. LARSON of Connecticut, Mr. RANGEL, and Mr. HASTINGS of Florida.

H.R. 3539: Mr. BISHOP of Georgia, Mr. HOLDEN, Mr. ENGEL, Mr. HASTINGS of Florida, Mr. DEUTSCH, and Mr. MENENDEZ.

H.R. 3545: Ms. LEE.

H.R. 3572: Mr. OWENS.

H.R. 3591: Mr. LEACH.

H.R. 3604: Mr. LEWIS of Kentucky and Mr. WHITFIELD.

H.R. 3605: Mr. NEY.

H.R. 3610: Mr. SANDLIN.

H.R. 3619: Mr. BISHOP of Georgia, Mr. BRADY of Pennsylvania, Mr. POMEROY, Mr. LATOURETTE, Mr. SCOTT of Georgia, Mr. MEEKS of New York, and Mr. RANGEL.

H.R. 3672: Mrs. DAVIS of California and Mrs. CAPPS.

H.R. 3676: Mr. CUMMINGS, Mr. EMANUEL, and Mr. BERMAN.

H.R. 3678: Mr. BISHOP of New York.

H.R. 3684: Mr. MCGOVERN, Mr. ISRAEL, Mr. LANGEVIN, and Mr. SHAYS.

H.R. 3707: Mr. HINCHEY, Mr. KILDEE, Mr. MATSUI, Mr. EVANS, Ms. SLAUGHTER, and Mr. PASTOR.

H.R. 3708: Mr. FLAKE.

H.R. 3714: Mr. GRIJALVA, Mr. FRANK of Massachusetts, and Mr. RYAN of Ohio.

H.R. 3764: Mr. BILIRAKIS, Mr. ENGLISH, Ms. LOFGREN, Mr. OWENS, Mr. PLATTS, Ms. GINNY BROWN-WAITE of Florida, Mr. HINOJOSA, Mr. PAYNE, Mrs. WILSON of New Mexico, Ms. NORTON, Mr. GRIJALVA, and Mr. RUSH.

H.R. 3771: Mr. FRANK of Massachusetts, Mr. MCNULTY, and Mr. WOLF.

H.R. 3793: Mr. STEARNS, Mr. BARTLETT of Maryland, Mr. TANCREDO, Mr. PALLONE, and Mr. BERMAN.

H.R. 3796: Mrs. CAPITO

H.R. 3801: Mr. BURGESS, Mr. TANCREDO, and Mr. TERRY.

H.R. 3815: Mr. FROST and Mr. SERRANO.

H.R. 3818: Mr WALSH, Mr. LAMPSON, and Mr. ANDREWS.

H.J. Res. 60: Mr. MILLER of Florida.

H. Con. Res. 15: Mr. WELDON of Florida, Mr. WALSH, and Ms. WATSON.

H. Con. Res. 99: Mr. MCGOVERN, Mr. NEAL of Massachusetts, and Mr. MATSUI.

H. Con. Res. 111: Mr. LYNCH.

H. Con. Res. 218: Mr. KENNEDY of Rhode Island and Mr. FROST.

H. Con. Res. 232: Mr. BARTLETT of Maryland.

H. Con. Res. 276: Mr. OBERSTAR and Ms. LEE.

H. Con. Res. 298: Mr. GREENWOOD.

H. Con. Res. 304: Mr. GREEN of Wisconsin and Mr. SHAYS.

H. Con. Res. 307: Mr. ISRAEL.

H. Con. Res. 327: Mr. MCGOVERN and Ms. WOOLSEY.

H. Con. Res. 332: Mr. DAVIS of Alabama, Mr. REHBERG, Mr. GREEN of Wisconsin, Mr. CLAY, and Mr. KILDEE.

H. Con. Res. 353: Mr. BELL, Mr. NEY, Ms. SCHAKOWSKY, Mr. WU, Mr. COX, Mr. GRIJALVA, Mr. LEWIS of Georgia, and Ms. WATSON.

H. Res. 38: Mr. ISRAEL.

H. Res. 313: Mr. WEINER and Mr. LANTOS.

H. Res. 471: Mr. WYNN and Mr. DAVIS of Illinois.

H. Res. 479: Mr. FILNER, Ms. MILLENDER-MCDONALD, and Mr. STARK.

H. Res. 501: Mr. CLAY, Ms. MCCARTHY of Missouri, Mr. SMITH of New Jersey, Mr. SHIMKUS, Mr. PENCE, Mr. FRANK of Massachusetts, and Mr. AKIN.

H. Res. 522: Mrs. MCCARTHY of New York, Mr. MCNULTY, Mr. SERRANO, Mr. LIPINSKI, and Mr. TERRY.

H. Res. 524: Mr. RUSH, Mr. OWENS, and Mr. ENGLISH.

H. Res. 526: Mr. ACKERMAN, Mr. BELL, Mr. BLUMENAUER, Mr. CALVERT, Mr. EVANS, Mr. EHLERS, Mr. HOBSON, Mr. LEACH, Ms. LEE, Ms. HARRIS, Mr. MORAN of Virginia, Mr. OWENS, Mr. PAYNE, and Mr. MCCOTTER.

H. Res. 530: Mr. ABERCROMBIE and Mr. CLAY.

SENATE—*Wednesday, February 25, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable LINDSEY O. GRAHAM, a Senator from the State of South Carolina.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Bishop Alfred A. Owens, Mount Calvary Holy Church, Washington, DC.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Most gracious and everlasting God, we thank You for this glorious day that You have allowed us to see, and we honor You for Your undying faithfulness toward us.

Help us to continually hold up the light of Your love, and may we be always mindful of our collective duty to serve each other as we serve You.

Teach us Your ways, and lead us in a plain path. Shine Your light upon the road that our Senators must travel. Give them grace and truth to guide their every decision. Unite them under the banner of Your love, and allow them to speak with one clarion voice that which You would have them say.

Teach us all to lean on Your everlasting arms and give us the grace to lead according to Your everlasting word. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINDSEY O. GRAHAM led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant journal clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 25, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINDSEY O. GRAHAM, a Senator from the State of South Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. GRAHAM of South Carolina thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the debate prior to 10:30 will be equally divided in relation to the pending motion to proceed to the gun manufacturers liability bill. At 10:30 this morning, the Senate will proceed to a vote on invoking cloture on the motion to proceed to that bill. I anticipate the Senate will invoke cloture, and I hope we would then be allowed to begin consideration of the bill and the amendment process.

I understand some Members have indicated a desire to speak during the postcloture period, and I do urge those colleagues to allow us to proceed to the underlying bill. There will be plenty of time on the bill to deliver those statements once the bill is before the Senate.

I expect amendments will be offered during today's session, and therefore Members can expect rollcall votes today. We will alert everyone as these votes are scheduled.

Finally, I encourage any Member who intends to offer an amendment to the bill to contact their respective cloakrooms as soon as possible. It is helpful for both sides of the aisle, in terms of scheduling, if Members notify the managers of any possible amendments.

I thank all Senators and look forward to making substantial progress on the gun manufacturers liability bill throughout the day.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader.

EDUCATION FUNDING

Mr. DASCHLE. Mr. President, I will use leader time for a statement unrelated to the legislation before us.

Every year since 1926, Americans have set aside time in February to recognize and celebrate black history. We owe this celebration of Black History Month to Carter G. Woodson, a brilliant and determined son of former slaves, who made it his mission to write African Americans into America's history books.

Black History Month actually started out as Black History Week. Dr. Woodson chose the second week in February because it marks the birthdays of two men who greatly influenced African American history: Abraham Lincoln and Frederick Douglass.

Dr. Woodson said:

> We should emphasize not Negro history, but the Negro in history. What we need is not a history of selected races or nations, but a history of the world void of national bias, race hate, and religious prejudice.

In 1870, in order to rejoin the Union, the Mississippi State Legislature needed to choose someone to fill the seat in the Senate once held by Jefferson Davis. They chose an ordained minister named Hiram Rhodes Revels.

On February 25—134 years ago today—visitors in the Senate galleries burst into applause as Senator Revels became the first African American ever to serve in the Senate.

Five years later, Mississippi sent America its second African American Senator, Blanche Kelso Bruce, the first African American to serve a full term in the Senate.

Although he served only 6 years, Senator Bruce distinguished himself as a passionate advocate of civil rights for blacks, Native Americans, Chinese immigrants, and even former Confederates.

Besides Mississippi, there was another bond that connected these extraordinary men: a fierce commitment to education.

During the Civil War, Hiram Revels not only raised two black regiments for the Union Army and fought at one of the war's bloodiest battles, he established a school for freedmen in St. Louis. After serving in the Senate, he became president of a college in Mississippi.

Blanche Bruce was born a slave. His first teacher was a tutor hired to teach his master's son. At 20, he escaped slavery and became a teacher in Missouri. He later attended Oberlin College and spent much of his life after the Senate working to bring learning to former slaves, their children, and grandchildren.

It is fitting we remember these two great men of history in this Chamber where they made history, and it is especially appropriate that we remember them this year, on the 50th anniversary of Brown v. Board of Education, the Supreme Court ruling that declared once and forever that in America, no child can be consigned to a second-class school on the basis of race.

All Americans—not just African Americans, all Americans—are the beneficiaries of the Brown decision. It has made America stronger spiritually by realigning our public institutions with our great guiding principles.

It has also made America strong economically, socially, politically, intellectually, artistically, militarily, and in so many other ways by requiring every child in America—every child—be given the opportunity to make the most of his or her God-given potential.

In this Black History Month especially, America remembers and honors Thurgood Marshall and Linda Brown, the giant at the head of the NAACP brilliant legal team in Brown, and the brave little 8-year-old girl at the center of the case. We also remember and honor all those who helped them—and there were many—because it takes many people of good will to right great wrongs. But it is not enough to remember great turning points in our past. We should also rededicate ourselves to the great principles at the heart of the Brown decision.

This Black History Month, the right of every child in America to attend a good school and get a good education, regardless of race or income, is once again in jeopardy. The threat to equal educational opportunity today is not as obvious or virulent as it was before Brown. We no longer tolerate laws that say some children can be consigned to second-rate schools and third- or fourth-rate futures. In fact, our laws today promise to leave no child behind. But the law is not being funded. It is a check written on insufficient funds.

I was the first in my family to graduate from college. I could not have gone to college had it not been for the ROTC scholarship I had.

I voted for No Child Left Behind because I believe every child in America deserves the same opportunities I have been given. I voted for No Child Left Behind because I know investing in the minds of young people is the smartest, most productive investment a nation can make. I voted for No Child Left Behind because I support accountability and because I have no doubt that students, teachers, principals, parents, and school board members in South Dakota and across the country can meet higher standards as long as they are given the resources.

I voted for No Child Left Behind because President Bush gave his word that the law would be funded, but that is not what has happened. In the 2 years since President Bush signed the law, he has proposed three budgets to Congress. All three times, the President has drastically underfunded his own education reform plan. The education budget President Bush recommended for next year falls $9.4 billion short of what was originally promised in No Child Left Behind, $9.4 billion less than what is needed to make it work.

The program that is most critical to closing the achievement gap between minority and nonminority students, title I, is cut the deepest—more than $7.1 billion below what the law promises. The President's education budget does not leave one child behind; it leaves 4.6 million children behind, and a disproportionate number of them are African American and members of other minorities.

The President's budget also makes deep cuts in afterschool programs despite strong evidence that good afterschool programs keep children safe and help them academically. It provides less than half the share of special education costs the Federal Government committed in 1975. It slashes career and technical education. It eliminates dropout prevention programs. Despite promising during the campaign of 2000 and again last month in the State of the Union Address to raise the maximum Pell grant by $1,000, the President's budget actually freezes Pell grants next year for the third year in a row. Three years ago, the maximum Pell grant paid 42 percent of the average annual cost of attending college. Today, it covers only 34 percent.

The President's neglect of education and his repeated refusal to fund even his own educational plan is hurting America. It is hurting African-American and other minority children disproportionately. This is not a partisan criticism. Republican legislators in Arizona and Minnesota have introduced bills that would allow their States to partially opt out of No Child Left Behind. They consider it an unfunded mandate.

Legislatures in at least 10 other States have adopted resolutions criticizing the law and seeking waivers from parts of it. In Utah, a Republican-dominated House has voted not to implement No Child Left Behind unless Federal funds are provided adequately. States are being put in a horrible bind: Accept huge, costly, unfunded mandates or give up tens of millions of dollars or more in Federal education aid, much of which is intended and which works to close the achievement gap.

Brown v. Board of Education is one of the most inspiring chapters in our Nation's history. It gave all American children the promise of equal educational opportunity and the No Child Left Behind Act reaffirmed that promise in principle, but the promise is hollow unless we fund it. When the Senate debates the budget resolution, we will be offering amendments to fully fund the No Child Left Behind Act and to make other critical investments in education and training.

It is important we remember our history. It is also essential that we keep our promises and invest in our future.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1805, which the clerk will report.

The assistant journal clerk read as follows:

> Motion to proceed to the bill (S. 1805) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided between the Senator from Idaho, Mr. CRAIG, and the Senator from Rhode Island, Mr. REED, or their designees.

Who seeks recognition?

The Senator from Idaho.

Mr. CRAIG. Mr. President, the leader has obviously taken time. We thought we were going to have an hour on each side. Is the vote still scheduled for 10:30, or does the leader's time count in that?

The ACTING PRESIDENT pro tempore. The vote will be at 10:30. The time has been reduced proportionately.

Mr. CRAIG. I think we can live with that.

The ACTING PRESIDENT pro tempore. For the information of the Senators, each side will have 23 minutes.

Mr. CRAIG. I believe several of my colleagues will want to be on the floor to speak prior to the cloture vote. As the leadership has said, there is a cloture vote on the motion to proceed to S. 1805, the Protection of Lawful Commerce in Arms Act. We will vote on that at 10:30 this morning.

I regret that a few of our colleagues are forcing us to go through this procedural step instead of simply moving to the bill. This bill is supported by a strong bipartisan majority in the Senate, and I believe as we work our way through it, that kind of bipartisan relationship will clearly demonstrate itself. More than half the Senators, as I have said, both Republicans and Democrats, are cosponsors of our legislation, including the leadership of both parties. A very similar bill passed in the House nearly a year ago by a 2-to-1 vote margin, or nearly that margin.

Some of our colleagues have already announced they intend to play politics with this bill instead of debating its merits. They have already announced their intention to throw a variety of nonrelated bills or amendments at this important—the legislation my guess is to attempt to divert the legislation and delay the completion of its consideration. However, I believe this morning's vote will demonstrate that a majority of the Senate is, indeed, ready to proceed to this bill and to debate it, as we should, offer legitimate amendments, debate those amendments fully, and vote them up or down if necessary.

This legislation addresses a crisis in our courts and the integrity of our courts because our courts are now threatened by the kind of lawsuits that are simply not necessary but politically motivated. For a long time, the trial bar has attempted to use the court system to legislate social policy or legal activity in this country. What this bill does, and what we have worked to do and why it has gained the support it has, is craft a very narrow exception in the law so that we still hold those responsible accountable for their actions under all laws.

What we have always said within the law is that someone cannot be held accountable for someone else's actions, and if someone is attempting to reach back through the law when someone is innocent and legal in their acts, then that kind of thing ought to stop. That is why we have worked hard to craft it narrowly.

I think Americans clearly understand what we are attempting to do, and that is our goal. I hope my colleagues will vote in favor of cloture so that we can get into the full and robust debate of this legislation. It is important.

I will turn to my colleague, Senator REED, who will be handling the opposition, and then I believe at that time we will probably have several of our colleagues who wish to speak to it.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise in strong opposition to the so-called Protection of Lawful Commerce in Arms Act. At a time when this country is faced with extraordinary problems—with economic problems, international problems—we are devoting very precious time to legislation that is in behalf of a special interest rather than dealing with the broader public interest, the economy of this country and the international position and status of this country.

This is not legislation that is designed to protect the courts. This is legislation that is designed to protect gun dealers, the gun industry, manufacturers, and trade associations such as the National Rifle Association. To suggest this is simply a response to politically motivated cases flies in the face of cases that have been filed, like the cases of the victims of the sniper shootings here in Washington, DC; people like Bernice Johnson, whose husband was sitting on a bus reading his paper waiting to go on and run his route that day and was killed. It subsequently turns out the weapon that was used in this crime came from a dealer in Washington State who apparently couldn't account for 238 weapons. Mrs. Johnson is not suing to make a political point. She is suing simply because she lost her husband, the father of her children, and she would like to hold responsible those people who were negligent.

The suggestion that this is a minor exception to the law when people are acting legally, following a statute, flies in the face of our concept of civil liability. It is not a question of just following the law. It is also a question of being responsible for your actions, of not being negligent, of taking due care in the performance of your legal duties. This whole approach is something I think flies in the face of basic common sense and the basic law of this country.

We are struggling with huge problems across this Nation. Yet we are spending precious time here to try to deal with the interests of a special group of people, a very influential group of people. We are not out protecting the rights of Mrs. Johnson and others bringing this suit. We are protecting the rights, frankly, of the gun industry to be negligent and harm people through their negligence.

This legislation is not a minor, carefully crafted exception. It would wipe out virtually every opportunity to assess whether a gun dealer, a gun manufacturer, or a trade association was negligent in their activities. It would bar virtually all negligence for product liability in State and Federal courts and throw out all pending cases, cases that have already been filed prior to this date, prior to the potential enactment of this legislation. It is a sweeping immunity to gun dealers, gun manufacturers, and even trade associations such as the National Rifle Association.

It is no wonder the gun lobby dropped this legislation in the 107th Congress, because we were paralyzed here in Washington by a sniper—two snipers, it turns out—who killed people with weapons that were obtained through the apparent negligence of a gun dealer. Yet these individuals, these victims and their families, would be denied the right to go to court because of this legislation.

It is also ironic that this would be the first gun bill to be enacted since Columbine, a situation in which, again, young people, disturbed young people, were able to go to a gun show using a straw purchaser, using the loophole that exists in buying weapons without a background check, and then went into a high school in Colorado and wreaked havoc. Instead of closing the gun show loophole, we are now trying to open up a huge highway for the negligence of gun dealers, negligence of the gun industry.

Talking about the procedural correctness of this approach, this legislation did not go through the Senate Judiciary Committee. There were no hearings, no committee markups were ever scheduled. This very complicated issue of balancing the rights of plaintiffs versus the rights of defendants in the context of civil litigation was never fully assessed through hearings. Now we are here and now we must have a vigorous debate on this legislation. We must not only look to the specifics of this legislation but also to its impact across the country and address some larger issues of gun violence in the United States.

Two years ago or so, it was the Washington area snipers who paralyzed this country, certainly paralyzed this area of the country. Today there is apparently one or perhaps more gunmen who are stalking innocent people on the highways of Ohio.

Gun violence exists and we should do more to stop it. We should use this opportunity to pass provisions that will close the gun show loophole, that would reauthorize the ban on assault weapons that has operated in the last few years at least to keep the most dangerous weapons out of the hands of some very dangerous people. We should require effective safety locks on handguns. We should improve the national instant criminal background check system so there is a more accurate and more effective system of checking.

These are the things we should be doing and I hope we can have an opportunity to offer amendments in this regard. Every day there are hundreds of thousands, millions of families who struggle to do all they can to protect their children and themselves. Here we are telling the gun industry: Don't join that effort to make people safer. You can ignore reasonable, responsible actions. You can be negligent and you will not be brought to justice.

I think that is wrong. I think that is bad law, bad public policy. I urge my colleagues to oppose this legislation, to oppose this motion to go forward. There are much more pressing demands in this country we should address today: the unemployed, those who are struggling to find jobs in a jobless economy; funding fully our national defense. We have a budget that was presented to us that does not include any money for Iraq and Afghanistan. That is something we should be focused on today.

Mr. DODD. Will my colleague yield?

Mr. REED. I am happy to yield.

Mr. DODD. I commend my colleague for his statement this morning. I want to underscore the last point he is making.

Here we are with the highest unemployment figure since the Great Depression and we are debating the gun issue. I come from a State that probably has more manufacturers of guns than any other in the country. I think Connecticut is still the largest manufacturer. The idea we are going to take an entire industry and exclude it from liability should there be a just cause to bring them to a bar of justice is rather remarkable to me in light of everything else going on in the country. So I commend my colleague from Rhode Island. We come from the same region of the country. We have lost 45,000 jobs in my State in the manufacturing sector in the last 30 months. I ask whether, in his view, there aren't higher priorities we ought to be addressing other than excusing an entire industry from liability against negligence?

Mr. REED. Reclaiming my time, I agree entirely with the Senator from Connecticut. Rhode Island, like Connecticut, is seeing its manufacturing base evaporate. These are real problems. These are problems that affect families throughout this country. This is truly in the public interest, finding an answer to disappearing jobs throughout the country. Yet today we want to protect one very special interest.

Let me add, too, as the Senator points out, not only are we trying to give an unprecedented immunity to one industry, this industry is virtually unregulated in the sense of other industries. It is not controlled by the Product Safety Commission, which would look at the product design. So one of the only recourses an individual has with respect to negligence claims is through the courts. Here we are eroding that avenue.

Mr. DODD. I thank my colleague. If he will yield further?

Mr. REED. I will.

Mr. DODD. I thank my colleague. I will join him in opposing cloture on this bill and I hope the leadership would move on with another issue that I guarantee has a far higher priority with the American public than to satisfy one industry's fear that they might have to appear before the bar of justice to explain their behavior. The idea we would exclude this industry—we tried to do that on another issue on the MTBE issue that came up on the energy bill. As my colleague may know, I offered the securities reform bill, the National Standards legislation, Y2K, terrorism insurance. I am also a strong advocate of class action reform. I am not an opponent at all of trying to reform the tort system. But the idea that we would eliminate an entire industry from liability due to the potentiality of their products for causing great harm is amazing to me. Given the challenges our country faces, it is amazing we would spend time on this legislation.

Mr. DURBIN. If the Senator will yield, I thank the Senator from Rhode Island for his leadership on this issue. I worked with him and I will continue. I would like to ask him this question. Am I correct that yesterday the item of business before us was to exempt individuals who had been held liable for creating medical injuries from their full accountability and liability in medical malpractice, including pharmaceutical companies and medical device companies? That was the item on the agenda yesterday. Now, today, we are taking up the exemption from liability for gun manufacturers and dealers. Does the Senator from Rhode Island detect a pattern here, that each day of the week we are going to try to single out another special interest group and give them an exemption from accountability and liability in courts in America?

I think he is accurate in his description of what we have been doing in the last couple of days, which is trying to not provide for the public interest but to protect special interests, and not to provide individual citizens a right, regretfully, when they have been harmed, at least a right to make a determination of who should be held liable, but simply and categorically strip away these rights and to protect industries that have powerful influence in Washington.

Mr. DURBIN. Mr. President, I ask the Senator: Did he not say this bill has never gone through a committee for hearings and for our close scrutiny in determining exactly what the impact would be?

Mr. REED. Mr. President, the Senator is right. There have been no hearings. This bill has been brought to the floor directly. That is why it is incumbent for us to take a greater amount of time to look over the bill.

Mr. DURBIN. If the Senator will yield for a further question, if we look at existing law in America and at companies, manufacturers, and interest groups that are currently exempt from being held accountable in a courtroom for misuse of their products or selling a product, the only one I can think of is the Price-Anderson law relative to the nuclear power industry. There are a lot of different exceptions where we have said you can't be sued no matter what you do. Is there a long list we are adding to with this legislation?

Mr. REED. The only exception other than Price-Anderson I can think of is General Aviation Aircraft, over 18 years old, that has special protection. That is a very narrow protection, and I think it is nothing like contemplated in this legislation.

I must also note those aircraft are supervised by the FAA. There is significant Federal involvement in the design and airworthiness, things that do not apply at all to a weapon.

Mr. DURBIN. If I may ask the Senator a further question, if he will yield for a question, is it my understanding if we pass this bill that individuals—for example, the victims of the District of Columbia snipers—who are going after gun dealers who were selling massive amounts of weapons which they could not even account for, that we may in fact eliminate the lawsuits brought by the surviving families of the DC snipers against the gun dealers who were just negligently and wantonly selling guns without any consideration as to whether they could be misused?

Mr. REED. That is my understanding. It is not only my understanding, but it is the understanding of various counsel who looked closely at this legislation and rendered an opinion to that effect.

Mr. DURBIN. If the Senator would further yield for a question, we had two individuals we believe who were absolutely terrorizing the Washington, DC area and killing people with sniper rifles. Then we identified where that rifle was purchased and found out this Bull's Eye dealer—whatever the name was—was not even keeping good records of the guns that were being sold. The families of the victims who were killed by the DC snipers believe the gun dealer should be held liable and accountable for its negligence in selling guns without keeping the records that are required. And the Senator from Rhode Island is telling me we are bringing a bill to the floor of the Senate to exempt the gun dealer who sold the weapon that killed these innocent people in the Washington, DC area from liability. Is that what this debate is all about?

Mr. REED. That is my view entirely. That is what this legislation will accomplish. It will not only prospectively provide barriers to the courts for victims of negligence like this, but it will reach back and protect these individuals who apparently—at least arguably—were negligent in not properly controlling over 230 weapons, not just the one the snipers used, which disappeared.

Mr. DURBIN. I ask the Senator from Rhode Island: If we are going to decide to pass laws here on a daily basis to exempt companies across America from being held accountable for their negligence and for wrongful conduct, does the Senator from Rhode Island share my belief this is going to become an auction process where the Senate, frankly, will decide which special interests we will honor on a weekly basis to make certain they cannot be held accountable by a jury of their peers and by judges so that individuals who were wronged, like the victims of the District of Columbia snipers, will eventually find they have no recourse? They cannot go to the White House on a gun issue because the President is on the side of the gun lobby. They cannot go to Congress which is controlled by Members who apparently pay a lot more attention to the gun lobby than gun victims. So we are closing the courthouse doors to the victims of gun violence by the passage of this legislation.

Mr. REED. I think the Senator is entirely correct. His insight also is accurate in that I cannot see that other industries, if we pass this, won't come to us and say, We have very valid reasons, too. We are being assailed every day by these claims. This sets a very dangerous and very unfortunate precedent.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Six minutes 20 seconds.

Mr. DODD. Mr. President, will my colleague yield for an additional question? I was curious whether my colleague would share with us what problem this legislation seeks to solve. Normally, when you bring a bill to the floor you try to solve the problem. I wonder if my colleague has any idea of the volumes of lawsuits that have been brought against gun manufacturers that the author of this legislation is trying to solve.

Mr. REED. Very few suits have been filed. There is not an epidemic throughout the Nation, but probably the best evidence is from the companies themselves. Let me make reference to the 10-K report on weapons.

> In the opinion of management, after consultation with special counsel, it is not probable and is unlikely that the outcomes of these claims will have a material adverse effect on the results of the operations or the financial condition of the company as managers believe it has provided adequate reserves.

So in 10 cases, in the statement required to be sworn to under the securities laws, Smith & Wesson and other companies have essentially said there is not a material problem.

At this point, because I know there are other speakers who would like to respond——

Mr. DODD. If the Senator will yield for one more additional question, I want to make the point that my colleague is absolutely correct.

Further, is he aware that over the last 10 years there have been 33 cases brought by municipalities—one in the State of New York—and none of them have resulted in conclusions that have been harmful to the gun manufacturing industry? With a population of 280 million people, there have been 33 or 34 cases in almost 10 years, not one of which has resulted in an adverse decision for the manufacturers. Is my colleague aware of that?

Mr. REED. I am aware of it. The Senator is correct. We think there are less than 100 cases.

Mr. DODD. The police chiefs from across the country are urging the Senate not to protect gun dealers who arm killers.

Mr. REED. I am aware of that. In the course of this debate, I hope we can emphasize that point.

I retain the remainder of my time and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, before I yield to the Senator from Texas, let me make a couple of comments in response to what my colleagues have been saying this morning.

Let's take the gun dealer in Tacoma, WA who is alleged to have sold to the sniper who held this area hostage for a time with a gun. His license has been revoked. There is a criminal investigation, and BATF has asked the Justice Department to file felony charges against the dealer. The business is now closed and broke.

In other words, what I am saying is if this licensed gun dealer violated current law, he will be shut down. What we are talking about here again is a narrow piece of legislation that deals with civil liability—not product liability—and in the case of current Federal law it does not touch it. The day in court comes.

But what the Senator from Connecticut didn't say is even his own gun manufacturers and their associations in those some 30-plus lawsuits have spent millions and millions of dollars before the court system defending themselves, and to date the judges have thrown them out. This is called "death through attrition" by simply taking to the courts and constantly bringing to the courts these kinds of arguments. Here is the reality.

Mr. DODD. Mr. President, will the Senator yield?

Mr. CRAIG. I can't yield at this time. My time is limited. We are going to be on this for days, as the Senator knows. We will debate it thoroughly.

But what he is suggesting is running the risk of losing all of his gun manufacturers and the hundreds of jobs that are out there. He is concerned about jobs. I think he would be concerned about keeping the jobs he has in his home State. That is part of this discussion.

Mr. DODD. Will the Senator yield?

Mr. CRAIG. I can't yield. Time is limited.

Mr. DODD. The Senator made reference to the Senator from Connecticut.

Mr. CRAIG. I did it fairly. You are here on the floor. We will talk about this more in the hours to come.

Let me yield to my colleague from the great State of Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I rise to say a few words on our broken civil justice system. Today we are debating yet another common sense reform proposal, the Protection of Lawful Commerce in Arms Act.

Despite many recent opportunities, Congress has been unable to enact meaningful tort reform, largely because of strong resistance by trial lawyers and their allies in this chamber. Just yesterday we failed to reach cloture on medical liability reform that would protect our mothers and their children. We have been blocked from enacting broader medical liability reform.

And we saw this drama played out last year with the Senate's failure—by one vote—to end a filibuster of the Class Action Fairness Act and give the bill a vote on the floor. Despite the fact that a bipartisan majority stands ready to pass that bill, the obstructionist opposition prevents us from acting.

I believe our civil justice system is badly broken. It serves the interests of the few at the expense of the many. It has become almost entirely directed not at dealing out justice, but at finding as many scapegoats as possible, the wealthier the better.

It used to be that if you slipped and fell on a sidewalk, you picked yourself up and kept on walking. But nowadays, far too many trial lawyers continue to feed the idea that instead of getting up again, you ought to sue the maker of the sidewalk for making it too hard, the maker of your shoes for not putting enough ridges on your soles, and everyone in your near vicinity for not rushing to catch you as you fell. After all, there is money to be made.

The current system rewards lawyers and short-changes the real victims. There is no doubt that this system of over-litigation cannot last without more negative results. And without reform, I fear the entire system will collapse under its own weight.

Today, the Senate has the opportunity to take a step in the right direction on this problem, by passing the Protection of Lawful Commerce in Arms Act.

This bill is simple: it provides that lawsuits may not be brought against lawful manufacturers and sellers of firearms or ammunition if the suits are based on criminal or unlawful use of the product by someone else—when a criminal, not the manufacturer, commits a crime.

Such lawsuits are not intended to find real fault, but to play on the emotions of a jury and drive the gun industry out of business, holding legitimate, law-abiding manufacturers and dealers liable for the intentional and criminal acts of others.

This bill reinforces years of legal precedent—that individuals and businesses are responsible for the harm they case, not for the actions of third parties over whom they have no control.

Many Judges across the Nation recognize the ridiculous nature of these suits. The Louisiana Supreme Court struck down New Orleans' right to bring such a suit in the face of State law forbidding it, and said "this lawsuit constitutes an indirect attempt to regulate the lawful design, manufacture, marketing and sale of firearms." In dismissing New York State's case last year, a New York appellate court observed "the plain fact that courts are the least suited, least equipped, and thus the least appropriate branch of government to regulate and micro-manage the manufacturing, marketing, distribution and sale of handguns."

Thankfully, many States are acting: 33 States have enacted some form of legislation to prevent junk lawsuits against the firearms industry based on the criminal behavior of others. We must follow the lead of the majority of States, and pass this common sense measure.

Don't allow any illusions about the intentions of the people involved in these suits. At an American Bar Association symposium in 1999, one of the plaintiffs' attorneys for the antigun lawsuits explained that the attorneys had read the Dun & Bradstreet reports on the firearms companies, estimated how much the companies could spend defending themselves against litigation, and then filed so many cases in so many jurisdictions that the gun companies would not be able to spend the money to see the cases through to a verdict. The irresponsible tort community is simply looking for another law-abiding business to prey on.

And even if all the gun companies in America were put together, they would not constitute a single Fortune 500 company—so the gun companies are much more vulnerable to abusive litigation than deep-pocketed giants such as the New York Times.

The real way to stop gun crime in America is simple: those who abuse the constitutional right to keep and bear arms by using firearms to commit crimes must be aggressively prosecuted and punished. When I was Attorney General of Texas, I joined with then-Governor Bush to launch a program we called Texas Exile. That program provided local prosecutors with the funds to get more than 2,000 guns off the streets and to issue more than 1,500 indictments for gun crimes, resulting in almost 1,200 convictions in its first 3 years of existence alone.

And when President Bush came to Washington, he built upon our success in Texas by making Project Safe Neighborhoods one of his top priorities. Project Safe Neighborhoods expands on existing programs that target gun crimes in each State. It is a nationwide commitment to reduce gun crime in America by networking these existing local programs and providing those programs with the additional tools necessary to be successful.

The Bush administration has committed more than $900 million to this effort over three years, using funding to hire new Federal and State prosecutors, support investigators, providing training, distribute gun lock safety kits, deter juvenile gun crime, and develop and promote community outreach efforts as well as to support other gun violence reduction strategies. And Texas has seen great success with the integration of Project Safe Neighborhoods with the existing Texas Exile infrastructure.

These are the kinds of steps that get real results, not ill-intentioned frivolous lawsuits. I question the integrity of any system that would reward such abject agreed. We need to work in this body to fix our broken civil justice system, and this bill is a good place to start.

I am somewhat bemused by the arguments I have already heard this morning on this motion to invoke cloture. In fact, we want to have a debate. Those who oppose even having a debate are, I guess, not going to allow it to happen. I hope they are not successful in blocking debate. It is healthy to have a debate.

I am bemused by the suggestion that this is a narrow bill directed toward special interests. Yesterday, we had a narrow bill to protect the special interests known as pregnant women and children. However, the trial lawyers prevailed and we were unable to get that commonsense tort reform measure on the floor for debate. I submit that the suggestion is misguided that this is a special interest piece of legislation. This is in the public interest.

I suggest the worst thing about the arguments we hear from the other side of this debate is they are misdirected. In other words, they contend this bill would immunize lawsuits against gun manufacturers for what is a lawful activity. The fact is, there is a shrine in our Constitution, the right of the people to keep and bear arms. What they are trying to do would have the effect of impeding and impairing that constitutional right because, as Senator CRAIG has pointed out, there have been many lawsuits filed against gun manufacturers for the very fact of making a lawful product, none of which, so far as I understand, has been successful but which are destroying these companies which are in the business of manufacturing a lawful product, destroying jobs, and impairing ultimately the constitutional right of citizens, people like you, me, and others in this room from owning firearms to protect our homes and our property, our families for use in sporting events, for hunting, and other lawful and decent activity.

The focus of the opponents of this bill is totally misguided. What we ought to focus on is the criminals who use firearms illegally to commit crimes. In fact, I have had a little experience in this area as attorney general of Texas. With the cooperation of then-Governor Bush, we created a program in Texas called Texas Exile. I wish we could claim we originated the idea but we borrowed the idea from Richmond, VA, something called Project Exile, which was a cooperative effort of local, State, and Federal law enforcement officials to target criminals who use guns to commit crimes and convicted felons who could not even legally own a firearm. The great thing about that was, No. 1, it was so successful; No. 2, it was not a wedge issue which, clearly, there is an attempt to inject wedge politics in this debate. But it was an issue which everyone could agree: The NRA, the gun control folks, everyone came together and said, yes, that is what we ought to do. Let's focus on the criminals who misuse this product.

Indeed, in 2001, Texas led the Nation in the number of criminal defendants who were indicted for weapons violations in Federal court. In 2000, there were 757 in that year alone, which was almost double the number of indictments in 1999. This amount was greater than the number of defendants indicted on similar charges in the States of New York and California combined.

How were we able to use the existing criminal law in a way that made our streets and our communities and our States safer? We simply enlisted the help of local law enforcement to work with Federal law enforcement authorities so when a criminal was caught illegally possessing a firearm—illegal because a felon cannot legally possess a firearm—or someone under a protective order—it is a Federal offense to carry or possess a firearm when you are under a protective order—or someone who simply used a gun to commit a bank robbery or any other offense, we focused on the gun possession portion of that and were successful in leading the Nation in the number of prosecutions. That sends a very powerful message that if you carry a gun illegally or if you use a gun illegally to commit a crime, then we are coming after you with everything that the law allows.

It is a powerful deterrent to the sort of illegal conduct that causes the harm that the opponents of the bill—and I grant their good faith; I think they believe in good faith that what they are proposing is a path to a good result, a sound result—that is reducing injuries, reducing death, but it is misguided. All this does is encourage lawsuits against a manufacturer of a legal product when someone criminally misuses that product to cause another person harm.

As the Senator from Idaho has noted, this is death by 1,000 cuts or death by 1,000 lawsuits, so to speak, because anytime a gun manufacturer is sued, even with a frivolous lawsuit, they have to hire a lawyer, they have to defend that case at greater expense which threatens their economic viability which in turn threatens the jobs of the people who work there in that company.

I wish we could have a broader debate on commonsense tort reform generally, but we have seen what happens when we try to raise these issues. We could not even get cloture on a class action reform bill. We have not been able to bring up asbestos reform which is damaging a lot of good job providers in this country and not benefiting the people who are truly sick but only the lawsuit industry which benefits from churning the cases without really benefiting the people who need compensation.

We found in almost every instance—medical liability, class action reform, or asbestos reform—we are simply not able to even get a debate. We cannot even get cloture because we cannot find 60 people in the Senate who are willing to stand up and say this is a serious problem. It is raising the costs of health care. It is bankrupting companies in the case of asbestos. It is an abuse of the class action system in the case of class action reform where lawyers get millions and consumers get a coupon.

So the strategy has been, and it is a good strategy, to try to identify certain types of cases. Yesterday it was obstetrical liability cases which have threatened the ability of pregnant women to find doctors to simply deliver their babies.

I recounted in my own State in 154 different counties a woman cannot even find a doctor to deliver her baby, an obstetrician, because people are leaving the practice. It is pricing out of reach health care liability insurance, putting people out of business, hospitals out of business, and we are simply seeing the tail wag the dog in each of these areas. The tail seems to be the special interest groups that like the status quo, which is a broken civil justice system that does not serve justice.

I commend the Senator from Idaho for bringing up this bill which admittedly is a narrow bill. Boy, I wish we could have a broader debate on tort reform, commonsense tort reform generally. When we talk about what causes job loss in this country, it is the regulation by litigation, it is the tort tax that imposes additional costs on consumers and discourages innovation and entrepreneurs in this country. We are not talking about locking the courthouse door and denying someone access to justice. I believe strongly we must retain meaningful access to justice for anyone who is harmed by the wrongful conduct of any other person. But the system right now benefits the few at the expense of the many in ways that I doubt consumers really understand because it adds costs to their products, and it makes it harder for entrepreneurs and small businesses to open their doors and to hire people to allow them to provide for their families.

So here we are, rather than taking on a broader tort reform bill, we are left with a narrow bill. I congratulate the Senator from Idaho for it. I believe we should protect manufacturers of lawful products whose products are misused by criminals. Let's focus on the criminals, not the people who are providing jobs and are producing a lawful product.

With that, I yield back any remaining time I have to the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator.

May I inquire of the time remaining for both sides?

The ACTING PRESIDENT pro tempore. The majority has 5 minutes 40 seconds. And 4 minutes 17 seconds are remaining for the minority.

Mr. CRAIG. I will reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. REED. Mr. President, I yield such time as he may consume to the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Will the Chair notify me when I have a half minute left?

Mr. President, at a time when capitulation to special interest groups is a major issue in the Presidential election campaign, it is difficult to believe that the Republican leadership in the Senate is serious in asking the Senate to accept this flagrant special interest legislation. I urge my colleagues to break the stranglehold of the gun industry and gun dealers and oppose proceeding to this shameful legislation.

The list of issues that demand the Senate's immediate attention is long. Unemployment is a crisis for millions of citizens. Retirement savings are disappearing. School budgets are plummeting. College tuition is rising. Health care costs and prescription drug costs are soaring. Federal budget deficits extend as far as the eye can see. The war in Iraq has brought new dangers, imposed new costs, and more and more American lives are being lost each week.

The well-being of most American families has declined at an alarming rate in the past 2 years. We can and should be acting to meet these challenges. Instead, the Republican leadership wants to spend time on this flagrant pro-special-interest, anti-victim, anti-law-enforcement legislation to give broad legal immunity to the gun industry.

This bill's proponents claim they are targeting "frivolous lawsuits." But we all know that its real effect would be to prevent victims of gun violence—police officers, innocent bystanders, and their families—from pursuing valid claims in State and Federal courts.

This special interest bill is a direct attack on the interests of law enforcement. Police Chief William J. Bratton of the Los Angeles Police Department recently told it like it is:

> To give gun manufacturers and gun dealers immunity from lawsuits is crazy. If you give them immunity, what incentive do they have to make guns with safer designs, or what incentive do the handful of bad dealers have to follow the law when they sell guns.

The bill would prevent the families of the victims of the DC snipers from holding accountable the gunshop in the State of Washington that somehow "lost" the assault rifle that was used in the attacks. Under current law, if negligence is proved, the families of the victims are entitled to seek redress. If this bill is enacted, the gunshop will be totally immunized from liability, and the families' lawsuits will be thrown out.

Unbelievably, the gun industry and the tobacco industry are the only two consumer industries that are not subject to Federal consumer safety regulations. America does more today to regulate the safety of toy guns than real guns, and it is a national disgrace.

The gun industry has worked hard to prevent Federal consumer safety legislation. At the same time, it has conspicuously failed to use technology to make guns safer, and it has attempted to insulate itself from its distributors and dealers, once the guns leave the factory.

Now it wants to become the only industry in the Nation exempt from lawsuits. The overwhelming majority of Americans believes that gun dealers and gun manufacturers should be held responsible for their irresponsible conduct, like everyone else.

The ACTING PRESIDENT pro tempore. The Senator has 30 seconds remaining.

Mr. KENNEDY. Surely, the Republican leadership has higher domestic priorities than providing legal immunity for the gun industry. Surely, we can do better than debate this extraordinarily reckless and unprecedented special interest legislation.

I withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

There are 16 seconds remaining for the Senator from Rhode Island and 5 minutes 13 seconds remaining for the Senator from Idaho.

Mr. CRAIG. Mr. President, if the Senator wants to make his closing comments before I make mine, what time does he have left?

The ACTING PRESIDENT pro tempore. Sixteen seconds.

Mr. CRAIG. All right. It is obvious, Mr. President, by those who have already come to the floor, that this will be a very spirited debate. The great tragedy of debates such as this is that they oftentimes fail to read the bill before them, and they make the kinds of salient political statements that have nothing to do with the legislation at all.

I invite my colleagues, on S. 1805, to go to section 4 of the bill and see how narrowly we have crafted this bill to go directly at civil lawsuits that involve a third party criminal act and trying to reach back through the courts and back through the law to say to a licensed, legitimate, legal firearms dealer or a licensed, legal gun manufacturer that they have to be responsible for the criminal act of another. That simply has not been the basis of law in our country ever, nor should it be allowed to be the basis of law today.

But if that gun manufacturer and if that licensed gun dealer violate civil law, violate the law of the land, then this bill does not hold them harmless. That is the crux of the issue. That is what is important about this legislation.

There are a lot of ways to achieve a political goal in this country. Many have found that you can file frivolous and junk lawsuits in the court, and you can slowly but surely bleed down those who you file them against because they have to come and defend themselves, even though the courts constantly throw out these lawsuits. Hundreds of millions of dollars have already been spent by legitimate gun manufacturers that make those fine weapons for our men and women in Iraq, that make those fine weapons for our civil law enforcement officers wearing the blue uniforms on the streets of America.

They would say to them: No, we are going to bust those companies. And guess where that cop is going to get his gun. From China or Yugoslavia. Or our men and women in uniform are going to have to rely on foreign gun manufacturers because we have bankrupt and thrown out of this country those acting under the law in a legitimate way.

That is what S. 1805 is about. It is not about the political agenda of many. It is about what we have said in this country is a legitimate product. We even said so in the Constitution. Most other products we do not talk about in the Constitution. They were not invented. But we did speak to guns and their value in this country. Now we are saying: No, we are going to play the political game. We are going to drag them through the courts. And they are going to spend all kinds of money to do so.

I am not willing to hold anybody harmless who violates the law. I am not willing to hold anybody harmless who allegedly acts in a criminal way. Let's find out if they did. The courthouse door is not locked by S. 1805. The courthouse door is still open. This law will be applied in arguments before the court. A judge will make the determination of whether S. 1805 fits or it does not fit. Was the licensed dealer or the gun manufacturer acting in a legal way or acting against current Federal law? That is how narrowly we have defined it.

Even the minority leader, Senator DASCHLE, has joined with me to clarify and refine this bill even more—he will be to the floor to speak to that issue—as we worked to make sure we are on point directing this specifically at those who continually play the game at the legal bar of this country to file the frivolous or the junk lawsuits to drive a legitimate operating American company and industry out of business.

I hope my colleagues will come now and vote on the cloture motion to allow us to proceed so we can fully debate the bill, bring the necessary amendments that others will have for or against the purpose of this legislation. We will vote them up or down and move it through the Senate. That is our job. I know there are a lot of issues that are important. But there are a lot of Americans who view this as a very important issue for our country.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Mr. President, the legislation before us is a benefit to special interests, the gun lobby. It will deny individual Americans the right to go to court to challenge the conduct of individuals who negligently or allegedly negligently sold weapons. It would be a great distortion of the law. I hope my colleagues will resist this legislation.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The hour of 10:30 having arrived, under the previous order the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 363, S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Bill Frist, Orrin Hatch, Mitch McConnell, Larry Craig, Jim Talent, John Ensign, John Cornyn, Conrad Burns, Saxby Chambliss, Craig Thomas, Don Nickles, Rick Santorum, Trent Lott, John Sununu, Mike Crapo, Lamar Alexander, Wayne Allard.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 75, nays 22, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—75

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Johnson
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—22

Akaka
Boxer
Cantwell
Clinton
Corzine
DeWine
Dodd
Durbin
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Kennedy
Lautenberg
Levin
Mikulski
Murray
Reed
Sarbanes
Schumer
Wyden

NOT VOTING—3

Edwards
Kerry
Miller

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 75, the nays are 22. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. KENNEDY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. CRAIG. Madam President, I hope now, with a vote of 75 to 22, we could move on to the bill. Certainly, it is our intent to allow this bill to be debated fully and for amendments to be offered. Time is running. Some Senators spoke this morning to the urgency of time to get on to other issues. Certainly, that is important to all of us. So I hope we would be able to do so. I hope now that Senators could come to the floor with their arguments, but most importantly I hope we could move to the bill itself.

As you know, under the cloture rule there would be allowed 30 hours. I hope those in opposition would not take that 30 hours and allow us to get to the bill. What we are trying to do in S. 1805 is very narrowly go through the law and allow law-abiding gun manufacturers and law-abiding dealers to be exempt from the kind of harassment and junk lawsuits that we have now seen filed in over 30-plus different venues over the last several years. All those cases then brought to court were thrown out of the court, and the reason was quite simple. The judge looked at them and said: This lawsuit is of no value.

Here you had a law-abiding manufacturer, adhering to the laws of the United States, making a legitimate product, and that person cannot be responsible for a third party action that might have been a criminal action and the trial bar trying to reach through that person to a legitimate gun manufacturer or to a licensed gun dealer.

In doing so I believe these suits were intended, of course, to drive the gun industry out of business by holding manufacturers and dealers liable for the intention and the criminal acts of that third party over whom we all know they have had absolutely no control.

Lawsuits have been filed in multiple States with demands of massive monetary damages on a broad and varying range of injunctive relief relating to the design, manufacture, distribution, marketing, and the sale of firearms. These demands, if granted, would create major judicially imposed restrictions on interstate commerce in firearms and ammunition.

Let me, though, say with that comment, this deals with civil cases, not product liability. If a gun malfunctions and someone is damaged, or if the gun manufacturer and the gun dealer were violating civil law, then, of course, this issue that we are debating today has no value. We have clearly narrowed it and cleanly gone after the very kind of lawsuit that we have, as I mentioned, seen over the last several years.

The bill does something very important to the underlying principles of our country. It reinforces centuries of legal precedent based on individual responsibility, not responsibility for actions of third parties. Law is based on the act of the individual, and that ought to be the basis of all law. Yet what these lawsuits would argue is that somehow a legitimate, legal manufacturer of a product is liable for the way the product is used. I have oftentimes said: What about an automobile? Certainly that is a legitimate product on the road. What about an automobile dealer licensed in his State to sell automobiles? If someone takes the automobile designed to give ultimate pleasure and to move people from one point to another and they get drunk and go out and get in their vehicle and kill someone, does the trial bar then say that it is the automobile dealer and the automobile manufacturer who are liable for the drunk driver who killed someone? That is what they are trying to say and that is exactly the fundamental argument here. That is why we think it is time this Congress deal with it in a forthright way.

The House argued this issue over a year ago and, by a 2-to-1 vote said: No, we are not going to let this kind of lawsuit go forward.

But they did something our bill also does. We didn't lock the courthouse door. Some will argue this simply locks any person out of the courthouse who might place an argument against a gun manufacturer or licensed firearm dealer. The answer to that is absolutely not. This will be a basis in the law by which lawyers will argue before a judge whether these kinds of charges can legitimately be brought based on the evidence at hand. The judge will then make the decision based on the law as to how we proceed.

Many judges, as I have mentioned, have outright rejected these suits already. They literally clutter up the judicial system. Antigun activists are trying to destroy tort law by creating totally new and expansive theories of liability to win restrictions that have been rejected in the legislative process. What does that mean? If you can't win it on the floor of the U.S. Senate or in the legislatures of your States, then you get a good attorney and you go before the court and try to argue it there and establish some kind of judicial precedent.

I have already suggested that we do not lock the courthouse door, that we simply allow the argument to be placed. We think that, of course, is important to all citizens, having their day in court and their right to argue it.

Would this bill affect several high-profile cases such as the lawsuit against a gun dealer in Takoma, WA, a store where the DC snipers, John Muhammad and Lee Malvo, got their rifle?

Well, it won't, and here is the reason it won't. In the case of that situation, Malvo himself said he stole the gun.

What we are also finding is that this particular gun dealer may not have operated in the most legitimate of ways, even though the case will not be brought.

There is a criminal investigation underway. The BATF has jerked the license of the gun dealer. The business is now out of business, and it is my understanding that the BATF has asked the Justice Department to file felony charges against the gun dealer. Even within that argument, you have the contradiction of the person who did the shooting saying: I stole the gun. And, of course, you have a gun dealer who may have operated illegally. Certainly that is a case in action, although what is important is this particular bill won't affect that. If that gun dealer in Takoma, WA, is found liable, if he acted in a criminal way, if he mismanaged his records that he must keep in a way that distorted what he had and guns were stolen and he never allowed that to be known, then he is at risk.

I am not a lawyer. So I can't go to the next step of that argument, and I will not. But what I do know and what we have insisted on in the crafting of S. 1805 is that it be very straightforward and very clear. Senator DASCHLE has incorporated within this an amendment that I have accepted. He may bring some fine-tuning to the floor. He, too, believes we need to deal with this issue. But he is fine-tuning to make sure what I just said is absolutely clear in the law. There will be no arbitrary way for someone to wiggle through the law.

Does the bill wipe out century-old tort law principles? The answer is quite simply, no. The bill reinforces the century-old legal tenet of personal responsibility that underlies all of our judicial system. Individuals and businesses are responsible for the harm they cause.

Let me repeat that. Individuals and businesses are responsible for the harm they cause—not for the action of third parties beyond their control.

The bill protects the rights of truly injured parties. The exceptions allow for legitimate and recognized causes of action. Manufacturers or sellers of firearms or ammunition could still be sued if they violated Federal or State law, manufactured defective products, violated contracts or warranties, or knowingly sold guns to irresponsible and/or dangerous individuals.

The law is still out there. The law still provides recourse for an individual who would fall within those categories.

But to suggest that the actions of a third party, or the criminal act of a third party, is the opportunity to reach through the court by the trial bar to go after the manufacturer of a legitimate legal, law-abiding approach or product simply should not be allowed.

Most importantly, antigun activist lawyers are the ones who are trying to distort the law by fabricating new theories for imposing liability only after having repeatedly failed to cast their political agenda right here or in our State legislatures.

Just a few years ago, they admitted this when their legislative allies introduced a bill that would have expressly created a new Federal cause of action against a manufacturer, a dealer, or importer who knew or reasonably should have known that its design, manufacturing, marketing, importation, sale, or distribution practices would likely result in gun violence.

How can anyone suggest that any action of the sale of a gun, if it is done legally, results in violence? That is the reality of what we dealt with.

There are a good many more issues that we will have an opportunity to discuss in the course of this.

It looks as if Senator KENNEDY is on the floor to debate the bill.

I reserve my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, just prior to the vote I addressed the Senate on a tight timeframe pointing out my concerns about why we were taking this action at this particular time. I have had the opportunity to travel the country.

We just ended the February recess where we had a chance to get around, as well. One of the things that has struck me over the course of those travels is the overwhelming concern working families have over the state of the economy. It is reflected in whether they are going to be able to retain their job; if they have a new job, the fact it does not pay as well as the old job; they are concerned about the cost of health care, the cost of prescription drugs; and concern over the increase of tuition. These were the issues.

One concern I have meeting at this time is we are considering special interest legislation. We have heard a great deal both by the President and during the course of the election. Hopefully, we can free ourselves from special interest legislation.

Our Republican friends offer this legislation, put a cloture motion down immediately, limit the time for any debate and discussion that provides very special interest legislation for the gun manufacturers. That must concern millions of Americans, certainly those who are concerned about the state of the economy, those concerned by the failure of the Senate to increase minimum wage over 7 years. We have 7 million Americans making $5.15 an hour who have not had a raise for 7 years and we are considering special interest legislation to protect just a single industry, the gun manufacturing industry.

There are tens of thousands of Americans losing their unemployment compensation every single week yet we are not debating the question of the extension of the unemployment compensation—which is in surplus, close to $18 billion. Senator CANTWELL has an amendment to extend that for a temporary period of time, give some relief for all of the workers who cannot find work.

Finally, the administration admits we will not have good jobs, good pay, good opportunities for the future. Finally, the President has agreed with that. He differs with his Council of Economic Advisers. For weeks we heard from the other side of the aisle: The economy is back. And now the President agrees the economy is not back.

We do not need much Senate time on the issue of a minimum wage increase. I would agree to an hour, half an hour on either side. Let's send to American workers working on the lower rung of the economic ladder a message that help is on their way. It will benefit primarily women because they are primarily the recipients of the minimum wage. It will go to mothers and children because many of the women have children. It is a children's issue, a women's issue. It is a minority issue because most of the minimum wage workers are men and women of color. It is a civil rights issue, a children's issue, and a women's issue. Most of all, it is a fairness issue.

People wonder why the Senate doesn't do something about increasing the minimum wage. We have the majority of votes but our Republican friends will not let us vote.

We hear the pious statements—look who is controlling the time—and can't we go ahead with the Nation's business. The Nation's business is increasing the minimum wage. No, no, we cannot deal with that this morning. No, we are not going to deal with that. We will have special interest legislation for just one industry—that is what the other side says—but not for the 7 million people who would be affected.

What about those in need of unemployment compensation? These men and women have paid into the unemployment compensation. Now they have lost their jobs through no fault of their own through basic mismanagement of the economy. They lose their jobs and as a result they have difficulty paying their mortgage, putting food on the table, making sure their children are going to be looked after. It is not because of them. They are hardworking Americans. They have a record of employment.

Under the Cantwell amendment, we extend the unemployment compensation. We did that in other times of our history. We did it in the previous Democratic administration before that Democratic President had created 2 million jobs. We still provided for those who had long-term unemployment, that they would be able to get unemployment compensation even after more job were created.

Now we have the loss of 3 million jobs, a sputtering return of 78,000, a total loss of 2 million jobs, and they are out there and losing every single day whatever unemployment insurance they have. We say, let us at least provide some temporary help.

Finally, our President has agreed we are not going to get the kind of recovery and create the 2.6 million jobs the Council of Economic Advisers said would occur. They finally admit that. And we are stonewalled to not work on unemployment in the Senate. No, let's look after one industry, not the tens and thousands and millions of hardworking Americans who have worked hard, played by the rules and need enough to be able to continue to pay their mortgages and look after their families. No, no, no, we cannot do that. It might take all of an hour. Everyone in this body knows what the issues are. We have to do special interest legislation.

That is not even the end of it. We have the clock ticking on unemployment. More than half of the unemployed adults have had to postpone medical treatment, 57 percent; or cut back on spending for food, 56 percent. One in four, 26 percent, has had to move to other housing or move in with friends or relatives; 38 percent have lost telephone service; 22 percent are worried they will lose their phone. More than a third, 36 percent, have had trouble paying gas or electric bills.

One of the principal reasons for the increase in bankruptcy is because of this kind of challenge. Our Republican friends want bankruptcy reform in order to expedite the pursuit of these unemployed people who are having difficult times paying their bills and mortgage. That is what the bankruptcy bill is all about: make the Federal Government collection agencies for special corporate interests. That is why they are trying to rush it through. And more and more are going into bankruptcy.

Unemployment benefits should be extended with the economy still down over 2 million jobs. This chart reflects where we are today, with a total loss of 2.4 million jobs. These figures are from the Department of Labor. The Republicans say, no, no, we have something more important to deal with, special interest legislation.

This chart shows during the previous administration, they created 2.9 million jobs, yet they still had the extension of the unemployment compensation for those out of work who had paid in over a long time. The unemployment compensation fund is in surplus, $17 billion. It will cost $7 billion and they say it will put a strain on the fund.

This is what is happening, the unemployment impact on the family. More than three in four, or 77 percent, of the unemployed Americans say the level of stress in their family is increased. I don't know how you put dollars and cents on that figure. Everything is dollars and cents around here. This is the kind of pressure and tension and anxiety these families are under, the 2.5 million.

Two-thirds, or 65 percent, of those with children have cut back on spending for their children. Those are working families trying to provide for their children clothes, or perhaps a birthday present, perhaps an outing, taking them to a baseball game in the spring, a hockey game or a basketball game in the winter. That is not there for any of these families.

Twenty-six percent say another family member has had to start a job or increase their working hours. Those are basically the women, the mothers, when they can find it. All those mothers are working twice as hard now as they did 20 years ago.

Twenty-three percent have had to interrupt their education. Imagine that, working families, the unemployed—2.4 million of them—and almost a quarter of their children have had to interrupt their education because their parents are unemployed through no fault of their own.

That is the pressure they are under. Do you think we can get an extension of the unemployment compensation? No, no. We have to deal with this special interest legislation.

This is the overall view of where we are in our country now. We have 13 million children who are going hungry. We have 8 million Americans who are unemployed. We have the 8 million Americans who will lose overtime pay under the Bush proposal. This is another interesting issue. There is no increase in the minimum wage, there is no extension on unemployment compensation for workers, and now we have the proposal to eliminate overtime for 8 million Americans.

Well, you have 13 million children who are going hungry, and the millions who are without work.

We have 7 million low-wage workers waiting 7 years for an increase in the minimum wage. There are 3 million more Americans in poverty—3 million more Americans in poverty—since President Bush took office. Are we addressing this issue today? Oh, no, no, no, we do not have the time to do that. We have to rush through this special interest proposal. We do not have time out here on the floor of the Senate to address the issues of those who are living in poverty, or the 90,000 workers a week—90,000 workers a week; think of that: 90,000 workers a week.

Most of us are always impressed during Sunday football games that we watch in our stadiums when they have that incredible view from the airplanes or balloons or whatever that shows the stadiums packed with people. They will say: 89,000 people, 75,000 people. I guess it is 78,000 out in Lambeau Field out in Wisconsin, which I have been to recently. People look out there and they see the mass of people out there: 80,000, 90,000 people. Think of that number of people every single week—every single week—losing their coverage of unemployment compensation.

I want to mention one other area because I see good friends in the Chamber. My friend and colleague from Iowa will be offering an amendment on overtime. I know the Senator from the Washington, Ms. CANTWELL, will be here soon to talk about her amendment on the unemployment compensation.

But one of the cruelest, cruelest, cruelest suggestions that has been made by any administration in the time I have been in the Senate is to effectively do away with overtime pay for 8 million Americans and for those who receive training in the Armed Forces and acquire special skills.

Now let us think about the administration's proposal and who they are talking about. Who would be affected by the proposal the administration is talking about? Shown on this chart is a list of the professions that would lose the coverage for overtime pay.

The idea of a 40-hour workweek has been at the heart and soul of our whole country's ethic. Certainly from the late 1930s it has been a part of it. There has been a recognition that if you are going to require people to work overtime, you are going to pay them time and a half. That has been accepted by Republicans and Democrats alike since the end of the 1930s. But not under this administration. They are talking about limiting overtime.

Who will be the groups that will be affected by the elimination of overtime? This is the group: It is going to be the policemen, it is going to be firefighters, it is going to be the nurses, among others. I mention policemen and firefighters and nurses because, as we know, they are the backbone of homeland security. If we are going to have a problem with chemical or biological warfare, it is going to be those policemen and firefighters and nurses who are going to be the first responders who are going to risk their lives locally in those communities to try to contain this kind of threat. They are the ones who are going to be on the front lines. Yet those are the very people who this administration feels are being overpaid. Even the police force that is here in the Senate in many functions would be affected.

There are a lot of things that are troubling in the United States of America today we should be and must be concerned about. I mentioned the number of children who are living in poverty and what is happening to these families who have seen their jobs outsourced. Many of these things we ought to be working on. But one of the great problems in our country today is not that our policemen, firefighters, and nurses are being overpaid. I have not heard anyone say that except the President of the United States or the Secretary of Labor. I have not heard anyone come up to me back in Massachusetts saying: You know something, Senator, those policemen and firefighters and nurses are being overpaid. Do something about it. Do something in Washington about it. I don't hear that. There is no question that some manufacturers believe that and feel that and have asked the administration to do something about it. No question about that. And they did, the administration has. I will give you an example.

But let me just conclude on this chart—police officers, nurses, firefighters. The interesting part is that women, by and large, are mostly in these areas and professions. This reduction in overtime primarily affects women in our workplace.

But something that just makes this extraordinary—and has been debated here on the floor of the Senate this proposal was rejected by the Senate of the United States, rejected by the House, but this administration feels sufficiently strong about this issue that they insisted the Harkin-Kennedy language be taken out of the bill in the middle of the night behind closed doors—behind closed doors—at the insistence of the major manufacturing companies in this country. And we are going to face that. We are going to be facing that in these next few weeks as we have the reauthorization to do it.

Now let me point out something on the rates that have been proposed. These are the ones that have been proposed on the overtime. Listen to this. And I am talking about the kinds of skills, cumulative skills that will make people ineligible for overtime. I am reading right from the Federal Register, and I will include the appropriate reference in the RECORD:

> However, the word "customarily"—

That means the definition about the skills that will be excluded—

> means that the exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees, but who attained such knowledge through a combination of work experience, training in the armed forces. . . .

There it is, the Federal Register, volume 68, No. 61, Monday, March 31, administration's proposed regs. If you get the skills, training in the Armed Forces, if you happen to be over in Iraq today or Afghanistan and you have gone to some training programs in order to provide greater protection for your fellow troops in fighting for our country, maybe a member of the National Guard or Reserve, you get those kinds of training functions, you come back here, you are out of the Guard, you return to work, and your boss says: Hey, these new regs say you got the training in the Armed Forces. Too bad. You are not getting your increase.

That is what this says. A number of us raised this in the earlier debate. The Secretary of Labor in January sent a letter to the Speaker of the House, DENNIS HASTERT, saying—and I will include the letter in the RECORD; it is only a page and a half long—

> I want to assure that your military personnel and veterans are not affected by these proposed rules by virtue of their military duties or training.

But that training in the Armed Forces can make a worker an overtime-ineligible, professional employee. This is new language. It is not in the current regulation, and its only purpose is to take away overtime for veterans.

Why don't they just drop the language and free us from any kind of ambiguity? Just say, this was brought to our attention, we are going to drop it, instead of trying to explain it away.

Continuing from the letter:

> First, the Part 541 "white collar exemptions" do not apply to the military. They cover only the civilian workforce.

No one is complaining that the rule affects the military workforce. The issue is the veteran who leaves the military to work in the civilian workforce and would lose overtime protections. They are rather clever. They say the white-collar exemptions don't apply to the military. No one is suggesting it applies to the military. This letter is an attempt to mislead. It is very clear. If the administration does not intend to apply these overtime regulations to those who have been in the service, they ought to just eliminate it.

I ask unanimous consent to print the letter from which I have quoted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF LABOR,
Washington, January 27, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I write to provide you with the facts to correct the record following last week's Senate floor debate on the Consolidated Appropriations Act with regard to the Department of Labor's proposed revision of the Fair Labor Standards Act's overtime exemption regulations. I also would like to thank you for your support and leadership on this important issue.

The recent allegations that military personnel and veterans will lose overtime pay, because of proposed clarifications of the Fair Labor Standards Act (FLSA) "white-collar" exemption regulations, are incorrect and harmful to the morale of veterans and of American servicemen and women. I want to assure you that military personnel and veterans are not affected by these proposed rules by virtue of their military duties or training.

First, the Part 541 "white collar exemptions" do not apply to the military. They cover only the civilian workforce.

Second, nothing in the current or proposed regulation makes any mention of veteran status. Despite claims that military training would make veterans ineligible for overtime pay, members of Congress should be clear that the Department of Labor's proposed rules will not strip any veteran of overtime eligibility.

This has been one of many criticisms intended to confuse and frighten workers about our proposal to revise the badly outdated regulations under the FLSA "white collar" exemption regulations. It is disheartening that the debate over modernizing these regulations to meet the needs of the 21st Century workforce has largely ignored the broad consensus that this rule needs substantial revision to strengthen overtime protections.

The growing ambiguities caused by time and workplace advancements have made both employers' compliance with this rule and employees' understanding of their rights increasingly difficult. More and more, employees must resort to class action lawsuits to recover their overtime pay. These workers must wait several years to have their cases adjudicated in order to get the overtime they have already earned. In fact, litigation over these rules drains nearly $2 billion a year from the economy, costing jobs and better pay.

I hope that this latest concern will be put to rest immediately. Once again, I assure you that military duties and training or veteran status have no bearing on overtime eligibility. We hope that future debate on this important provision is more constructive. If we can provide further assistance in setting the record straight, we would be pleased to do so. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

ELAINE L. CHAO.

Mr. KENNEDY. The Bush overtime proposal denies overtime to veterans. The overtime proposal explicitly states that training in the Armed Forces could disqualify workers from the overtime protection. Many employers, such as Boeing, acknowledge that this will affect much of their workforce. According to Boeing's comments on the Bush proposal:

> Boeing observes that many of its most skilled technical workers received a significant portion of their knowledge and training outside the university classroom, typically in a branch of the military service. . . .

There it is. That is the reason. Because many manufacturers wanted that kind of savings for the bottom line. That is why that is in there. Because this company and others have hired people who have been in the military, and when they see they have these kinds of skills which are necessary for our Armed Forces, they are being penalized for it.

I would be interested in seeing the discussion between the Secretary of Defense and the Secretary of Labor in putting these out. So many of these training programs and education programs are programs that inspire young people to go in the Armed Forces. They are men and women of limited means but have ability and capabilities and understand that they cannot achieve their fullest potential unless they take these training programs or build the kind of credits in order to get advanced degrees.

They ought to be on warning now that if they go ahead and do that, they may very well be knocked out of any kind of overtime protection. That is what this basically says. It is a cruel hoax to so many who are in the National Guard now and are going to come back and be in the civilian workforce.

I want to read from a letter:

> My name is Randy Fleming. I live in Haysville, Kansas—outside of Wichita—and I work as an Engineering Technician in Boeing's Metrology lab.
>
> I'm also proud to say that I'm a military veteran. I served in the U.S. Air Force from August 1973 until February 1979.
>
> I've worked for Boeing for 23 years. During that time I've been able to build a good, solid life for my family and I've raised a son who now has a good career and children of his own. There are two things that helped make that possible.
>
> First, the training I received in the Air Force made me qualified for a good civilian job. That was one of the main attractions when I enlisted as a young man back in Iowa. I think it's still one of the main reasons young people today decide to enlist. Military training opens up better job opportunities—and if you don't believe me, just look at the recruiting ads on TV.
>
> The second thing is overtime pay. That's how I was able to give my son the college education that has opened doors for him. Some years, when the company was busy and I had those college bills to pay, overtime pay was probably 10% or more of my income. My daughter is next. Danielle is only 8, but we'll be counting on my overtime to help her get her college degree, too, when that time comes. For my family overtime pay has made all the difference.
>
> That's where I'm coming from. Why did I come to Washington? I came to talk about an issue that is very important back home and to me personally as a working man, a family man, and a veteran. The issue is overtime rights.
>
> The changes that this administration is trying to make in the overtime regulations would break the government's bargain with the men and women in the military and would close down opportunities that working vets and their families thought they could count on.
>
> When I signed up back in 1973, the Air Force and I made a deal that I thought was fair. They got a chunk of my time and I got training to help me build the rest of my life. There was no part of that deal that said I would have to give up my right to overtime pay. You've heard of the marriage penalty? Well I think that what these new rules do is to create a military penalty. If you got your training in the military, no matter what your white collar profession is, your employer can make you work as many hours as they want and not pay you a dime extra.
>
> If that's not a bait and switch, I don't know what is.

You can't make the case any better—no matter how long we speak, how many charts we have—you can't make the case any better than is being made by this former serviceman.

> And I don't have any doubt that employers will take advantage of this new opportunity to cut our overtime pay. They'll tell us they have to in order to compete. They'll say if they can't take our overtime pay, they'll have to eliminate our jobs.
>
> It won't be just the bad employers either—because these rules will make it very hard for companies to do the right thing. If they can get as many overtime hours as they want for free instead of paying us time-and-a-half, they'll say they owe it to the stockholders. And the veterans and other working people will be stuck with less time, less money, and a broken deal.
>
> I'm luckier than some other veterans because I have a union contract that will protect my rights for a while anyway. But we know the pressure will be on, because my employer is one that pushed for these new rules and they've been trying hard to get rid of our union.
>
> And for all of those who want to let these military penalty rules go through, I have a

> deal I'd like to propose. If you think it's okay for the government to renege on its deals, I think it should be your job to tell our military men and women in Iraq that when they come home, their service of their country will be used as a way to cut their overtime pay.

Madam President, is there anyone in this body who doesn't believe that eliminating that possibility isn't of greater urgency than the special interest provision presently before us in the Senate?

Why don't we clear this up once and for all? Why don't we take an hour or so and debate the Harkin-Kennedy amendment on this issue? Why don't we vote on that amendment and send it over to the House? Let's send a message to families, nurses, police officers, and firefighters. Let's send a message to those who have gotten skills in the National Guard. Let's send a message that we stand with them, that we believe their service is of importance to us in the Senate. Let's put aside the speeches for a little while that will be made by political leaders all over the country about how much we appreciate the service of men and women and do something for them in the Senate now? Now.

There are a number of other issues that we could be talking about in terms of the state of our economy. I have taken a short period of time. I see others in the Chamber who wish to address the Senate. It does seem to me that the matters I have mentioned, no matter how you come out on them, are of importance to working families in this country. And, the working families in this country are faced with economic challenges.

It is not just the questions about outsourcing, although that is enormously important and a matter of great and expanding concern. It is what is happening with the failed increase in the minimum wage, the failure of providing unemployment compensation, the failure to do the overtime provisions, the failure to deal with the high cost of prescription drugs. There is another amendment we could do to permit the Secretary of Health and Human Services to actually negotiate and do something about lowering prescription drugs for people. We could do that pretty quickly.

People are concerned about the high cost of tuition in colleges, and there are things we can do on that.

I say these are the matters that are of principal concern to working families across this country. We have seen the loss of manufacturing jobs, the concerns that working families have. They want some action. They don't want us to yield to special interest provisions. Not only do they not want us to yield to them, but those who have been victims of violence and violent gun activity don't want us to throw their cases away, and leading law enforcement officers of this country understand that we should not yield to the special interests as well.

I look forward to the opportunity for some discussion and some action on these issues prior to the time we have a vote. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from California is now in the Chamber to discuss this bill. We are not on the bill yet. I hope we can get there.

The Senator from Massachusetts has taken ample time to discuss the bill, I guess, and other issues. I would like to talk about jobs. I think the Senator is right to talk about jobs, but what he didn't talk about were the jobs in Westfield, MA, at Savage Firearms. They used to be a total of 500 high-paying union jobs strong. They have spent over half a million dollars fighting the lawsuits that we would like to prohibit. Now there they are 160 strong. They have lost jobs in Massachusetts. I want the Senator from Massachusetts to stand with me and protect the hard-working men and women at Savage Firearms.

The bill is about jobs, I say to the Senator from Massachusetts. That is what this issue is all about.

Why is our bill endorsed by the United Steelworkers and by the United Auto Workers? The reason it is endorsed is because these high-paying jobs at law-abiding gun manufacturing locations are being eliminated by the glut of a thousand lawsuits—in this case over 30—where they have had to go to court, spend a lot of money, and the court threw it out because it was frivolous, but the company was less viable because these are really not big companies.

If we took all of the firearms manufacturers in the United States today and brought them all into one company, they would be smaller than a Fortune 500 company.

Let me read a great quote from the Colt manufacturers, Colt firearms. They are located in Connecticut:

> We today have 383 members from the Colt workforce. By comparison, about 5 years ago, we had over 600 Colt workers who were members of our local. Our members built the finest small arms in the world, including the M-4 carbine, the M-16 rifle, and the M-203 grenade launcher.

I believe those are the firearms of our military.

> Many of them were shipped to the U.S. military and lawfully provided for the principles of democracy.

That company is at risk today unless we pass the kind of legislation about which we are talking.

I do believe the working men and women of this country are a special interest. I think the tens of millions of law-abiding gun owners in our country are a special interest. So it is really a matter of how you define "special interest." If it has been said once on the floor, it has been said 15 times in the last 45 minutes: special interest, special interest, special interest.

Let's talk about the working men and women of the firearms industry. Let's talk about the law-abiding gun owners of America as a special interest of us, this country, all Americans. You are darn right we debate special interests on the floor of the Senate, but it really is a matter of definition.

Time limit? We are not proposing a time limit. Senators can speak for up to an hour on this issue now, and if they want to, they have 30 hours postcloture before we get to the bill. I hope we don't spend all of that time doing that. I would like to get to the bill. I know the Senator from California has talked about an amendment. I think she would probably want to offer that amendment and have it amply debated.

We do not want to limit time, but we do want to talk about special interests: law-abiding gun owners in our country, working men and women of the law-abiding gun manufacturers, the people who work at legal gun shops all over this country that by law are licensed and that by law carry out the law. That is what we are talking about today. Call them a special interest, if you will. I do. My job is to try, under the law, to protect them from the kinds of frivolous lawsuits the trial bar has decided to bring in court after court because they couldn't gain legislation on the floor to change the character of our country. That is the issue at hand.

I am glad the Senator from Massachusetts has come to talk about special interests. I wish he would understand that the hard-working men and women in Westfield, MA, for Savage Firearms are, in fact, a special interest—a special interest of mine and, I am quite confident, a special interest of his.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise today to speak on the bill that is before this body, and I wish to begin by saying that I have great respect and have enjoyed working with the Senator from Idaho on a number of issues, including Healthy Forests. But I also must say we profoundly disagree when it comes to guns. So it is probably no surprise to him that I rise to strenuously object to what I see happening here.

I think we have to recognize that guns in America are responsible for the deaths of 30,000 Americans a year. The question comes whether we should be giving the gun industry sweeping and unprecedented protection from the type of lawsuits that are available to every other victim involving every other industry in America.

The simple fact is that over the years, the gun industry has managed to lessen, avoid, or prevent any prudent regulation. For example, they are exempt from Consumer Product Safety Commission laws, thanks to the National Rifle Association's efforts over the years to keep it that way.

Secondly, the Federal Government cannot do much to police bad gun dealers—and we know there are some—or to enforce gun laws because the hands of the ATF, the Bureau of Alcohol, Tobacco and Firearms, are tied by limits to their authorities which have been put in place by the National Rifle Association. They can only do a once-a-year audit, for example. They only have limited options.

The number of ATF agents is kept so low they cannot possibly inspect all of the gun dealerships in this country. So today only the court system offers victims of negligent manufacturers, of which there are some, and dealers, of which there are some, the ability to receive compensation for their injuries. Only the court system provides a means for changing these negligent practices through the threat of legal liability.

I hope to show that the threat of legal liability has, in fact, resulted in more responsible manufacturing and selling principles by this industry. If we remove this one remaining avenue toward enforcing responsibility, victims will have no recourse. Gun owners and gun victims alike will be left virtually powerless against an industry that is already immune from so many other consumer protections. So we find ourselves today on the cusp of yet another NRA victory.

Let me be clear, this is not a victory for NRA members, most of whom are law-abiding gun owners who might some day benefit from the ability to sue a manufacturer that sold them a defective or dangerous gun. No, this will be a victory for those who have turned their organization into a political powerhouse, unconcerned with the rights of the majority of Americans who want prudent controls over firearms.

I do not support meritless lawsuits against the gun industry. I do not think anybody does. It is my belief gun manufacturers and dealers, though, should be held accountable for irresponsible marketing and distribution practices, just as anyone else would be, particularly when these practices may cause guns to fall into the hands of criminals, juveniles, or mentally ill people.

This legislation has one simple purpose: to prevent lawsuits from those harmed by gun violence. These include: suits filed by cities and counties which face rising law enforcement and medical costs due to increased gun crimes, crimes often committed using guns that flood the illegal market with the full knowledge of the distributors that the legal market could not possibly be absorbing so many of these weapons; suits filed by organizations on behalf of their members; and victims of violent crimes and their families who are injured or killed as a result of gun violence or defective guns that malfunction due to negligent design or manufacture.

This issue is not an abstract one. When people vote for this gun liability absolution today, they are going to be hurting a lot of people all across this land, and I want to point out a few because this bill affects the lives of real gun victims, victims not simply of criminal misuse by a well-designed firearm, but victims of guns that have been designed poorly or marketed in ways which quite frankly should be illegal.

One of the cases that could be affected by this legislation, though this would ultimately be decided by a judge, is that of Brandon Maxfield, a 7-year-old from my State, Oakland, CA.

On April 6, 1994, Brandon was shot in the chin by his babysitter. The shooting left him a quadriplegic and he will never be able to walk again.

The babysitter, a friend of the family, was simply trying to remove a bullet from the chamber of a weapon that was found in the house, a .38 caliber Saturday night special, when the gun accidentally fired.

Here is the key: The weapon was clearly designed in an inherently dangerous way. It can only be unloaded when the safety is in the off position and can therefore fire.

Now common sense might say when you want to unload a gun you would first put the safety on. It defies common sense, on the other hand, to design a firearm so it can only be unloaded in the firing position. After all, one might expect the gun to accidentally fire as someone like Brandon's babysitter struggles to unload it.

Finally last year, after 9 years of litigation, a jury found the manufacturer and distributor of Saturday night specials partially liable for Brandon's injuries. This was a tremendous victory for Brandon and his family and a victory for all people who want to see guns made safer. This bill, however, would take away Brandon's right to sue, and I will explain why a bit later.

The bottom line, though, is Brandon's case was not frivolous. The jury did not think it was. Without the threat of lawsuits, companies like the one that made the gun in this case will have little incentive to change the design, but this legislation would remove the threat of that suit, depriving Brandon of compensation but, even worse, depriving the public of this key avenue to improving the habits of gun manufacturers.

I will quickly go through what the bill does. I know others have and will continue to speak to this, but I think it bears repeating because I do not think everybody supporting this bill really understands its full ramifications.

Essentially, this bill prohibits any civil liability lawsuit from being filed against the gun industry for damages resulting from the criminal or unlawful misuse of a gun, with a number of narrow exceptions.

In doing so, the bill effectively rewrites traditional principles of liability law, which generally hold that persons and companies may be liable for their negligence even if others are liable as well. This bill would essentially give the gun industry blanket immunity from civil liability cases, an immunity no other industry in America has today.

The bill does allow certain cases to move forward, as its supporters have pointed out, but these cases can proceed only on very narrow circumstances. Countless experts have now said this bill would stop virtually all of the suits against gun dealers and manufacturers filed to date, many of which are vital to changing industry practice and compensating victims who have been horribly injured through the clear negligence or even borderline criminal conduct of some gun dealers and manufacturers.

The exemptions in the bill, even the new bill, set a very high burden of proof of negligence for plaintiffs, allow for a very slight number of cases against gun manufacturers to be filed, and only protect a limited class of cases against sellers.

Under this bill, cases could only be filed in the following narrow circumstances. First, if a gun dealer transfers a firearm knowing the gun will be used to commit a violent or drug trafficking crime. In other words, a suit could go forward if a dealer gives a gun to someone who comes in and says, "Give me a gun, I need to go kill someone." This provision only applies in the highly unlikely event a gun buyer clearly indicates his or her criminal intentions to the gun seller. Fat chance of that happening.

I am not a gun dealer, but I imagine most criminals do not make a habit of announcing their criminal intentions to gun dealers. So this exception to the immunity created by the bill is really no exception at all. It will apply to almost no cases.

Secondly, there is an exemption in the bill which applies if a dealer sells a gun to someone knowing the buyer will or is likely to misuse the firearm and that the individual buyer does indeed misuse it to commit a criminal offense. This provision is slightly more likely than the first exemption, but it still requires a very high burden of proof. Instead of common negligence, which might only require that the dealer did not take enough care in making sure that criminals did not obtain guns to commit crimes, what this provision requires is that the dealer actually know that the buyer is likely to use the gun to do harm.

How can this be proven? Mr. President, you are an attorney. How can this be proven? The difficulty in proving such a claim might all but bar this exemption from ever coming into play. It would have no effect on such practices as straw purchases and large volume sales—which, incidentally, are the two most common sources of crime guns—because in a straw purchase, the dealer could always claim that he or she had no idea what the buyer would be doing with the guns.

Third, the bill would allow suits to proceed where a defendant has violated a law or regulation in the sale of the specific gun that caused the damage or injury. This sets a very high burden of proof for negligence. Again, this would not affect dealers who conduct straw purchases or other dangerous distributing conduct because such conduct does not specifically violate any laws or regulations, although I must say it should.

Because there are so few real laws or regulations governing how guns are sold or manufactured, this provision, too, is relatively insignificant in terms of how it affects the underlying thrust of the bill.

Now I should point out that this provision is different than the provision in the original bill as passed by the House. Under the original bill, only knowing and willful violations of the law could be subject to suit, which is an even higher burden to reach. But even under this revised legislation, this standard is far higher than current law.

The simple truth is, negligence does not involve a violation of the law. Requiring a plaintiff to prove that a gun store, for example, was not only negligent in letting a criminal obtain a dozen guns, but the gun store actually violated a law in doing so, of which there are few, makes it very difficult to succeed.

So with any other business or product, in every other industry, a seller or manufacturer can be liable if it is negligent—but not here. Since money, rather than life or liberty is at stake in a civil case, the standard of proof is lower. There need not be a criminal violation to recover damages, and in the overwhelming majority of civil cases there is no criminal violation. So if, for instance, a crib manufacturer designs and markets a crib that results in the death of children who use the crib, we allow that manufacturer to be sued as one means of deterring such conduct and of compensating the families of the children who died from the defectively designed crib. The manufacturer need not have committed any crime. It is the negligence in making a defective and dangerous crib that is enough. Here, contrary to general negligence law covering almost every other product, this bill allows negligent gun dealers and manufacturers to get off the hook unless they violated a criminal law. That is just dreadful. You are creating a special area of law for gun manufacturers and saying unless they violate a law they can manufacture a defective weapon.

The judge in Washington State presiding over the case brought against the DC area snipers has twice ruled that the dealer, Bull's Eye Shooters Supply, and the manufacturer, Bushmaster Firearms, may be liable in negligence for enabling the snipers to obtain their gun. But even with the new modifications, the sniper victims' case could very well be thrown out of court under this bill. So know what you are doing, Members who vote for it. The sniper victims' case could well be thrown out of court by this bill because there is no evidence that either the negligent dealer or manufacturer violated a criminal law.

Indeed, both Lloyd Cutler and David Boies, each prominent attorneys, recently stated unequivocally that the sniper case would have to be dismissed under this bill, and countless professors have written a letter agreeing with this interpretation of the law.

This is the most notorious sniper case in America. You have negligence on the part of the gun dealer who sold that gun, didn't report it until way late, allowed the snipers to get that gun, and now we are passing a law to prevent the victims from suing under civil liability. Nowhere else in the law does this exist.

In another case, a Massachusetts court has ruled that gun manufacturer Kahr Arms may be liable for negligently hiring drug-addicted criminals and enabling them to stroll out the plant door with unmarked guns to be sold to criminals. But with the proposed changes, the case against Kahr Arms would be dismissed. Its conduct, though outrageous, violated no law. Negligent? Yes. Criminal? No.

Members, know what you are doing when you vote for this bill.

The fourth exemption in the bill is when a dealer somehow violates a sales contract. An example of this would be the dealer failing to provide the gun for which the purchaser paid. This, too, is clearly a limited exception. Victims of defectively designed or negligently sold guns would not be allowed to file cases under this provision. Furthermore, the claims of gun purchasers would be limited to what they were entitled to under the scope of the contract or warranty.

The fifth exemption in the original bill allowed suits to go forward if the gun manufacturer has caused "physical injuries or property damage resulting directly from a defect in design or manufacture of a product when used as intended." This provision altered generally accepted principles of products liability law which essentially state that a manufacturer must implement feasible safety features that would prevent injury caused by foreseeable use or misuse, even if that use is not "intended." For instance, it might not be intended for a child to try to eat a small toy, but it is clearly foreseeable.

This new modified gun immunity legislation does add language allowing suits to go forward as long as the activity was "reasonably foreseeable" by the manufacturer or dealer, which appears to match current law. However, the devil is in the details because the bill then takes away any benefit that language might have by stating that the exemption will not apply to lawsuits that also involve criminal acts by the defendant.

The best example of how this provision would affect the case is the Brandon Maxfield babysitter shooting I mentioned earlier, where a child was accidentally shot by a babysitter because the chamber of the gun could not be checked without clicking the safety to "off." In that case, the gun fired while the babysitter tried to check the chamber.

The problem is the bill prohibits suits involving even foreseeable accidents, if there are criminal charges. In the babysitter case, the babysitter could easily be, and indeed was, charged with manslaughter—which is a crime. Thus, even this suit would still be barred by this revised bill.

Contrary to current law which allows judges and juries to apportion blame and damages, this bill would bar any damages against a manufacturer if another party was liable due to a criminal act.

Why should firearms get special treatment? In our society, we hold manufacturers liable for the damage their products cause. This is the case with automobiles. This is the case with cribs. It is the case with children's toys, and it should be the case with guns as well. Lawsuits filed against the gun industry provide a way for those harmed to seek justice from the damages and destruction caused by firearms. Just as important, they create incentives to reform the practices proven to be dangerous.

After all, this is the most dangerous consumer item found in a home.

According to statistics, there is a gun in 43 percent of the households with children in America. There is a loaded gun in 1 of 10 households with children, and a gun that is left unlocked or improperly stored in 1 of every 8 family homes.

More children and adult family members are killed each year by having a loaded gun at home than from incidents with criminal intruders. In fact, a gun in the home is 22 times more likely to lead to an accidental injury or death to family members than used against a criminal intruder. These are senseless actions that can be prevented by simply designing guns with technologically and economically feasible safety devices.

Recent cases have produced evidence from law enforcement investigations, as well as industry insiders, that the gun industry may be ignoring numerous patented safety devices for guns and intentionally flooding certain markets with guns knowingly, and also profiting from the fact that the excess weapons would make their way into the hands of criminals. We have seen gun dealers selling guns when they know these guns are being purchased to immediately resell to criminals—often to criminals who wait right outside the door or even inside the very store while the guns are being bought by someone who can pass a background check.

Lawsuits filed against the gun industry provide a way for victims and municipalities to seek justice from the damages and destruction caused by firearms.

Additionally, lawsuits provide this largely unregulated industry with incentives to reform irresponsible manufacturing and distributing practices proven to be dangerous.

According to Tom Gresham, a writer for the magazine Guns & Ammo, lawsuits have, in fact, proven effective in encouraging manufacturers to design their guns with proper safety devices. Even though guns are not required to be made with safety features, Gresham writes in the June 2002 edition of the magazine that lawsuits have spurred manufacturers to include them to avoid liability in future actions.

Don't we want this to take proven steps to improve the safety of their weapons?

Gresham claims, "No matter what you think of them, you will find built-in locks on more and more guns in the future. I predict that in ten years, no firearm will be made without one."

What does this bill do to that? It encourages the gun companies to do exactly the opposite—to not put better safety components on their weapons.

When this bill was introduced, its supporters spoke about the need to protect the industry from frivolous lawsuits and the need to protect the industry from the potential loss of jobs brought on by future lawsuits. These claims are unfounded. This bill is simply the latest attempt of the gun lobby to evade industry accountability. The suits against the gun industry come in varying forms, but they all have one goal in common—forcing the firearm industry to become more responsible.

In addition to ongoing cases filed by individual victims, there have been a handful of cases filed by private associations, such as the National Association for the Advancement of Colored People, and the National Spinal Cord Injury Association. These cases have been filed on behalf of groups of individuals who claim to have been harmed by the gun industry's bad behavior.

And there are government cases—at least 24 cases—that have been filed against the gun industry on behalf of nearly three dozen cities and counties and one State attorney general claiming that the reckless conduct of the gun industry has threatened public safety and hindered the ability of municipalities to provide for the health and welfare of their citizens. A majority of these municipalities' lawsuits have successfully defeated industry attempts to dismiss their cases. This bill would kill that.

Last year, Dennis Herrera, City Attorney of San Francisco, said that, "Cases being pursued by my office and some 30 other jurisdictions nationwide have already achieved important milestones in exposing gun industry recklessness, with mounting evidence and an increasing number of high-level whistle blowers revealing gross misconduct by manufacturers and dealers . . . I'm convinced that the City and its fellow plaintiffs have a compelling case against the gun industry."

This legislation would prevent them from going ahead.

Let me describe a few representative cases that also could have been stopped by this bill.

The case of Cincinnati v. Beretta is one example of a legitimate and successful case filed against the gun industry. In this case, officials from the city of Cincinnati, OH, contended that the gun industry's reckless marketing and distribution of guns enabled them to wind up in the hands of criminals and children leading to murders, shootings, and suicides that imperil public safety. The city also argued that gun manufacturers were negligent in failing to design safer weapons and owed the city compensation for the cost of emergency responses to acts of gun violence.

The Supreme Court of Ohio agreed and ruled the issue deserved exploration at trial. The court found that under generally applicable principles of law, it is the duty of gun manufacturers to use reasonable care in their design and sales of guns, and they may be liable for damages arising from their negligent conduct and failure to equip their guns with practical safety features.

This is no different an analysis than would be used against the manufacturer of any product used by a consumer—whether a child's crib, a toothbrush, a chainsaw, or an automobile.

The Court also found that a manufacturer could be held liable for their role in creating and facilitating the criminal gun market through their failure to use reasonable care in their sale and distribution of guns. The Court specifically rejected the argument that those who irresponsibly sell guns cannot be liable if the damage foreseeably resulting from their negligence was ultimately caused by a criminal act.

Furthermore, the Court noted the socially beneficial role of lawsuits against gun sellers and manufacturers can play:

> If as a result of both private and municipal lawsuits, firearms are designed to be safer and new marketing practices make it more difficult for criminals to obtain guns, some firearm-related deaths and injuries may be prevented . . . Such litigation may have an important role to play, contemplating other interventions available to cities and states.

This case could well be stopped in its tracks if this bill passes.

In another case, Hurst v. Glock, the New Jersey Court of Appeals also ruled in favor of the plaintiff. This products liability case centers on an incident in which a teenage boy, Tyrone Hurst, was seriously injured when his friend picked up a gun she thought was unloaded and fired at Tyrone. The Hurst family argued that the shooting could have been prevented had the gun manufacturer included a safety feature known as a magazine disconnect safety.

Again, the Court agreed and found that the gun manufacturer could be liable for injuries caused by the failure to include a safety feature on the firearm. Wiped out.

In 1994, Griffin and Lyn Dix from Berkeley, CA, lost their youngest son Kenzo after he was accidentally shot to death at the age of 15 by his best friend, Michael. Michael was showing his father's gun to Kenzo and, believing the gun to be unloaded, pointed it at his friend and fired. Michael did not realize there was a bullet hidden in the chamber of the gun.

In an interview after the incident, Michael described the situation after turning the gun on his friend:

> I look down and I don't even aim. I heard a pop, my eyes opened up and I was shocked. I look and saw Kenzo hunched over, kind of moaning—a creepy moan you don't want to hear. It just stays with you.

The bullet went straight into Kenzo's chest. Tragically, he was pronounced dead within the hour.

Kenzo's parents sued Beretta, the manufacturer of the gun that killed their son. They argued that the gun lacked adequate safety features and warnings and that is why it appeared unloaded despite the fact that a bullet lay in the chamber.

The case sent a necessary wake-up call through the industry that they could rightly be held accountable in future wrongful-death cases. Faced with the threat of litigation, a number of manufacturers have changed their design standards and designs to include proper and practical safety features. That is a positive benefit all across this Nation.

I ask my colleagues, how can we justify giving blanket immunity to the gun industry that manufactures and distributes products that kill 30,000

Americans a year, yet fail to provide the proper and practical safety features in their products?

Under the principles of common law, all individuals and industries have a duty to act responsibly. How can we give total legal immunity to an industry that time and time again has failed to act in such a manner?

This is not just about manufacturers and the design of products. It is also about gun dealers and distributors that know their guns are sold to be used in crime. This very bill was scheduled to come to the Senate for consideration during the 107th session of Congress. It was withheld in light of the sniper attacks that terrorized the Washington, DC area. I guess enough time has now passed that the bill's supporters think we will have forgotten those sniper victims. But we have not. We have already heard today that the victims of those attacks have filed one of the cases currently pending. The suit results from alleged negligent conduct of a gun dealer that has been accuse of some incredibly negligent conduct.

Mildred Denise Muhammad filed three restraining orders against her husband, John Allen Muhammad, one of the convicted snipers. Those restraining orders should have prohibited John Allen Muhammad from owning a gun.

However, nothing stopped him from obtaining the handgun he allegedly used to commit murder in Alabama, nor the Bushmaster XM-15 assault rifle used in the sniper attacks, in all likelihood because the dealer that had the Bushmaster assault rifle was either negligent or willful in allowing it to fall into Muhammad's hands.

The assault rifle used in the sniper attacks was one of 238 guns that have been reported missing from the Bull's Eye Shooters Supply store in Tacoma, WA. We learned about this dealer's dangerous inability to keep track of his guns not from the store itself but, rather, from audits performed by the ATF. The store had no record of purchase for the assault rifle used in the attacks and failed to report it stolen until after the ATF recovered the weapon from the snipers and traced it back to the store. Here is a store that has 238 guns that are missing and does not report them. That is class A evidence.

Even after this blatant display of negligent conduct, the rifles manufacturer announced that the gun store remained a "good customer" and it would continue to sell guns to the store. The manufacturers showed clear disregard for the victims, their families, and public safety.

And the store itself, in either failing to adequately account for its guns, or even worse, illegally selling the gun to a prohibited person, may well also be liable for its conduct. The alleged snipers were clearly aided and abetted by the irresponsible conduct of the owners of this gun shop that managed to simply lose hundreds of deadly weapons and the manufacturer that supplied serious combat weapons to a dealer with no questions asked.

If they are not liable, they will be found not liable by a jury; but if they are liable, should we not allow a court to decide? How can we, with a clear conscience, pass a bill that would deny the right of these victims of gun violence their day in court?

As I mentioned earlier, this case would almost certainly be dismissed if the bill now before the Senate becomes law. With no liability threat, few ATF enforcement tools, and a blanket exemption from consumer laws, Bull's Eye will have no incentive to clean up its act.

Such disregard for public safety is identified in another case filed against the gun industry, Lemongello and McGuire v. Will's Jewelry & Loan. In this case, the argument that those who irresponsibly sell guns cannot be held liable if the guns were later used in a criminal act was again rejected, this time by West Virginia Circuit Court Judge Irene Berger.

As the Presiding Officer knows, a felon, fugitive, or stalker cannot legally buy guns. So sometimes the individuals will find someone also to help them evade the current gun laws and get their hands on a gun.

A straw purchase occurs when a buyer purchases guns on behalf of criminals or other individuals who are prohibited from purchasing guns. Federal law enforcement agencies estimate 46 percent of crime guns nationwide come from this type of purchase. I repeat, 46 percent of the guns used in crimes in America come from these straw purchases with gun dealers.

The National Shooting Sports Federation is the gun industry's leading trade association. It is fully aware of the reality that guns from straw purchases are often ultimately found in the hands of criminals. The Foundation also recognizes that these dangerous purchases can easily be prevented so long as dealers act responsibly.

To promote this policy, the Foundation provides training for gun dealers "to help prevent and deter the illegal 'strawman' purchase of firearms." In the brochure of its training campaign entitled "Don't Lie for the Other Guy," the Foundation claims that it is the responsibility of the gun dealer to prevent these purchases from taking place by simply prohibiting any sale they suspect to be a straw purchase. Despite these warnings, a straw purchase is exactly what took place at Will's Jewelry & Loan, a West Virginia pawnshop, in the fall of 2000. James Grey, a felon and gun trafficker, came into the store accompanied by Tammi Lea Songer, a woman who had a clean background and thousands of dollars in cash. James Grey methodically selected 12 guns he wanted and Songer bought them, all in a single purchase, no questions asked.

The shop's employees were suspicious of Grey and Songer's actions. They contacted the ATF to notify them of the purchase.

The problem is that the call to the ATF was made after the guns were purchased, after the profits were made by the dealer and Sturm, Ruger. The warning signs were so obvious, yet proper actions were not taken until it was too late.

Just months later, one of these guns, a 9 mm semiautomatic Ruger handgun, was used by a convicted felon to shoot and seriously injure two New Jersey police officers in the line of duty.

Officers Dave Lemongello and Ken McGuire were shot with that handgun while responding to the scene of an attempted robbery. The shoot-out put an end to the careers of both men. The injuries they received were so debilitating they could no longer serve.

Those officers filed a lawsuit against the dealer and Sturm, Ruger, who both profited from their irresponsible conduct. Their claims were recently validated, and the West Virginia Circuit Court found the gun dealer could be liable under West Virginia law of negligence and public nuisance for failing to use reasonable care in its sales. As a result, a jury could find the subsequent criminal shooting was a foreseeable result caused by that negligent act.

The bill we are considering today would turn a blind eye to the reckless conduct shown by those in the industry that enabled this tragic incident to have taken place.

Last year, Officer Lemongello spoke before the House Judiciary Committee to protest this bill. In his testimony he stated:

> The next disturbing news I heard was that some people in Congress wanted to take away my right to present my case in court and wanted to give that irresponsible dealer special protection from the legal rules that apply to all other businesses in this country. Other businesses have to use reasonable care and may be liable for the consequences if they don't. Those who sell lethal weapons that are highly valued by criminals should have at least the same duty to use reasonable care as businesses who sell BB guns or any other product . . . Gun sellers have to be more responsible when they sell guns to prevent guns from getting into criminals' hands before they do their damage. What happened to me and Ken is an example of what happens when gun sellers are irresponsible.

As if the valuable lessons learned from the cases I have detailed were not convincing enough to prove that criminals are able to get guns on the black market due to the complicity of gun manufacturers and dealers, simply listen to the words of gun industry insider Robert Ricker.

Former Executive Director of the American Sport Shooting Council and former Assistant General Counsel for the NRA, Robert Ricker has testified in support of lawsuits against the gun industry—a brave man. In a recent affidavit, Ricker claimed:

> Instead of requiring dealers to be proactive and properly trained in an effort to stop questionable sales, it has been common practice of gun manufacturers and distributors to adopt a "see-no-evil, speak-no-evil" approach. This type of policy encourages a culture of evasion of firearms laws and regulations.

In the same affidavit, Ricker also claimed lawsuits provide a valuable tool for motivating the industry to reform and act responsibly. He stated:

> Until faced with a serious threat of civil liability for past conduct, leaders in the industry have consistently resisted taking constructive voluntary action to prevent firearms from ending up in the illegal gun market and have sought to silence others within the industry who have advocated reform.

That says it all. They will not move to do the right thing, and they will silence others. That is according to one of their own insiders, and we go along with it and are going to give them civil liability protection. I cannot believe it.

Again, I do not support meritless lawsuits against any industry, including the gun industry. But the fact of the matter is, this bill's goal of granting the gun industry blanket immunity would cause much greater harm to the American public than it could ever possibly prevent for an already under-regulated industry.

The right way for the gun industry to protect itself from liability for irresponsible conduct is simply to act responsibly, by manufacturing guns with safety devices and ensuring their products are going to reputable, law-abiding dealers.

Is that asking too much? Is it asking too much that dealers enforce the rules on the books and prohibit straw purchases? Straw purchases, remember, are responsible for the sale of 43 percent of the guns in this Nation that are used in crimes.

I think dealers should enforce the rules on the books and prohibit these purchases. If litigation is the only way to keep the gun industry in check, we should not give the gun industry total immunity. As I have pointed out, everything else is stretched thin.

This is an industry that is less accountable under law than any other in America. The only avenue of accountability left is the courtroom, and this bill attempts to slam the courtroom door in the face of those who would hold the industry responsible for its actions.

We ought to hold this industry accountable for product standards so that in the event a juvenile ends up with a gun, common sense safety devices will prevent senseless accidents.

We ought to hold this industry responsible for taking the proper precautions to ensure law-abiding citizens are able to obtain the guns they choose while criminals and other prohibited individuals do not.

Mr. President, I beg, I plead with this body. It is incomprehensible to me that the Senate of the United States is going to provide this kind of liability protection to an industry that does what I just laid out in these remarks. It is incomprehensible.

I have watched the NRA win time after time—the latest being the Federal database of gun sales being obliterated after 24 hours. If this bill passes, there will be no stay on the gun industry for responsible conduct because they can get away without doing it.

I implore my colleagues, please take a second look at this bill. Talk to attorneys like Lloyd Cutler and David Boies. Ask them what this bill will do to merit cases.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to discuss this matter on the level I think it should be discussed: and that is, is it good public policy, is it the right thing to do in light of the litigation we are seeing against gun dealers and gun manufacturers that is going on in America today?

I do not believe in any way this is a blanket immunity for wrongdoing or total immunity for wrongdoing. In fact, it is not that. What it says is, classical rules of law ought to be enforced. Some could ask why we even need this law. Because how can you sue the person who manufacturers a can of Campbell's soup if somebody buys that can of Campbell's soup legally and kills somebody by hitting them on the head with it? What if you buy an automobile, and you run somebody over on the street, are we going to sue the automobile manufacturer for that?

What is happening in America is the classical concepts, the classical rules of litigation are being eroded. The courts are being politicized. That is a very dangerous thing. As a result, lawsuits are occurring in ways they should not occur and are impacting our daily lives.

I conducted a hearing in the Subcommittee on Courts of the Judiciary Committee on the food industry. Should we sue the manufacturer of food, Little Debbie's, because somebody bought too many of them and became overweight and obese?

Thirty, 40 years ago those lawsuits would have been laughed out of court. They don't meet the principle. A person is responsible for what they eat and how much, not the person who provides the cakes and cookies and Cokes and those kinds of things, unless that product is inherently dangerous and harmful to a person and the consumer does not know about it. We are getting away from that.

With regard to gun dealers and manufacturers, this is the worst of all. The Federal Government and State governments have taken over the sale of guns. Regulations are many. I was a Federal prosecutor for nearly 14 years. I prosecuted people for selling guns. If they file off the serial number, that is a crime. If the gun dealer does not write down the serial number, he can be prosecuted and put in jail. If he does not get an ID from a person who buys a gun, if he does not ascertain and make that person sign a statement that they don't have a criminal record or make them sign a statement they are not addicted to drugs or mentally unstable, or if the dealer knows that and he sells the gun anyway, then he is in violation of the law.

There are waiting lists in States and counties that dealers must comply with. If they don't comply with those rules, they can be sued—not only sued, they can be prosecuted and put in jail. I have prosecuted and put in jail people who sold guns illegally. That is a fact.

If we want more regulations on how guns ought to be sold, let's debate it right here and see if it is justified. We have had all kinds of amendments to put rules and bans and restrictions on innocent, law-abiding people who choose to take advantage of the constitutional right to keep and bear arms. This is what we are talking about. Gun dealers have to comply with these rules, just like the gun manufacturers. And if they don't comply with them, they can be sued.

This legislation would not keep them from being sued. What we are talking about is manufacturers who comply with the laws of manufacturing, and they sell the gun according to the rules, and a dealer takes it and sells it according to their rules, without any knowledge of the manufacturer in Massachusetts or wherever they make them. The gun dealer in California or Alabama or South Carolina sells it according to the law.

Then some activist groups that believe we need to conduct guerilla warfare against a lawful industry want to promote these lawsuits. One of our Members said earlier: If litigation is the only thing to keep the gun industry in check, we ought to sue them.

That is not right. If there is not a cause of action, you should not sue them. They are being sued and are having to expend hundreds of millions of dollars in their defense. They tend to win those cases at the bottom line. But they bring them, frankly, in big cities a lot of times, where there is an anti-gun hostility, where mayors want to crack down and eliminate gun ownership. We virtually have eliminated gun ownership in Washington, DC.

They are not happy with what the legislation will do in passing the law. The elected representatives won't pass restrictions as tight as they would like to have or to eliminate gun ownership anyway, so they want to do it through the backdoor, through litigation. I don't like their idea: If they can't do it this way through law and regulations, we ought to do it through litigation.

I remember Hodding Carter, who used to work for former President Carter. He was on "Meet the Press" one time. He said something to the effect that: We liberals have gotten to the point where we want the courts to do for us that which we can no longer win at the ballot box.

If we need to tighten up on gun restrictions, let's put the rule out here and debate that. But we don't need to be creating bogus lawsuits against people who are not doing wrong.

I know the Presiding Officer was a JAG officer and served in the military. I defended a lawsuit against the United States Government because a veteran in a veterans hospital walked off the grounds and was murdered. They sued the hospital. There is a classical rule I have not forgotten: A criminal act is not foreseeable. You are not normally expected, anyone, to foresee someone will commit a criminal act.

I defended that lawsuit on the grounds that, well, maybe he had gotten lost and this or that, got hit in the accident, maybe. But the principle that the hospital is responsible for an intervening criminal act did not justify the lawsuit.

We won the lawsuit. That was a long time ago. I don't know if that would happen today, liberalizing the old principle of law.

A gun manufacturer is not required and cannot be expected legally to foresee criminals will use the gun and who those criminals are. If we think they should not have guns, we have to pass laws. We have to amend the Constitution, frankly, to stop that. They are doing what is lawful.

It is a good effort today. It would be healthy for our entire legal system that we confront this issue and allow the classical rules of liability to be followed again and not allow the abuse of it.

We almost voted earlier on constraining liability of doctors who deliver babies. They are getting sued in incredible numbers. That is a difficult thing. How do you deal with it? We voted on it. Forty-eight Members of this body voted for that. But to a much more significant principle, a violation of the established rule of law, is this idea you can sue a manufacturer who produces a gun that does what it is supposed to do and gets in the hands of a criminal and they use it.

How should you normally think you would sue a gun manufacturer? If he buys a gun and you fire it and it blows up and knocks out your eye. That is what you are supposed to sue the manufacturer for. If a person buys a gun from Smith & Wesson and he aims it and fires it and it hits the target exactly where he aimed it, the gun dealer is not responsible, if that was a lawful sale of the weapon. We set in this Congress and the cities and the States set additional restrictions on the sale of guns. When they do that and when dealers comply with that, they ought not to be sued.

If they violate those laws, don't comply with the laws, or if they have absolute knowledge or actual knowledge a purchaser of a gun is going to use it for a bad purpose, then they have a responsibility. Absent that, they don't. And they should not be sued.

This would be a good step in removing from our overburdened courts a host of abusive lawsuits that have no basis in principle and indeed should not be brought anyway. In fact, this legislation does not change any principle of American law, but basically clarifies it so these cases can be dismissed promptly rather than having to go through the length of time and the great cost that is going on in some of the areas of this country where the lawsuits are being brought.

I know others want to speak on this issue. I see the Senator from Ohio and others. I believe this is good public policy. It is time for us to work hard to establish a more clear understanding of litigation in America. It has become confused. Congress has always had the power to define litigation and the parameters of it when it is in confusion and not working according to good public policy. We ought to speak out. I am glad there is bipartisan support for this. I think we will pass this bill and it will be a great step forward to improve the rule of law in America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief. The Senator from Ohio has been on the floor a good long while and deserves to be heard.

As you know, we are in a postcloture environment on a motion to proceed. I would hope by early afternoon we can actually get on the bill and begin to consider some amendments on this critical piece of legislation. It has been portrayed by many in many different ways. I would ask the Senators to pick up this very small document, 1805. In fact, there are exactly 11 pages of big print so all of us can clearly read it.

I ask Senators to go to section 4 of the bill and read what we are doing. In a very narrow way, we are denying a third party the ability to reach through the law and say to a law-abiding gun manufacturer and a law-abiding firearms dealer: When you sold that weapon, it down the road got misused in a criminal act and, therefore, you are responsible.

Shame on us for suggesting that as a basis of law today in our country. We have denied it. We have always held the individual responsible. That is clearly where we ought to go. That is why I think this ought to be a clean bill. There are some who want to offer different amendments. We can deal with them on a different day in a different way. Let's keep this bill clean. This is tort reform in the very narrowest of margins, and I hope Senators can work with us to make sure that in final passage we have a clean bill.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Ohio.

Mr. DEWINE. Mr. President, I have the utmost respect for my colleague from Alabama who just spoke most eloquently, and I certainly have respect for my friend from Idaho who has brought this bill to the floor. I certainly have great respect for the many firearms dealers who are legitimate, honest, and hard working, and manufacturers around this country, but I must oppose this bill.

I oppose this bill because it denies certain victims in this country their day in court. It singles out one particular group of victims and treats them differently than all other victims in this country. It sets them apart. It sets them aside, and it treats them differently. It denies them their access to court.

It does not put a limit on their lawsuit. It does not put on a cap. It is not what we were talking about yesterday. Rather, it says they are barred from coming to court.

It is unprecedented what this Senate, if I can count the votes correctly, is about to do. This bill shields a certain group of defendants. It establishes an immunity. This bill would overturn over 200 years of civil law, 200 years of tort law, 200 years of common law. It would overturn over 200 years of civil law in this country and fundamentally change our justice system. It would, in essence, turn the civil justice system and our tort law on its head. It would do this by denying one group of our citizens access to the court system.

Most fundamentally, the problem with this bill is it sets a precedent. It will not affect that many victims, that is true, but the real reason to oppose this bill is for the precedent it sets, because if we do it for these victims, what is to stop us from doing it for other victims? And if we don't care about these victims, will we care about other victims in the future, and will we do it to other victims who maybe some of us care about?

Civil liability law is about encouraging people and industries to take responsibility for their actions, and it is also about protecting victims. It is about deterring irresponsible behavior by making sure there are incentives in place to encourage people to behave responsibly. It is about preventing bad conduct and holding people accountable under our common law.

It is not and should not be about undercutting the ability of innocent victims to hold irresponsible people accountable for wrongful and negligent actions. This bill, unfortunately, does just that. It undercuts the ability of innocent victims to hold irresponsible individuals accountable for harmful and negligent actions.

The fact is, this bill cuts to the core of civil liability law and would essentially gut it. As my colleagues know, right now under current law throughout this country, to prove liability in a civil suit, the plaintiff only needs to prove the defendant acted in an unreasonable manner, if the defendant failed to meet his duty to act in a responsible fashion. That is basic common law, basic civil law, that his or her failure led to harm to the victim. Nothing more than that is required.

We do not normally require a victim to prove that the defendant is guilty of a violation of the law, but this bill, however, provides that a victim cannot sue a gun dealer for damages resulting from illegal actions of a third party without also showing that a dealer is guilty of a violation of the law. So that in this bill, in effect, for a plaintiff to prevail in lawsuit and recover damages, he or she would not only need to prove that a gun dealer acted with negligence, that the dealer was irresponsible, but would also have to prove that the gun dealer also broke the law. In other words, the plaintiff would have to prove the gun dealer violated a statute or was guilty of a crime.

There is one exception to this general rule built into this statute we are debating, and that is the so-called negligent entrustment exception. For the most part, this bill requires a defendant violate a statute before he is liable. We do not require this in any other place in our law. In civil law, sometimes it happens when you prove negligence, the defendant did violate a statute, but that is not a requirement. That is not something in a civil suit you have to prove.

When you study law, one of the first things you learn is the difference between civil law and criminal law, and that someone can be liable in civil law to someone else and have to pay monetary damages and it not be a crime. That is a basic concept.

What we are saying in this statute is, under these circumstances, with an irresponsible gun dealer, that the plaintiff would have to prove that the irresponsible gun dealer violated a criminal law. We don't do that anywhere else in our law. Why do we want to do it in this case? Why that special protection in this one case?

If those who support this bill think that is such a great idea that we want to build this impediment into this law or the requirement into our civil law that you have to violate criminal law before you can sue someone, if that is such a great idea, let's just pass that law for everything. So in any civil suit in this country, you would have to find a violation of criminal law. I don't think we want to do that.

If it is good for this victim, why is it not good for everything? Obviously, it is not. Obviously, we are not going to do that. I do not see anybody suggesting that.

Clearly, this bill would make a major change in traditional liability law and is something we should more thoroughly consider and debate before we move toward a vote. Why is there such a rush to pass this legislation? This is legislation that I might point out never had a hearing. No witnesses were called. No one came in. Yet we are here on the Senate floor today. No discussion about this. Why is there this rush to bring this bill to the Senate floor? Why the rush to judgment?

I have two thoughts. I guess the main reason we are here is because there are the votes here to do it. There is the power to pass this bill. When there are the votes, it can be done, and I can count. I know which way this vote is going to come out. There are the votes to pass it. So when there are the votes, I guess the job can get done. But that does not make it right.

I ask my colleagues who have cosponsored this bill or are thinking about voting for it to think one more time, to think about the precedent that is being set. Yes, undoubtedly there are frivolous lawsuits that are being filed against this industry. There is no doubt about that. But there are legitimate victims who when this legislation is passed will not be able to file their lawsuits.

Why not trust the good judges we trust in every other civil suit in this country to make the decision to throw out those frivolous lawsuits? There are frivolous lawsuits filed in this country every day in all kinds of cases, and we trust the good men and women, the judges who sit on our benches, to get rid of those cases.

By and large, they do a pretty good job kicking them out of court. Why penalize the people who might have a legitimate case and kick them out and deny them, in fact, the opportunity to ever get to court at all?

The precedent is what I worry about. I worry about the victims in this case, but I worry about the precedent because if we, who have the votes to do this today to this group of victims, say we are going to do it because we have the votes to do it, we have the power, whether it is because this lobby is more powerful for whatever reason, what about when the next lobby comes along and they happen to have the votes? Maybe it is a set of victims you worry about or you care about who will be blocked from coming to the courthouse and filing their case. What if it is your child, your mother, your father, your wife, or your husband, and they happen to be among a group of victims who some lobby has put together enough votes to convince Congress to deny them the access to come to court? Their day may come. So, yes, I worry about the victims we are going to disenfranchise and block from coming to the courthouse by this bill. But more than that I worry about the precedent we are setting by this bill.

I worry about the day in the future when another lobby group, another Congress, has put together enough votes to come to this floor to deny another set of victims the right to have access to the courthouse. I think that is what should bother everybody else in this Senate.

Let me make a prediction about this group of victims. Yes, the passage of this bill will get rid of some frivolous lawsuits. There will be lawsuits that will never be filed because of this bill, no doubt about it. But let me make a prediction to everyone who is thinking about voting for this bill. Mark my words, if this bill passes, in the future there will be a case or cases that will be so egregious and so bad that when they are read about and it is found out that that victim could not file a lawsuit and could not file that lawsuit because this Senate voted not to allow that victim to file that lawsuit, it will be so bad, it will turn one's stomach. Mark my words, that will happen if we pass this legislation.

A second reason which has not been stated or discussed as to why there is such a rush to judgment and why some people are in such a big hurry to get this bill passed: We are having a great increase in crime technology. One of the great things that has happened in the last few years is our ability to trace guns and ballistics. We are putting great systems together in this country, and many of us in the Senate have worked hard to do that. We have the ability in law enforcement to trace these guns better today.

I think some of the irresponsible—notice I say "irresponsible"—gun dealers are worried about that because they know their days are numbered. They know when they ship out all of these guns, put them out on the market, guns that are just getting by today, they know they are going to be able to be better traced and they know they are going to be more liable and we are going to have the ability to trace them.

I believe the passage of this legislation will be more damaging in the future than it is even now. As ballistics technology improves, law enforcement will be better able to find the original source of crime guns, and that oftentimes would be back to a dealer who should not have sold the weapon in the first place. To the extent that we immunize these negligent dealers now, we will be decreasing their incentive to act responsibly and therefore deny their victims their day in court.

There is another aspect about this bill that has not been talked about a lot, and that is the fact that it is retroactive. How dare us in the Congress come to the Senate floor and wipe out every lawsuit that has been filed in this country that would come within the parameters of this bill. How arrogant of us to do that. In this Congress, we have the arrogance to come to the floor and pass legislation that wipes every case out in every State in the Union where there is a lawsuit pending. Did we really get elected to the Senate to do that? That is what this bill does. It will kick people out of court. It would not just bar people from coming to the courthouse. That is not enough. No, what this bill does is kick people out who are already in court. It kicks out people on whom judges have already ruled summary judgments, motions to dismiss, and have already made decisions that the case is at least valid enough to go forward and to go to trial. We are saying, oh, no, judge, we are now going to kick that case out of court and take it away from you and throw that person out of court. To me, if we do that, it would be the height of arrogance. I think that is wrong.

It is not my job to judge these cases. It is not my job to determine whether one of these cases should proceed or should not, or determine whether someone is negligent or not negligent. But I don't think, on the other hand, it is my job to say someone should not have the right to go to court and present that to a judge and ultimately, in most cases, to present that to a jury. That is fundamentally the American way.

Let me talk about a couple of cases. We don't need to look too far to find legitimate cases that would be dismissed if this bill were to become law. Everyone remembers all too well the tragedies of the DC sniper cases. Some of the victims of the DC snipers are suing the Washington State gun retailer known as Bull's Eye Shooter Supply for allowing John Malvo to walk off unnoticed with a 3-foot semiautomatic assault rifle. In fact, there were allegations that Bull's Eye not only failed to report the missing assault rifle, this particular missing assault rifle, but also failed to report over 230 other missing firearms because Bull's Eye was never aware that over 230 guns were missing, in total. That is absolutely unbelievable.

It is, of course, totally unacceptable for a firearm dealer, a retailer, to so poorly monitor and protect its stock. If these allegations are proven true—again, I don't know if they are true—then Bull's Eye should be held accountable for the negligent fashion in which it handled these weapons. Under the provisions of this bill, however, such behavior would be protected from private lawsuits. We would in effect be saying it is OK to allow unknown people—without, of course, background checks—to walk off your premises with hundreds of guns, be they criminals, terrorists, or in this case an underage serial killer.

There is another case in Worchester, MA. This bill would not only prevent recovery for the victims of the DC sniper, but the family of a young man killed in Worcester, MA, by the name of Danny Guzman would also be barred from recovering for the negligence that caused his death. In that case, Danny Guzman was shot and killed with a gun taken from a gun maker by one of his own employees. The employee had a significant record of violence and drug abuse but was able to steal the gun because apparently the gun maker allowed this criminal free access to his guns without any legitimate check of his background and also failed to implement effective security procedures that would have prevented the theft. Indeed, this gun maker could not account for at least 50 of his firearms. If this bill were to pass, Danny's family would be barred from continuing their suit against the gun maker for negligence in completely failing to screen its employees or secure its facilities to prevent repeated thefts of guns.

Let me talk about another pending case—again, I emphasize, this is a pending case—that would be affected by this bill. In this case, a couple entered a gun shop. This was referred to by my colleague from California a few minutes ago. A couple entered a gun shop. The man identified several weapons he was interested in purchasing. The woman he was with was not involved in the discussions between the man and gun shop owner and clearly didn't know much at all about guns. Then she purchased these guns and she paid cash. She paid cash for them.

The man in the gun shop, because he was a convicted felon, was prohibited, of course, from purchasing guns. The woman, however, was allowed to buy them on his behalf. The man then illegally sold the guns on the black market. One of these guns was used to shoot at least one police officer.

Clearly the gun shop owner should have known what was going on. The woman, while technically the purchaser, obviously was merely carrying out the wishes of a convicted felon. Therefore, the owner should never have sold her the guns in the first place. That would appear at least to be negligence. Obviously the criminal who shot the police officer should go to jail. But the dealer who negligently supplied that gun to the criminal should be civilly liable for his negligence as well. However, if this bill becomes law, it is likely the gun shop owner will be immune from liability.

As I mentioned earlier, there is a possible exception written into the law known as negligent entrustment, that might arguably, in this case, allow the lawsuit to go forward. We don't know. But many courts have construed that exception in the past narrowly under the common law, so it is a close call in a case such as this. Candidly, though, why in the world would we even want to take a chance this sort of irresponsible behavior might be immune from liability?

The point is, we can argue these cases. I know some of my colleagues might come to the floor and say under our bill maybe these cases could proceed. Maybe they could proceed. The point is, Why take a chance? Why take a chance? I would argue the three examples I have given. This bill could stop these cases cold in their tracks, and in each one of the cases I have cited, we have lawyers we could bring in, if we could get a hearing, who would swear under oath these cases, in their legal opinion, would be stopped by this bill. We could debate that. But the point is, why take the chance? Why pass a bill that would create that kind of legal impediment to people proceeding?

Again, we get to the point I raised earlier, and that is the inequity, the inequality of creating two classes of victims in this country. Other industries face legal challenges. Other industries have had lawsuits filed against them they don't like. Other industries face suits that in their eyes many times are frivolous and they have cases thrown out of court. Other industries are involved in cases where many people die. We understand that. But we don't grant this kind of immunity from civil liability.

For example, the auto industry. There are 42,000 or 43,000 Americans who die in car accidents every single year. We wouldn't think of coming to the floor and granting any kind of immunity like this for the auto industry, would we? No, we wouldn't. We wouldn't think of that for the world. We can each come up with our own example.

But here we are today picking one industry for no reason. We all know what the truth is, for no other reason than that they have simply put together the votes to do it. They are here and they have the votes. If I count correctly, they are probably going to get this passed. But that doesn't make it right. Victims are going to suffer and there will be victims in the future who will be denied their opportunity to go to court.

It is wrong. I support the second amendment. I support individuals' rights to own guns. I support gun manufacturers. I support legitimate gun dealers. But this is wrong; it is unfair. It is unfair to victims. But more important than that, it is a horrible precedent.

If we do it this one time, what is to stop a future Congress, where the votes are maybe configured differently, from saying, oh, there is another group of victims and we are not going to protect them. We are not going to protect them.

If we deny this group of victims their rights, what is to stop a future Congress from denying another group of victims their rights?

Let us think about that before we cast our vote. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I want to first commend my colleague from the State of Ohio. I was listening to his presentation. It was a reasoned presentation which I think analyzes this bill in a fair manner. I want to also salute his political courage. It is not easy on his side of the aisle to stand up and oppose this bill. He has done this time and again on many issues. I am happy to count him as a friend and as a colleague whose judgment I value very much. I thank the Senator from Ohio for his continuing leadership in this Chamber.

Mr. President, what is this bill? S. 1805 is a bill brought to the Senate floor by the National Rifle Association on behalf of firearms manufacturers, dealers, and their own trade association. It is a bill that has been introduced to insulate those manufacturers and dealers and the NRA itself from liability for wrongdoing. It is unimaginable that we would name any other industry in America and say that you can sell your product and not worry about being held accountable, if you did it in an irresponsible and negligent way. We wouldn't think of doing it, but we are doing it with the gun industry.

I can count votes. I can count the cosponsors. A majority of my colleagues support this bill. I can't explain it. I could never explain it. In a country where we value the right to own and use firearms legally and responsibly, we have a bill which says we will protect those who sell and use firearms illegally and irresponsibly. Why? Why does the Senate reach this low point—possibly one of the lowest points in its history when we are carving out an exception from liability for gun manufacturers and gun dealers? Maybe my colleagues who support this don't watch the evening news in cities across America. Maybe they do not see the blood and gore in the streets of cities from the misuse of firearms used illegally and irresponsibly that have caused so much heartache and misery for families across America. Frankly, I think they are ignoring the obvious—that unless we ask those who own firearms to establish a standard of use that keeps them away from those who misuse them, that we, in fact, are inviting more restrictions on the legal use of firearms. This bill—this outrageous bill—is going to draw us again into a national debate which is long overdue.

Since President Bush was elected and during his campaign, the NRA said once he is in the White House we don't have to worry about any restrictive legislation. Since President Bush's election, we haven't had an honest debate about a gun issue in Congress. That is a fact. Gun crimes continue, gun deaths continue, and the proliferation of weapons in the hands of those who misuse them continues. We ignore it, but we can't ignore this. This is not an effort to restrict gun ownership. This is an effort to restrict the legal ranks of the victims of gun crimes.

There is a crime victims' amendment which has been supported by both sides of the aisle—Senator KYL, a Republican, and Senator FEINSTEIN from California, a Democrat. They make an impassioned plea for a constitutional amendment to make certain that crime victims and their families will be present in important parts of criminal proceedings. It is a compelling argument. I had my personal questions as to whether it rises to the level of a constitutional amendment, but I would be happy to enthusiastically support a Federal statute that would establish that right.

I believe when it comes to victims, they need to be a part of the process of prosecution. They need it not only because they are important to the process but because it brings closure in their own lives.

The many Members of the Senate who rush to the side of crime victims for this constitutional amendment are the same Members of the Senate—many of them—who are supporting this legislation which will close the courthouse doors to crime victims and their families across America when firearms are involved. Don't tell me your sympathies are with crime victims. If your sympathy is with the victims of crime, you have to vote no on this.

Let me give you an illustration in my home State of Illinois.

Five years ago, in June of 1999, a man named Benjamin Smith went on a shooting rampage in my State. You may remember it. It was finally discovered that he was linked to a group known as the World Church of the Creator. He was a follower of a white supremacist. And in his mania, this demented disciple went on a shooting spree across the Midwest. In June 1999, Benjamin Smith attempted to purchase guns from a licensed gun dealer. He was denied because a background check turned up a domestic violence restraining order which prohibited him from purchasing a gun. So he turned to someone he knew on the street who could buy a gun—a gun trafficker named Donald Fiessinger. Fiessinger routinely bought handguns—usually Saturday night specials, cheap little crime guns—from a place called the Old Prairie Trading Post in Pekin, IL. Mr. Fiessinger would then resell these guns through classified ads in a local newspaper. Over a 2-year period, Fiessinger—this gun trafficker—purchased 72 guns, three a month on average, from the Old Prairie Trading Post in Pekin, IL, and then turned around and sold them.

The gun store never even asked at any time whether these guns were going to be used for Fiessinger's personal use.

I think it is pretty obvious. Buying three guns a month for 2 years—I don't care whether you are a target shooter or interested in self-defense, I can't imagine a need for the 72 cheap Saturday night specials which Fiessinger was buying from the dealer.

The manufacturer of these cheap crime guns, of course, didn't place any restrictions or conditions on dealers like the Old Prairie Trading Post. It didn't say you should prevent the large volume sale of guns to people who are obviously turning around and reselling them to gun traffickers.

As a result, this Benjamin Smith bought two guns from Fiessinger, and then he went on a 3-day, hate-filled shooting spree across Illinois and Indiana. It was a shooting spree inspired by his hatred and his bigotry. He targeted racial and religious minorities. When it was all over, he killed two people and wounded nine others.

Five of those victims joined in a lawsuit against both the manufacturer of these cheap Saturday night special weapons, as well as the distributor. They included Sherialyn Byrdsong—we know that name in Chicago and in the Midwest. It was her husband, Ricky, a former basketball coach at Northwestern University, an African American, who was shot in the back and killed as he walked with his children down their residential street in Skokie, IL; on behalf of the family of Won Joon Yoon, a 26-year-old South Korean graduate student at Indiana University, who was shot twice in the back and killed on the steps of the Korean United Methodist Church in Bloomington, IN, picked out of the crowd because he had the appearance of an Asian; Rev. Stephen Anderson, a minister who was shot on his way to join his family at a Fourth of July celebration; Hillel Goldstein—whom I met—one of six Orthodox Jews picked out by Benjamin Smith on his shooting spree when he drove through a predominantly Jewish neighborhood in Chicago, hunting for Jewish families walking to the synagogue for temple services; and, Steven Kuo, another graduate student at the University of Illinois.

These five survivors and families brought a lawsuit. The case is not based on the fact that the gun was present and used in these crimes. The case against the manufacturer, Bryco Arms, is based on the intentional and reckless sales and distribution practices because Bryco took no reasonable steps to ensure that their guns were not diverted to prohibited customers.

Although Bryco asked the court to dismiss the case, the court ruled that a claim of public nuisance should go forward against this manufacturer.

In October 2000, the gun dealer, Robert Hayes of the Old Prairie Trading Post, was indicted on 13 counts of violating Federal firearms sale laws because he didn't get approval for the sales from the Illinois State Police before transferring guns to that trafficker, Fiessinger. The seventh count of the indictment concerned the gun used in the Benjamin Smith shooting spree.

Robert Hayes pled guilty to one count of making an illegal sale of a gun and was sentenced to 2 years of probation. Fiessinger also pled guilty and was sentenced to 10 months in prison and 2 years of supervised release.

Despite this acknowledgment of criminal activity by the dealer and the gun trafficker regarding the sale of firearms, the lawsuit brought by the victims of Benjamin Smith would be terminated by this bill. The families and the survivors from the shooting spree would have lost and will lose their right to go to court because this bill says that even if the manufacturer is irresponsible in distributing the weapons and the dealer is irresponsible in selling those weapons to a trafficker, this bill says they cannot be held accountable despite the fact that people died and were injured on this shooting spree. Although this gun dealer, Robert Hayes, pled guilty to making an illegal sale, the gun he pled guilty to illegally transferring was not the gun used by Benjamin Smith. That is crucial. Smith's gun was under count 7, an indictment Hayes did not plead to. Therefore, the criminal conduct of the dealer did not cause the shooting. So the exception in this bill would not help.

As a result, Hayes, the gun dealer, the Old Prairie Trading Post, was free to argue that the victim's case should be dismissed because he could not be held liable for the lawful sale of a gun. The court ruled against his motion and held that it would allow a claim for public nuisance and negligence to continue. If this case were frivolous, the court would have dismissed it. It was not frivolous. People were dead, injured, and someone should be held accountable for it.

Why, then, should we in Congress, in the Senate, step into this lawsuit, not only prospectively but retroactively, and say to the families of the victims that they have no right to go to court, to hold the manufacturer accountable for irresponsible distribution practices, they have no right to go to court, as this bill says, and hold a dealer responsible, a dealer that is literally feeding firearms and Saturday night specials to gun traffickers? That is what this bill says.

I point out the exceptions in this bill are so narrowly drawn that even if this gun dealer pled guilty to count 7 for not seeking approval from the Illinois State Police before the sale, the victim's case would still be terminated.

The third exception provided in the bill requires that the violation of law be a proximate cause of the harm for which relief is sought.

In this case, if Hayes, the dealer, had sought approval from the State police, the police would have granted it because Fiessinger was not a prohibited purchaser. Therefore, regardless of whether Hayes violated the law, Fiessinger would have been able to purchase the weapon and resell it to Smith. So there is no way around it.

This bill is designed to stop those families and those victims from holding an irresponsible gun dealer for peddling guns to a trafficker used in the commission of a crime.

The Senator from Ohio said it best a few minutes ago: It is an outrage that we would say, retroactively, we are going to throw these suits out of court; that we would say to these families, these crime victims, they will lose their day in court. Why? To protect a special interest group—gun manufacturers, gun dealers, and trade associations such as the National Rifle Association.

Take a step back for a moment and look at the big picture. We have a case that the court in Illinois has ruled is not frivolous, a gun dealer and trafficker who have already pled guilty to illegal firearms sales, and yet this legislation would close the courthouse doors for the tragic victims of this shooting spree.

Let me give one other case that amply illustrates why this bill is so bad. Michael Ceriale, a 26-year-old Chicago police officer, was shot by a 16-year-old member of the Gangster Disciples, one of the terrible street gangs that, unfortunately, wreak havoc on many neighborhoods of the great city of Chicago. This police officer, 26 years old, was killed conducting narcotics surveillance. Once again, the mere use of the gun is not the underlying cause of action. In this case, his family sued the manufacturer, Smith & Wesson for shipping the gun used to kill the officer to the distributor, Camfour. Smith & Wesson sold this weapon to Camfour, even though it knew or should have known that Camfour, the distributor, was part of a core group of irresponsible distributors that act as the initial distributors for nearly 80 percent of the firearms traced to crimes in the city of Chicago.

There is ample evidence that when we trace back crime guns, we find there are a handful of irresponsible gun dealers that are selling these guns on a wholesale basis to gangs and to gun traffickers. It is outrageous that this continues in this country.

For those irresponsible gun dealers, there is good news in S. 1805. You are off the hook. S. 1805, brought to us thanks to the National Rifle Association, says that if you are one of those irresponsible gun dealers selling to traffickers, selling to criminal gangs, shooting innocent children on the street, killing police officers, you are off the hook with S. 1805.

They argue it is part of your second amendment right to be able to sell guns on a wholesale basis to be used by criminal gangs across America. Incredible.

This Camfour, the distributor, then shipped the gun to Strictly Shooting, even though it knew Strictly Shooting was part of 24 gun dealers that were responsible for 27 percent of the crime guns recovered in the city of Chicago.

On August 15, 1998, the gun found its way into the hands of a Gangster Disciple gang member, who killed a 26-year-old Chicago police officer, Michael Ceriale. Unfortunately, this case, even though it has been upheld by the court of appeals in Illinois, would be dismissed because its cause of action is based on the claim of public nuisance, which does not fall into one of the narrow exceptions written into this bill.

Now, all who stood with pride and admiration for the men and women in uniform, those policemen and those firefighters who rose to the occasion on September 11 and protect us every single day, all Members in the Senate who say to these men and women that when they put their badges on in the morning as police officers and put their lives on the line that we can never thank them enough, all who give speeches back home about the law enforcement officers who keep our communities safe, should keep in mind that S. 1805 is a cop killer bill. S. 1805 says that cop killers such as the Gangster Disciple gang members who killed Michael Ceriale in the city of Chicago, those cop killers are going to get a free ride because of S. 1805. The family of this 26-year-old police officer, going to court to recover money for those irresponsible activities by the manufacturers, distributors, and gun dealers, will have the courthouse door slammed in their faces.

Cop killers will love this bill. Frankly, those that supply the guns to these cop killers should be ashamed of themselves and be held accountable. But they will not be.

So in those two illustrations from my home State, crime victims of a shooting spree will lose their right to go to court, to hold gun traffickers responsible under this bill, and the family of a fallen Chicago police officer who gave his life trying to stop the drug trade in that great city will have the courthouse doors slammed because the National Rifle Association wants this bill and wants it desperately. That is a sad commentary.

I remind my friends, do not stand before the Senate, saying how much you care about crime victims, how much you care about the police who risk their lives every day for us and then turn around and support this terrible legislation.

You cannot have it both ways. You cannot let guns flood America's streets to be used with criminal intent on a day-to-day basis, guns that are sold to criminal gangs, guns that are sold to deranged individuals. You cannot stand by and watch that happen and then protect those responsible for the sales with this legislation. That is exactly what is happening.

I thank the Senator from Rhode Island, Senator REED. He has been a leader on this issue. We have talked about the DC sniper case, which I know will be addressed time and again during the course of this debate. I make it clear that this was no isolated case in the District of Columbia when these two men went on a shooting spree killing innocent people in every direction. Sadly, these things are being repeated over and over.

To my friends who are following this debate who are hunters, sportsmen, target shooters or own a gun for the self-defense of themselves and their family, I plead, stop for a moment and think about this. To protect your rights in America, to use guns legally and responsibly, you must tell those like the National Rifle Association, that their agenda on this issue is too extreme. What they are trying to do is to protect those who use guns illegally and irresponsibly. In their passion to do that they are jeopardizing your rights. They are raising a question which ultimately will come back to you, the legal owner of a firearm, as to whether or not we have gone too far in America.

We were told, of course, when President Bush was elected to expect this. The National Rifle Association would have its day. We were told they have a friend in the White House. It is abundantly clear that President Bush is going to sign this bill. But what is not clear to me is how my colleagues in good conscience can support this legislation. I cannot understand this. Day after weary day we come to the floor of the Senate and say that individuals across America are going to be denied the right which we have considered part of our American birthright, the right to walk into a courtroom, rich or poor, to stand before a judge in a court of justice, and to ask for fair treatment, to ask that others be held accountable, and to let that court, that judge, that jury make that decision.

Clearly, we are seeing, day after day, an attempt to erode that right to go before the jury of your peers, your neighbors, and to let them decide what is just and what is right. In this case, unlike the other cases, it is not just a matter of money, it is a matter of life and death—life and death for crime victims, life and death for police officers.

That is why the Major Cities Chiefs Association opposes this legislation. They know what this means. They know that police officers across America will be targeted because of this bill. They know their families, once they are killed in the line of duty, will have fewer options to turn on those who have used guns and those who have purchased guns illegally. They know that.

The Major Cities Chiefs Association, the Brady Campaign To Prevent Gun Violence—all of these organizations have made it clear this is a terrible bill. It is a bill that should be defeated. I sincerely hope my colleagues will join in support of stopping and thinking twice before they vote for its passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me remind my colleagues again that we are in a postcloture environment. We are hoping we can get on the bill and hoping we can look at some amendments. I do have to respond to try to keep this debate clear and honest and the RECORD representing what it ought to represent.

My colleague from Illinois says the reason we have this debate today is because of George W. Bush. He forgot that 10 Democrat cosponsors and his own leadership are cosponsoring this bill and are openly advocating its passage. This is not about George W. Bush. This is about the rights of Americans under existing law, and also frivolous third-party lawsuits that we ought to block. That is what the essence of this debate is about.

Now, certainly the Senator from Illinois can say what he wishes to say on the floor. Will George W. Bush sign this bill if it gets to his desk? He says he will. I would think any law-abiding American U.S. President would want to preserve law in this country, the kind of law that would suggest that any President would want to reinforce centuries of legal precedents based on one premise, individual responsibility.

Are we suggesting that, as the Senator from Illinois suggests, a gun manufacturer ought to be liable for a criminal act of a third party? Well, he used the word—let me see; I have written it down here—"establish a standard of use." I believe that was the term used.

How many automobile dealers establish this standard of use of their product when it is manufactured in his State and sold in the marketplace, that it will be used safely and lawfully? Now, would any automobile manufacturer intentionally sell a car knowing a drunk was going to get in it and wipe out a teenager or a teenager wipe out an adult?

Mr. DURBIN. Will the Senator yield for a question?

Mr. CRAIG. Not at the moment. I want to be quick here so I can yield to one of your colleagues.

Of course they would not.

Does any manufacturer of a legal firearm make the clear assumption that it is going to be used illegally? Of course they do not. They make them under the guidelines of the law. They abide by the law. And we protect those who do. We do not—we do not—protect those who do not abide by the law.

The Senator also went on to say that this would somehow protect trade associations. Go to the bill. You have held it up. I wish you would read it in detail. It is not the intent of our bill to do so. In fact, the Daschle amendment clarifies that we do not necessarily protect trade associations. Well, then you better talk to Senator DASCHLE. He is the amender of the legislation that is before us to clarify that point. We believe we have effectively clarified it, and the Congressional Research Service says we have done just that.

So if a trade association acts negligently, acts outside the letter of the law, then they are every bit as liable as they would be under current law. So we do not reach out to do that.

Do we close the courthouse door? Absolutely not. The plaintiff makes it to the courthouse, with his or her attorney. They argue it before the judge. The judge weighs it in light of the law—if this were to become law—and makes the decision as to whether that case can go forward. I think that is clearly an important argument that needs to be established.

As to the argument about lawsuits involving, what they describe as, high volume gun sales—I think he spoke to a tragic situation in Illinois—the regulations of the numbers of guns that can be sold in a single transaction, however, are not the job of the courts. They are the job of the legislators. They are that Senator's job and this Senator's job, if you can gain a majority of the votes to establish a certain number of gun sales per day. The job of the dealer is to check the background, to check the legality, and to do so openly and knowingly.

Now, having said that, let's talk about the dealer. In S. 1805, we exclude from its protection actions brought against a transferer convicted under section 924(h), title 18 of the United States Code, or a comparable State felony law. 18 U.S.C., section 924(h), provides: whoever knowingly transfers a firearm knowing that such firearm will be used to commit a crime of violence or drug trafficking crime shall be imprisoned not more than 10 years, fined in accordance with this title.

S. 1805 does not wipe out this provision of the United States Code. We intentionally narrowed its focus so that would not happen.

The Senator from Illinois is rightfully concerned about the trafficking of firearms, as am I. I certainly do not want that to happen. But what I do not want to happen either is for hard-working men and women of this country—

many of them union men and women—who are working in firearms production in this country today for civilian use and for military use, to lose their jobs because their company has simply been strangled to death by lawsuit after lawsuit after lawsuit. That is what is happening.

We have lost thousands of legitimate jobs in this country because this industry is a very small industry in total. Put it all together, and it is less than a Fortune 500 company. That is why it is extremely cautious about how it operates within the law, and it is why our judges have recognized the frivolous character of these lawsuits and have thrown them all out.

The problem is simply this: It costs hundreds of millions of dollars to argue the law and to argue before the courts and to continue this legal dance that certainly those who are now engaged in it put law-abiding manufacturers and dealers through. Well, that is going to be part of the argument we look at here.

But I do ask our colleagues to focus on the bill, to understand how narrowly it has been designed. It is a product of a bipartisan effort, not a single-interest effort but a bipartisan effort, to reform our tort process in a way to deny a very particular frivolous kind of lawsuit of the kind that is addressed in S. 1805.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wanted to ask a question of the Senator from Idaho but he did not have an opportunity to yield, so I will make a statement and then yield the floor to the Senator from Washington who has been waiting patiently.

I missed it. I am sorry, and I apologize. I thought this was a bill to protect a special interest group, and it turns out it is a jobs bill. If I had only known that. We have lost almost 3 million jobs under this President, and this is being offered to create jobs. I have to take another look at this. Because, frankly, if protecting gun carnage on the street is going to create jobs, where does that leave us? Where does that leave us? If we reduce gun violence on the street and the number of victims, it is going to cost us jobs. Well, I guess you can argue that. It would be less work in the trauma centers, less work in emergency rooms, less work in the rehabilitation centers from the gun violence victims.

I guess we would lose some jobs. I guess the Senator from Idaho is right. What a price to pay—your money or your life.

The argument has been made we have to support this bill to protect American jobs. Crime victims and their families who have had someone killed or maimed with a weapon won't be able to go to court to hold the manufacturer and dealer responsible because we need jobs in America. Has it come to this? Have we reached this point?

Let me say to my friend from Idaho, I don't understand what he said about trade associations. I turn to page 11 of the bill, and it is all about trade associations. As I read that, I can't help but believe that written between the lines are three letters: N-R-A. Isn't that what it is all about? So the trade association that is being protected by this bill is the National Rifle Association?

If it isn't about trade associations, strike the whole thing. Get rid of it. It is all over this bill, protecting trade associations.

I might say his reference about transfers to individuals knowing that they will use it for a crime, the legal standard most of us learned in law school is "knew or should have known." There is a world of difference between knowing you are going to use a gun for a crime or the fact I should have known it. Because Mr. Fiessinger was buying three guns a month for 2 straight years, at some point I should have known something is odd about his behavior. He was not buying guns for personal use or for self-defense. He was a gun trafficker.

Did I know as a dealer that he went outside the door and sold it to someone who used it for a crime? There was no way I would know it. I was inside the store. But should I have known? You don't include that standard in your bill. You intentionally exclude it because it is the obvious and real life standard people are held to.

Now that I know this is a jobs bill, I will have to look at it long and hard. We need jobs so desperately in America that we are going to close the courthouse doors to the widows and families of slain police officers for fear if they recover from a gun dealer who is selling guns to criminal gangs, somehow or another that is going to cost us jobs. What a sad rejoinder that is the defense for this bill.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Washington.

Ms. CANTWELL. Mr. President, I am glad this debate has finally turned toward jobs. For the last 2 days we have been having a debate about what groups to exempt from liability. One of the groups we need to be talking about—because they have paid a heavy price for the liability of our economy—is the unemployed workers in America. Because we won't reinstate the federal unemployment benefits program, unemployed workers are being held liable for our economic recession.

I am glad my colleagues are finally talking about jobs. We need to be questioning whether jobs are being created in this country. We need to ask whether we believe in the President's economic forecast for this year, in terms of the job growth he says is going to take place, or whether we don't believe those numbers and we want to do something about unemployment.

In the past few weeks, we have heard much about the number of jobs that will be created this year. And we've also heard some backpedaling based on economic modeling, statistics and rounding errors. In the end, they say that the economy is going to grow by X number by the end of this year, and we don't have to worry about the unemployed.

The bottom line, however, is that the economy isn't going to create enough jobs to put America back to work. And since this recession started in early 2001, millions of people have lost their jobs through no fault of their own, and millions are still out of work. After the recession began in March of 2001, this country faced another blow: 9/11. In addition to the horrific personal losses resulting from that tragedy, our national economy and my own State's economy was gravely hit in a variety of sectors that caused huge job loss.

And here we are today, still with 2.3 million fewer jobs than in January 2001. And yet, some of my colleagues on the other side of the aisle would like to say the economy is recovering and we don't have to do anything about helping unemployed workers.

Part of our job at the Federal level is to use the Temporary Emergency Unemployment Compensation program to help laid-off workers in times of economic decline. This program is funded by employer, and by extension employee contributions. They are paying into a Federal program that is supposed to help in downturns of our economy to keep people—with mortgage payments, hospital payments, health insurance—going until they actually have an opportunity for jobs in the future. This has been a essential program.

At the State level, a laid-off worker can get 26 weeks of help. But, during recessions that's often not enough to get back to work. So the Federal Government has said that in times of high unemployment, we're going to step in. After a laid-off worker has exhausted their state benefits, a Federal program will kick in that provides an additional 13 weeks of help. In some instances where States have really been hard hit by high unemployment, such as my state, which had for a time over 7.5 percent unemployment, there is an additional 13 weeks of help. But somehow this body has decided, after much debate, that we were not going to continue that program.

In fact, in December of last year we tried numerous attempts to pass unemployment benefit extensions. We tried to get the other side of the aisle to agree that this was a necessary step. We were rebuffed by people saying the economy is going to get better, the economy is going to get better, so we don't need to do this.

I found it amazing that people on the other side of the aisle, when we returned in January, were still asserting that in that debate: The economy is going to get better.

Now the President and his Cabinet, who came to Washington State just this past week, are saying their original predictions on the economy aren't going to be as rosy as they predicted. The President's own economic report, in which they cite on page 98 a chart talking about growth and real GDP and productivity over the long term, basically said this year we were going to create 2.6 million jobs. That was a great forecast. Many of my colleagues on the other side of the aisle said that that is an indication that the economy is going to grow, and we don't need to do unemployment benefit extensions. People will find jobs.

The three Cabinet secretaries—the Secretaries of Treasury, Commerce, and Labor—who visited Washington State must have thought the picture was so rosy that they didn't need to meet with unemployed workers who wanted to share their plight. And yet, when they were asked about the President's economic numbers and the President's economic plan, they all backed off of those numbers. They all said the economy is not going to grow at that fast a rate. Those were just numbers.

If they are just numbers and you don't really believe that is the growth rate, then let's go back to the business we are charged with—helping out in times of high unemployment with Federal assistance. This program is paid for by employers and employees. Let's put back on the table the 13 weeks of Federal assistance and, in high unemployment States, an additional 13 weeks in Federal assistance.

Let's not make a mistake. There are hundreds of thousands—in fact 760,000 people in America—who have exhausted all their state benefits and have no federal program to pick them up. And in addition to the 8.3 million people officially counted as unemployed, there are another 1.7 million who are actually no longer counted as in the ranks of the unemployed. If we count them, the national unemployment rate jumps from 5.6 percent to 6.7 percent. These people are out of work just the same as those who are counted, but yet they are not in the numbers. Many are discouraged workers. Many have exhausted their benefits.

Let's take a look at the economic policies of the past two administrations. Let's look at what the first Bush and the Clinton administration decided to do when this country faced an economic downturn in the early 1990s. They decided that we should create a federal program for unemployment benefits to help people until they could get back to work.

I have numbers of e-mails and letters from constituents in my State and other parts of the country. These constituents say that they have sent resumes to hundreds of companies and maybe only had two or three interviews. When they go to those interviews, they are competing with people who are three and four times more qualified for the job. These overly qualified people are willing to take that job because it is the only job that is out there. Thereby those individuals who are themselves qualified but not overqualified are left without employment.

Let's compare the number of jobs that were created in the last recovery and this one. The bottom line is that in 1992 we started to see a recovery in jobs. In April of that year the economy started to create about 150,000 jobs per month. But, even so, we kept the Federal program going for 22 more months. In February of 1993, we finally closed the jobs deficit, and yet, we continued the program until 2.9 million new jobs had been created, above and beyond the jobs deficit.

In the current recovery, we are simply not seeing that kind of growth. Last month, just 112,000 jobs were created. And yet, everybody is ready to say that 112,000 jobs signals our great return. We need to take a lesson from history: In the 1990s, when the economy started creating about 150,000 jobs, we continued the program for almost 2 more years. We certainly didn't cut it off as we did in December of 2003.

In April of 1992, that administration was not heartless as to the plight of Americans being out of work. That administration recognized that even though the economy is starting to recover, it hadn't fully recovered. Under that Republican administration, they said let's go ahead and keep the Federal employment program going. So they extended it for another 22 months.

In February 1993, when we basically had broke even for the jobs that had been lost, the Federal unemployment extension program was still extended another year.

The past recession provided good economic evidence that extending unemployment benefits at the Federal level not only helped bridge the gap between the end of State benefits and finding a new job.

It also provided economic stimulus. For every dollar spent on unemployment benefits, it generates $2 of stimulus to the economy. We found out in the 1990s that was a good economic plan, and two administrations, a Republican administration, the first George Bush, and a Democratic administration, Bill Clinton, found that this was great economic policy for our country.

Yet today, the administration is simply being heartless. Somehow, even though the President has backpedaled on his own economic plan for the year and said he doesn't support the job growth projections—somehow even though we have created only a minuscule number of jobs, 112,000 in January, the administration doesn't want to continue this program.

I find that amazing. What else I find amazing is that even though we have $17 billion in the UI trust fund—$17 billion that does not have to be found, that does not have to be taken from another program; $17 billion that has been paid for by employers and employees, and is, in fact, designed to take care of employees during economic downturns—we're not going to extend the program.

As the program has been designed, it says these people can be eligible for Federal temporary assistance for 13 weeks and, if they are in a very high unemployment State, an additional 13 weeks. I want to point out that in the 1990s, not only did they extend that program for 27 months, much longer than we did in the current program, the program was also a richer program. The program was richer in that you actually had twice as many weeks of benefits.

So the current program has fewer weeks of benefits, and it hasn't been in place for as long—it only lasted 22 months.

I think people across America are getting the message. I know they are in Washington State. They were so disappointed when the Cabinet Secretaries showed up in town and said they wanted to do something about the hard economic times, and yet refused to meet with laid-off workers. Then the Secretaries Snow and Evans refused to back the President's jobs projections. Laid-off workers in my state said: If you guys do not believe in the economic numbers, we can tell you firsthand we do not believe in them because we have been on job interview after job interview and have sent resumes and the jobs are just not there.

As the Seattle P.I. wrote in an editorial, everything is not fine in the job market. They clearly point out that we have a responsibility, and the one thing to do to alleviate the pain is to extend Federal unemployment benefits. I ask unanimous consent to print that editorial in the RECORD.

Everything Is Not Fine in the Job Market

Helping unemployed workers is the one thing the Bush administration could still do about the lousy jobs environment.

Three-fourths of the way through his term, President Bush is pretending that everything is fine for workers. The administration has shown no interest in extending federal emergency unemployment assistance for workers whose benefits are expiring.

The country has lost 2.3 million jobs. The recovery is pushing up CEOs' pay, ironically, in part because they are helping stock prices by holding down hiring. And the layoffs continue.

Boeing said Friday it might cut 50 workers in Everett. The sale of AT&T Wireless Services will spark thousands of layoffs. Yesterday, Sen. Maria Cantwell, D-Wash., visited workers and managers of a Seattle warehouse where the staff was laid off and the building put up for sale.

As Cantwell notes, there are far more unemployed workers than new jobs. For good reason, the White House has jettisoned its own prediction of 2.6 million new jobs this year.

The fury over outsourcing of jobs is much overstated, but it is fed by the weak economy. The export of some jobs underscores the need for helping unemployed workers through a transitional time until more jobs are created. The one way to alleviate the pain quickly is to extend federal unemployment benefits.

Ms. CANTWELL. Mr. President, the Minneapolis Star Tribune wrote:

At this sluggish pace, it will take the nation four years to recover the jobs it lost in nine months during the recession of 2001.

So there are people saying obviously it is going to take us a while to recover.

The L.A. Times recently wrote:

More than 2 million jobs have been lost in the last three years. . . . Even in the best-case scenario, Bush will end this term with a net job loss. That hasn't happened to a president since Herbert Hoover at the beginning of the Depression.

Mr. President, I ask unanimous consent to have these articles printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Star Tribune, Minneapolis, MN, Feb. 10, 2004]

JOBLESS: BENEFITS ARE RUNNING OUT

To a casual reader, the government employment report released on Friday shows an economic recovery finally taking hold. Payrolls expanded for the fifth consecutive month, and the unemployment rate fell slightly to 5.6 percent.

To Americans who are standing in the unemployment line, however, the January data reveal a recovery that remains woefully inadequate. If President Bush really cares about the nation's unemployed, as he said Sunday, he will endorse congressional efforts to enact a badly needed extension of federal unemployment benefits.

The January jobs report was encouraged in the context of the current recovery, but it was pathetic in the context of history. Since the labor market hit bottom last summer, employers have been adding about 73,000 jobs per month. That compares with 216,000 jobs per month during the economic expansion of the early 1990s, and much larger monthly gains in recoveries before that. At this sluggish pace, it will take the nation four years to recover the jobs it lost in nine months during the recession 2001. There is simply no modern precedent for a jobless recovery of this duration.

The slow pace of hiring is taking a terrible toll on those in the unemployment line. Nearly one-fourth of the nation's 8.3 million jobless workers have now been out of work for six months or longer. As of December, nearly 400,000 workers are exhausting their unemployment benefits every month, according to the Center on Budget and Policy Priorities in Washington, D.C.

(A different Labor Department measure, known as the household survey, has been showing much stronger job creation in recent months. But the department said Friday, as it has for years, that it considers the household survey less accurate than the payroll survey that is showing tepid growth. And even by the household survey, the current expansion is much slower than its predecessors.)

Bush says that in light of the large budget deficit, he wants to contain federal spending, and we sympathize. But the modest cost of extending unemployment benefits would disappear as soon as the job market truly recovers, unlike the much larger tax cuts that the president continues to propose.

Lawmakers dragged their feet on this question all last fall, arguing that a jobs recovery was just around the corner. Last week a majority in the House finally recognized its error and voted to extend benefits. The Senate and the White House should concur.

[From the Los Angeles Times, Dec. 29, 2003]

JOBLESS COUNT SKIPS MILLIONS

(By David Streitfeld)

San Francisco.—Lisa Gluskin has had a tough three years. She works almost as hard as she did during the dot-com boom, for about 20% of the income.

When Gluskin's writing and editing business cratered in 2001, she slashed her rates, began studying for a graduate degree and started teaching part time at a Lake Tahoe community college for a meager wage.

It's been a fragmented, hand-to-mouth life, one that she sees mirrored by friends and colleagues who are waiting tables or delivering packages. In the late '90s, the 35-year-old Gluskin says, "we had careers. We had trajectories. Now we have complicated lives. We're not unemployed, but we're underemployed."

The nation's official jobless rate is 5.9%, a relatively benign level by historical standards. But economists say that figure paints only a partial—and artificially rosy—picture of the labor market.

To begin with, there are the 8.7 million unemployed, defined as those without a job who are actively looking for work. But lurking behind that group are 4.9 million part-time workers such as Gluskin who say they would rather be working full time—the highest number in a decade.

There are also the 1.5 million people who want a job but didn't look for one in the last month. Nearly a third of this group say they stopped the search because they were too depressed about the prospect of finding anything. Officially termed "discouraged," their number has surged 20% in a year.

Add these three groups together and the jobless total for the U.S. hits 9.7%, up from 9.4% a year ago.

No wonder the Democratic Presidential candidates have seized on jobs as a potentially powerful weapon.

Howard Dean criticized President Bush for "the worst job creation record in over 60 years." Richard Gephardt said that "I have three goals for my presidency: jobs, jobs, jobs." John Kerry said "the first thing" he'd do as president would be to fight his "heart out" to bring back the jobs that have disappeared in recent years.

Bush, meanwhile, is quick to seize credit where he can. When the unemployment rate for November fell one-tenth of a point, he went out immediately to give a speech at a Home Depot in Maryland.

"More workers are going to work, over 380,000 have joined the workforce in the last couple of months," Bush said. "We've overcome a lot."

A number of economists say it's a mistake to evaluate the job market solely by talking about the official unemployment rate. It's a blunt instrument for assessing a condition that is growing ever more vague.

"There's certainly an arbitrariness to the official rate," says Princeton University economics professor Alan Krueger. "It irks me that it's not put in proper perspective."

On Jan. 9, when the rate for December is announced, both Republicans and Democrats will assuredly again maneuver for advantage—precisely because the number isn't expected to change much.

"At this point, where we don't know which way it's going but it isn't likely to be going far, both sides will try to use it," says Michael Lewis-Beck, a political scientist at the University of Iowa.

In every election since 1960, the party in the White House lost when the unemployment rate deteriorated during the first half of the year. If the rate improved, the party in the White House won.

That's not a coincidence, says Lewis-Beck, who has edited several volumes on how economic conditions determine elections. "People see the President as the chief executive of the economy," he says. "They punish him if things are deteriorating and reward him if things are improving."

By any normal standard, things should have been improving on the employment front long before this point. More than 2 million jobs have been lost in the last three years, a period that encompassed a brief, nasty recession and a recovery that was anemic until recently. Even in the best-case scenario, Bush will end this term with a net job loss. That hasn't happened to a president since Herbert Hoover at the beginning of the Depression.

Many economists are mystified about why a suddenly booming economy is producing so few jobs.

"We're all sitting there and saying, 'When are they going to return?' " says Richard B. Freeman, director of the labor studies program at the National Bureau of Economic Research. "It's looking a little better, but we don't understand why it isn't looking a lot better. Why shouldn't Bush be sitting there saying, 'Man, I'm sitting pretty. This is a great boom'?"

One statistic proving particularly perplexing is the percentage of the adult population that is employed. this number rises during good times, as people are lured into the workforce, and falls during recessions as companies falter.

True to from, the percentage of adult Americans with jobs dropped from a high of 64.8% in April 2000, just as the stock market was cresting, to 62% in September—the lowest level in a decade. If past recessions are any guide, those 5 million people who found themselves jobless should have driven the unemployment rate up to about 8%.

Instead, the rate never went much above 6%

More than half of the additional people who would have reported themselves as unemployed in a previous big recessionary period . . . aren't," a puzzled UC Berkely economist, Brad DeLong, wrote on his website. "They're reporting themselves as out of the labor force instead."

"Out of the labor force" means you're not working for even one hour a week and don't want to, either. It's the traditional category for students, married women with young children, flush retirees and idle millionaires

A new way that people seem to be joining this category is by getting themselves declared disabled. This designation makes them eligible for government payments while removing them from the unemployment rolls.

From 1983 to 2000, economists David Autor and Mark Duggan wrote in a recent study, the number of non-elderly adults receiving government disability payment doubled from 3.8 million to 7.7 million.

The scholars present a case that the sharp increase isn't because the workplace suddenly became more dangerous. Instead, it has been prompted by liberalized screening policies, which make it possible to claim disabled status for, say, several small impairments as opposed to one big injury. Government examinations also have been downplayed in favor of the disabled's own medical records and the pain he or she claims to be experiencing.

At the same time, benefits have been sweetened. As a result, millions of individuals who lost jobs now have an attractive—and permanent—alternative to searching for work.

Autor and Duggan concluded that if disability payments weren't so appealing, many more people would be unemployed, boosting the jobless rate two-thirds of a point.

Another way in which people forgo an appearance on the unemployment rolls is if they decide to go into business for themselves. There are 9.6 million people who say they are self-employed full time, a number that rose 118,000 last month. Without the recent increase in self-employed, the jobless number would look much worse.

Many others may be working for themselves part time, temporarily, as a way to get food on the table in the absence of better options.

Take Steve Fahringer, who until recently was working for a Bay Area marketing agency that cut 20% of its employees and trimmed the wages of the remainder by 20%. Fahringer didn't particularly like his job. Because the recession supposedly was history, he thought he could find a new position. The 34-year-old didn't think it would be easy, but he thought it possible. So he quit.

"I left July 1," he says. "I haven't found a new job yet."

It's a common problem. The segment of the labor force that has been jobless for more than 15 weeks has risen nearly 150% since 2000. The current level is the highest since the recession of the early 1990s. Nearly one-quarter of the jobless have been unemployed for longer than six months.

In Fahringer's case, he spent some time aggressively looking for a job, which made him part of the official July unemployment rate of 6.2%. Then he stopped looking, which meant that he was one small reason the rate started going down.

Instead of unemployed, Fahringer was classified as "discouraged." A little more than 8% of the people who want a job in the Bay Area are estimated by the Bureau of Labor Statistics to be discouraged, slightly higher than Los Angeles/Long Beach but lower than the battered technology center of San Jose.

Discouraged workers have never been included in unemployment rates, although they came close the last time a commission met to reform the system, a quarter of a century ago. "It was a very hot issue," remembers Glen Cain, a retired economist who was a commission member. He says the conservatives on the panel, who felt that anyone who really wanted a job should be out there hustling no matter what, prevailed.

Fahringer found an alternative way to earn a bit of money. He did some acrylic paintings, which he sold for a total of $1,000. He calls himself "a hobbyist," which means for a while he moved out of the labor force entirely.

Now he's a temp, assigned by his agency to a nonprofit office. For the first time in six months, he's working 40 hours a week. By the government's accounting, he has once again joined the ranks of the employed. But from the standpoint of his wallet, Fahringer is worse off: He's earning less money, with no paid holidays, no sick leave, no pension plan, no health insurance, no future.

The Economic Policy Institute, a liberal-leaning Washington think tank, says Fahringer's situation is in many ways typical. The industries that were expanding in the late '90s, including computer and professional services, paid well.

Those industries are in retreat. So is manufacturing, a traditional source of high wages. On the rise, meanwhile, are lower-paying service jobs.

During the boom, it was easy to trade up. Now it's just as easy to trade down.

Fahringer's solution: Opt out.

"I'm thinking of going back to school," he says. "I'd take out a loan." That would put him out of the labor force again.

In some eyes, a nation of burger flippers, temps and Wal-Mart clerks isn't the worse scenario for the economy. The worse is that companies continue to eliminate jobs faster than they create them, setting up a game of musical chairs for the labor force.

That prospect alarms Erica Groshen, an economist with the Federal Reserve Bank of New York. "If you plot job losses versus gains on a chart, it's shocking," she says.

Losses are running at about the same rate they were in 1997 and 1998, two good years for the economy. But job creation in the first quarter of 2003—the most recent period available—was only 7.4 million, the lowest since 1993.

"If this goes on too long, you'd have to worry there's something fundamentally wrong," Groshen says. Although the economy has picked up since March, "so far I haven't seen anything that suggests job creation is picking up."

That bodes poorly for Ian Golder. His last full-time job was with a start-up publication that wrote about venture capital.

Two years ago, Golder was laid off. It was the first time since he graduated from UC Berkeley 14 years earlier that he didn't have steady work.

Golder looked for a while, gave up for a while, then landed a contracting gig with no benefits proofreading for a chip maker. When that ran out, he worked 20 hours a month on a financial services newsletter.

His wife, Heather, a recent graduate in English from UC Davis, also was without a job. They thought about selling their house in Sacramento and moving, but prospects didn't look any better anywhere else. To make ends meet, they took in two boarders.

At the beginning of December, things seemed to improve a bit. Golder got a job in the document-control department of a medical devices company. The department, he was told used to have 20 full-time people. Now it has five, plus four temps.

The job will last two months. After that, who knows?

Optimists say things will be better then," Golder says. "But a full-time position with benefits seems pretty remote."

Ms. CANTWELL. Mr. President, the point is, this administration and the other side of the aisle need to look at economic history when we have faced similar downturns and discuss what is the best way to alleviate this pain as we see our economy barely start to chug along.

We have heard a lot about outsourcing in the last week or two. I am sure we have not heard the last of it. There are a lot of people who are concerned that we may never see that job growth that was even initially predicted in the President's economic report of which it has now backed off. So America has a very uncertain time ahead, but Americans know they have a program at the Federal level to which they are being denied access.

What are the consequences? My colleagues need to read their e-mails. They need to read letters from their constituents. I read mine. When you know that money is there to help and assist them, when you know an economic plan and responsibility for our fiscal policy is something we should be concerned with every day, it just breaks your heart to understand the plight some of these people are going through.

One laid-off worker from Camano Island said he cashed out every dime of his 401(k) savings plan with significant penalty. He doesn't know how he is going to make the mortgage payments, he is at such a desperate point. He is trying to figure out any way he can just to keep the lights on and keep food on the table.

Another constituent wrote to me from Bothell, WA:

> I had to resort to selling my 20-year-old naval sword for grocery money. As a naval veteran, I can tell you that hurt a lot to do.

A constituent from Steilacoom, WA, who has been unemployed and his wife worked at $17 an hour for a phone company and she was laid off, too, writes that they had to borrow from friends just to keep their kids in the house and make their house payment.

Washingtonians are having a very hard time. I bet many Americans across this country are having a hard time. That is because we are not living up to our responsibility to pass this temporary unemployment benefit extension. We had this debate in December of 2003, and a lot of rankling about it, and we came back in January and ultimately did the right thing.

In December of this year, when the program expired again, we came back and everybody wanted to sing how the economy was getting better. Now the administration will not stand by its own numbers of whether the economy is really getting better or not.

The House of Representatives, albeit a difficult task, actually got an amendment on a different bill and actually passed an extension of unemployment benefits. They had the votes to, in a bipartisan way, pass the unemployment benefit extension, but we have not had the courage to do so.

My colleagues on the other side of the aisle need to stand up and say that unemployment benefits are a priority and that they are a good way to deal with this economic situation, and that while we have curtailed this program at a much shorter time period when we have not had positive job growth—we are still in the negative numbers—this has been premature and that the smart thing to do now is, as the economy is barely starting to respond, the most prudent thing to do to stimulate the economy is not to take more money out of it. That is exactly what we are doing. We are taking more money out when we do not help provide the stimulus that unemployment benefits provide.

So I think this is the best investment we could be making. My colleagues need to realize it is heartless to leave these Americans out in the cold without either a paycheck or an unemployment check.

In the 1990s recession, even when there had been the start of job growth, the program was extended for 22 months. And even when we had recovered all the jobs that were lost and the economy had started to positive growth, this program was extended another year. So we are being very shortsighted. While we have lots of legislation to discuss, various issues about liability, we are saddling the American public with the biggest liability yet, and that is a bad economy and no help on unemployment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have today asked my colleagues to support the Protection of Lawful Commerce in Arms Act. This important legislation has strong support from both sides of the aisle with more than 50 cosponsors on the original bill, S. 659. I am proud to be an original cosponsor of the bill. I thank my dear friend and colleague from Idaho, Senator LARRY CRAIG, for his leadership. He has done yeoman's work on this bill in the drafting, introduction, and shepherding of this bill as it passes on the Senate floor.

The legislation in question will correct a significant injustice that threatens the viability of a lawful United States industry, the firearms industry. An increasing number of lawsuits are being filed against the firearms industry seeking damages for wrongs committed by not them but by third persons who misuse the industry's products.

These lawsuits seek to impose liability on lawful businesses for the actions of people the industry has absolutely no control over. When one stops to think about it, it is really outrageous. Businesses that comply with all applicable Federal and State laws and that produce a product fit for an intended lawful purpose, including elk and duck hunting, target shooting and personal protection, should not be subject to frivolous lawsuits that have only one goal; that is, to put them out of business. It is an outrage.

Montanans particularly are proud of their independence and their outdoor heritage. We are an outdoor people. People in our State, as in the State of the occupant of the Chair, almost honor and cherish the outdoors. We spend so much of our time outdoors. Almost every Montanan regards himself or herself as an outdoorsperson. Hunting, fishing, hiking, even one's job, whether it is raising cattle, growing wheat, grain, the mining industry, forest products—we are outdoors people. We cherish our right to hunt. We cherish our right to fish and enjoy the outdoors. Passing this bill will allow us to protect that right by ensuring the firearms industry stays in business.

Gun owners and sportsmen are an important part of our Nation's economy. Each year they spend nearly $21 billion in our national economy. This in turn generates more than 366,000 jobs. Those jobs pay more than $8.8 billion in wages and salaries. That is no small item, particularly these days when we are trying to get as many jobs in our country, particularly good-paying jobs. The industry also provides about $1.2 billion in State tax revenues.

In addition, excise taxes imposed on firearms in the Federal Aid to Wildlife Restoration Act, otherwise known as the Pittman-Robertson Act, generate revenues for State fish and wildlife conservation efforts, and also hunter safety programs. For example, the Pittman-Robertson Act generated more than $150 million in revenue in the year 2002 alone.

In short, the U.S. firearms industry serves America's gun owners and sportsmen well. It provides good-paying jobs. It provides revenues that benefit all Americans. The industry should not be penalized for legally producing or selling a product that functions as designed and intended, but that is exactly what certain groups are trying to do—asking the courts to step in and micromanage the firearms industry when the Congress and most State legislatures have refused to do so.

Let me now list some of the demands that have been made in these lawsuits so we can get a flavor and a picture of just how incredible these lawsuits are. Some would require a one-gun-a-month purchase restriction not required by a State law. That is a one-gun-a-month restriction. Other of these suits would require firearm manufacturers and distributors to participate in a court-ordered study of lawful demand for firearms and, get this, cease sales in excess of lawful demand.

Another request is to require a prohibition on sales to dealers who do not stock at least $250,000 in inventory. And here is still another: require systematic monitoring of dealers' practices by manufacturers and distributors.

These are just a few of the sweeping demands made in the lawsuits the Protection of Lawful Commerce in Arms Act seeks to stop. As my colleagues can tell, these suits are asking courts to step well outside their jurisdiction and legislate regulation of the firearms industry. They also have nothing to do with holding accountable those who actually misuse firearms or commit crimes with firearms.

Most courts have dismissed such lawsuits. Some courts have expressed sentiments similar to those of a New York appellate court judge who stated:

> The plain fact is that courts are the least suited, least equipped and thus the least appropriate branch of government to regulate and micromanage the manufacturing, marketing, distribution and sale of handguns.

However, the time, expense, and effort that goes into defending those nuisance suits is a significant drain on the firearms industry costing jobs and millions of dollars, increasing business and operating costs and threatening to put a good number of dealers and manufacturers out of business. That is why this bill is so necessary.

Let me be clear about a couple of points, though. This bill will not bar legitimate suits against the firearms industry. It preserves the right of Americans to have their day in court. For example, this bill will not require dismissal of a lawsuit if a member of the industry breaks the law; if a member of the industry acts negligently in supplying a firearm to a person they should have known is likely to misuse that firearm. In addition, it does not require dismissal of a lawsuit if a member of the industry supplies a firearm to someone they had reason to know was barred by Federal law from owning a firearm or designed a defective firearm. So there are safeguards in this bill.

This bill is only intended to protect law-abiding members of the firearm industry from nuisance suits that have no basis in current law, and again are only intended to regulate the industry, harass the industry, or put it out of business, none of which are appropriate purposes of a lawsuit. That is what this legislation is intended to deal with.

We can all agree when a firearm is used in a criminal or careless manner that causes serious injury, such as the loss of life, this is a terrible tragedy. Those responsible for such tragedies should be held accountable, clearly, and held accountable to the fullest extent of the law in both civil and criminal actions.

This includes the firearms industry, obviously, when or if one of its members breaks the law or gives a firearm to a criminal or other person they knew would use the firearm to hurt, kill, or threaten another person.

The Protection of Lawful Commerce in Arms Act would do nothing to change this or shield the firearms industry from liability or criminal or other wrongdoing. At the same time, it is not fair and it is not right to hold lawful members of the industry, who produce a legal product, accountable for the independent actions of third parties who use a firearm in the manner the industry never intended.

This is a very simple bill. It has a simple purpose. It is also critically important to a very vital industry and I ask my colleagues to give it their full support.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, again, I remind our colleagues that we are in a postcloture environment. What does that mean? It means we could actually debate the broad issue of the bill for upwards of 30 hours before we actually get to the bill, even though 75 of us have said let's move on, let's get to this legislation, debate it, offer amendments, and bring it to final passage.

My colleague from Montana is leaving. I thank him for his statement of the work he has done in behalf of gun owners and manufacturers and law-abiding gun dealers. I thank him for being an original cosponsor and working with me to get S. 1805 to the floor.

I thought what I might do for a few moments, while we are waiting for leadership on both sides of the aisle to see if we can't find an agreement on how to proceed to this legislation, is to deal with some finer points that are involved in the legislation. My guess is, over the course of this week and probably the next week, you are going to hear a great deal said about the bill—11 pages, a relatively small bill—and what it does or does not do.

S. 1805 has basically two substantive provisions. First, section 3(a) states that:

> A qualified civil liability action may not be brought in a Federal or State court.

A qualified action may not be brought.

Second, section 3(b) orders the immediate dismissal of a qualified civil liability action pending on the date of enactment of S. 1805. The key to S. 1805, therefore, is the definition of "qualified civil liability action." That is what most of our colleagues, I hope, would focus on, even though the issue spirals around the use of a gun and that brings about substantial heated debate and political decisions.

Key in S. 1805, again, is the definition of a civil liability action which is addressed in the definition section, then, in section 4(5). A qualified civil liability action is defined as a lawsuit:

> . . . brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party. . . .

Subsection (5), the definition, then excludes five categories of lawsuits from coverage under S. 1805:

First:

> (i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted.

In other words, we don't exempt that. We exclude these categories from that definition so you can still go to court, you can still gain redress from that.

The second one is:

> (ii) an action brought against a seller for negligent entrustment or negligence per se.

Negligent entrustment is defined:

> . . . the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product supplied is likely to, or does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

In other words, if the seller knows that this is going to be used for criminal intent or for misuse, then of course that provision is exempt from the protection under 1806.

Third:

> (iii) an action in which a manufacturer or seller of a qualified product [knowingly and willfully] violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which the relief is sought. . . .

Again, the courthouse door is open to that.

> (iv) an action for breach of contract or warranty in connection with the purchase of the product.

That is available.

> (v) an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a manner that is reasonably foreseeable.

Those are really the key points here that we do not in any way exempt. What we are doing in S. 1805 is very simple. We are trying to reinforce centuries of legal precedent, based on individual responsibilities, not responsible for actions of third parties. In other words, once again the trial bar is trying to suggest that a criminal act is the responsibility of the person who manufactured the product that the criminal may use in that act. We have never allowed that to stand in our courts, and now we are trying to assure that a very small industry in this country can be protected from the kinds of frivolous lawsuits filed that are draining them of their very livelihood.

Earlier this afternoon I talked about the hundreds of jobs that have been lost. Some scoffed and said, "This is a jobs bill?"

You bet it is a jobs bill. If you destroy that industry, thousands of high-paying jobs will be lost across the United States in an industry that is legal, that is law abiding, that one might argue is even enshrined in the Constitution under the second amendment. That is why we are here today.

Is it important? You bet it is important. Is it a part of what our Senate ought to be debating? Absolutely.

If we are able to do this, we establish extremely important precedent that other manufacturers of law-abiding products will look at, and should look at. Why should the trial bar be allowed to suggest that the maker of a Chevrolet, Ford, Dodge, or Toyota pickup used by a drunk driver that ended up killing someone be responsible for it? Because they manufactured it? Since when is this country going to exempt the actions of the individual and say, Oh, no, it really wasn't his fault; it was the fault of the vehicle. It was the fault of an inanimate object known as a gun.

That is the issue today and it really is fundamental. You hear a great many arguments. One of them is that we are locking the courthouse door. No, all those principles I talked about are exempt and can be tried and can be argued before the courts. Even in S. 1805, somebody who by definition brings a junk lawsuit gets to argue the case before the judge. They get through the courthouse door. The judge then listens, applies the law, and makes a determination whether this is a legitimate case that should go forward or it was an illegitimate case.

Will this bill affect several high profile cases such as the lawsuit against a gun dealer in Tacoma, WA, from whose store the DC snipers, John Muhammad and Lee Malvo, got their rifle? Does it exempt that dealer if he acted unlawfully? We don't know that yet. We know that BATF has investigated it and jerked his firearm license and the store is now closed. We are told that BATF has asked the Justice Department to file criminal charges against him.

But we do know one thing. We do know that Lee Malvo has admitted to stealing the gun from that dealer. Therefore, there is a principle in tort law that says that a manufacturer is not liable if the product used, being his, was stolen before it was used. That we do know. And now we have an admission by the person who pulled the trigger that the Bushman rifle used in those tragic incidents here that kept this city rivetted for a tremendous amount of time and took numerous lives was a stolen weapon.

Having said all of that, the case is yet to be investigated. The facts are yet to be truly known. Allegedly, guns went missing. Allegedly, they were not reported.

If all of that is true, then the owner of this particular gun shop in Tacoma, WA could well be liable and could well come under the criminal laws of today, and S. 1805 would do nothing about that and shouldn't do anything about that.

Once again, as I have already said numerous times today—and I am sure I will repeat it over the course of a good number of days—this is a very narrow approach. It is an important one.

Senator DASCHLE, the minority leader, and I joined in his amendment embodied in S. 1805 to ensure that we refine it even more to make it very clear exactly what and who might be exempt and for what reason. We think we have so effectively narrowed it that it has met the broad acceptance of our colleagues in the Senate.

I hope the cloture vote today is reflective of some of that acceptance as we work and debate through this issue. I hope leadership on both sides can get us to an agreement so we might proceed and get on the bill and deal with some of the amendments at hand. I hope we can defeat them. I would like a clean bill. The administration would like a clean bill. There is ample time to debate other issues. There is ample time to debate extension of the assault ban. I strongly oppose that. That was legislation I called a political placebo at a time when everybody wanted to try to do something, even though they knew it was impossible to control the criminal element in this country unless you got tough on crime. So we passed that legislation.

History shows the assault weapon ban did little to no good—except it did one thing. It kept law-abiding citizens from buying certain types of firearms even though our second amendment would suggest they have the right to own them.

That is why I hope the assault weapon ban as it expires can be left to its expiration. I hope we can defeat that.

The other issue, the gun show loophole: Is there a loophole in gun shows?

Let me set the stage for that. I would like to compare a gun show and an auto show. If you are a licensed car dealer or a licensed manufacturer of automobiles—I don't know that you have to be licensed to manufacture automobiles—then you can put all kinds of auto shows together, and you can sell from those shows. You can demonstrate your product. You can sell all kinds of things with no prohibition. In Idaho, the only prohibition, if you sell more than five a year, is you have to get a license to be an auto dealer. What we say in gun shows is if you are a licensed gun dealer at a show, then you must comply with all laws during that show in the sale of a firearm. But if you are an individual who sells very few firearms but you might sell one to a friend or someone else on occasion, and you sell at a gun show, or you meet a friend at a gun show and you tell him about a gun you have and the transaction occurs, you don't have to comply with a background check; You are not a licensed dealer.

Someone would suggest that is a loophole. I don't see that as a loophole because outside of gun shows it is not considered one—only if it is inside.

What this is all about is establishing a Federal regulation to control gun shows. This will be a new entity of Federal control over something that is clearly a free market process. Do we want Federal regulations over the control of auto shows? Do we want Federal regulations in control over new-clothing shows? No. That is the marketplace at work. But if there are Federal laws that control these different products and/or sale, then they comply. They comply inside the show or outside the show. That is standard today.

What our colleagues are trying to do in suggesting there is a loophole, which I believe I have suggested by demonstration of facts does not exist, is to control the gun show, and to suggest if you are an individual and you make a sale at a gun show, you then must do background checks and all other due diligence you would not do if you were outside the gun show, speaking neighbor to neighbor, friend to friend, and were not viewed as a licensed dealer, or not a gun dealer in any way.

That is the reality of what we are talking about. Those are some of the amendments we will have which we will be dealing with on the floor. I hope as we deal with those, we might deal with others such as concealed carry. We might look at the gun ban of Washington, DC, where law-abiding citizens cannot legitimately own firearms, and a variety of other issues.

The President asked—and I would like to honor that because I believe strongly in it, too—that we produce a clean bill just exactly like the House did on a better than 2-to-1 margin—285 to 140—that we produce a clean bill and get it to the President's desk; wipe out these frivolous lawsuits but still allow law-abiding citizens who might be injured by illegal action of a gun dealer or illegal action of a gun manufacturer their day in court without the kind of frivolous and/or junk lawsuits—the kind that are costing the industry millions upon millions of dollars right now and slowly but surely diminishing them.

Lastly, if we are not successful and if the trial bar is at some day and at some point successful, my guess is this relatively small industry in our country will not be here. What happens when we no longer produce high-quality firearms in this country for our military or for our police? Do we rely on China or Yugoslavia or Hungary or some other foreign country to produce the firearms our men and women in Iraq use to defend themselves and to enforce the law? Do we put them at risk? Do we say to our good law enforcement officers, You are going to have a foreign firearm on your hip and it will not be produced by a legitimate company in this country as a part of our national protection and our freedoms and rights?

That is ultimately what could happen because already we have seen these industries go out of business because of the risk of doing business and the liability involved based on these types of lawsuits we are now trying to shape and limit. That is the essence of S. 1805.

I hope we can soon move to the bill and begin debating it in its entirety, and certainly any amendments that would then come forward, debate those, get an up-or-down vote and move toward final passage.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. I ask unanimous consent the call of the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, this legislation before the Senate has been described as necessary for the gun industry. It is nothing at all like that. There is no crisis with respect to lawsuits aimed against the gun industry.

This legislation, though, poses a very serious risk to the rights of an individual citizen who is a victim of gun violence to go to a court of law in the United States and to simply ask on the facts whether the conduct of the individual gun dealer and the manufacturer represents the standard of care that is expected of every individual and corporation in this country. That is very simply what we think is inherent in our rights as citizens. This law will strike at those rights on behalf of a powerful and influential industry, in this case the gun industry.

There has been some suggestion we are trying to protect the courts from third party lawsuits when, in fact, the reality is these actions are based on the actions of the manufacturers and the dealers, not the actions of someone with a gun. This is based upon the standard of care of the manufacturer and the dealer, not what an individual may or may not have done with a firearm. These are not third party lawsuits. These are lawsuits brought by victims, Americans who have suffered themselves personally or suffered through the death or injury of their family members. They are going to court and they are simply saying these manufacturers or these gun dealers have violated their duty to be reasonable, their duty to be prudent, the duty of every individual who lives in an organized society to behave in a way that does not unnecessarily bring harm to others. That is the essence of our law.

This legislation turns all of that on its head and says for a very special class, the gun lobby, the rules of the game do not apply. And if there is a citizen who seeks redress, then do not go to the courts of the United States.

They tried to make the point that this does not close the door on the courthouses of America. No, this bill goes much further. It takes individuals who already have cases in courts and throws them out the door. Page 5 of the bill:

> DISMISSAL OF PENDING ACTIONS.—a qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought.

Not shall be considered in light of this legislation and the judge may make a determination that the suit can go forward, immediately dismissed.

That is not just shutting the court door; that is evicting the plaintiffs from the court, through the door. That is just one aspect of the legislation.

There is a discussion, too, about exemptions, talk about knowing that if a gun dealer or manufacturer knowingly does something, of course, they might be liable. That is a criminal element because in our criminal law we do not choose to punish people who unwittingly or unknowingly do something. There has to be, in most cases, some intent, some knowledge. Otherwise, the criminal law is absolutely arbitrary. It captures people simply for making a mistake. That is the criminal side.

What we are talking about here is civil jurisprudence, the ability of an individual to go to court to get damages for harm against that person. That is not a criminal case; that is a civil case. That is not enforcing the criminal laws of the Nation which rest upon knowledge and intent; that is seeking redress based upon the standard of conduct, the obligation to care, to exercise an appropriate degree of care.

The opponents of this bill are bringing those two issues together, confusing and mixing them up. But there is no confusion about this bill. It takes away the civil rights of an individual to go to court and a judge and jury to decide whether the individual, the defendant, has harmed them through negligence, through their inability to actually conform to a recognized standard of care. It is an extraordinary assault on basic legal rights.

I find it amazing that at this time when there are so many problems facing this country, we are looking at legislation that is not just so overwhelmingly slanted to a particular special interest but one that disregards these basic rights that we all take for granted.

There is also a suggestion in this legislation that there is a crisis because of these suits that are driving the gun manufacturers out of business. That is not what the gun manufacturers are telling their shareholders. That is not what they are telling the Securities and Exchange Commission under the penalty of perjury. This is an excerpt from the April 30, 2001, report of Smith & Wesson:

> In the opinion of management, after consultation with special counsel, it is not probable and it is unlikely that the outcome of these claims will have a material adverse effect on the result of operations or the financial condition of the company as management believes it has provided adequate reserve.

Under the penalty of perjury, the industry is telling the SEC and the shareholders, do not worry; these are not material claims. This is nothing that is going to put us out of business. This is nothing that is going to bankrupt us. Buy our stock. We are a good deal.

But here people seem to be suggesting that they are on the verge of collapse because these lawsuits are creating so much liability for the companies that they cannot bear it. I tend to believe their own statements in their SEC filings. As a result, this is not a crisis with respect to the gun industry in the United States. This is an industry that is extremely well-heeled and very zealous in protecting their own rights and interests.

In 1999, the National Shooting Sports Foundation, an industry group, and others created the Hunting and Shooting Sports Heritage Fund. By all accounts, this fund has raised as much as $100 million. They are engaged in lobbying activities. They are engaged in promoting this legislation. They are also engaged in ensuring that their internal documents are protected from discovery by lodging them in a California attorney's office. They are guarding, in a secretive way, their activities. This is not the case of a poor victim of a sniper or an aberrant gunman who does not have $100 million, who does not have a large organization. They have one thing: Their right to go into court, as every American citizen can do, and make a simple claim. If they have been negligent, I have been harmed, they must compensate me for my damages. This bill strikes that. It tears it out of our law.

Now, this is a situation where there is no financial threat of a great magnitude to the industry. In fact, some of these suits do not even talk about monetary damages. They are asking for injunctive relief. I think it is interesting that in the other body they struck out the ability to get even injunctive relief to change the practices of these companies. So this is not about a financial crisis. This is simply about providing remarkable, unprecedented protections for one industry at the expense of the average person on the street.

Again, the suggestion that this is a situation that is required because we have to protect the whole industry from these suits that paint everyone the same way disregards the nature of our tort laws. You have to allege specific facts against a specific individual or personality or corporation—their actions. This is based upon their conduct, not some type of blanket attack on the gun industry.

But if this law passes, we will limit the rights of American citizens. We will disrupt and overturn our system of tort law, which rests upon State action as well as Federal action. This will preempt causes of action that are entirely recognized and permissible in many State courts throughout the country. We will be disregarding the States, their legal systems, their knowledge of local conditions. That is another casualty of this legislation if it passes.

But this, ultimately, is not just about the niceties of tort law and federalism and the financial impact on industries. This is about real people.

I had occasion to meet one of these individuals when I met Denise Johnson. Denise was the wife of the late Conrad Johnson. Conrad was a busdriver and was the final victim of the Washington area snipers. The snipers' Bushmaster assault rifle was one of more than 230 weapons that disappeared from Bull's Eye Shooter Supply gun store in Washington State.

Now, at a minimum, the gun store's very careless oversight of firearms raises obvious questions of negligence and deserves to be explored by the civil courts. The actions which the gun manufacturer took in placing those weapons in the hands of Bulls Eye also are appropriate for scrutiny in the courts. Yet Mrs. Johnson's case would be thrown out by S. 1805.

Now, consider also the case of David Lemongello and Ken McGuire. These are two young police officers from New Jersey, the city of Orange. On January 12, 2001, they responded to a call, as police officers do every day throughout our country. Every day they risk their lives. What they encountered in a backyard was a gunman armed with a weapon. They were both grievously wounded.

It turns out that this individual went into a store in West Virginia with a straw purchaser—a woman without a criminal record—who purchased 12 guns at one time—he was a felon—and then took those guns and went off and became involved in these crimes, became involved in the disposition of these weapons.

This individual seller in West Virginia failed to follow the guidelines that even the trade association, the National Shooting Sports Foundation, has. So here is the seller, who is not at all averse to selling 12 firearms, in cash, to an individual, who walks in, who refuses to buy them himself but has a younger person, a woman in this case, make the purchase in name because of background checks, who disregards the guidelines of the industry, and yet this legislation would say that those two police officers, who suffered grievously, cannot seek to be compensated by that dealer. It defies common sense as well as our legal tradition.

Now, the manufacturer of those guns, Sturm, Ruger is a member of the Shooting Sports Federation. I would assume they take great pride in their advertisements and say: Look at the guidelines we have. Our sales people have to be reasonable. They have to exercise great scrutiny, good judgment, et cetera. Well, they do not really require that these guidelines be followed, even though their organization promulgated them.

Now, this case is in the courts of West Virginia. Judge Irene Berger of Kanawha County, WV, looked at the case, looked at the law of West Virginia, looked at the specific allegations against the dealers, and said this case should go forward, there are no grounds for summary dismissal. Yet this legislation, if passed, would summarily dismiss that case. It would fall, I think, squarely under section 3(b):

> A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed. . . .

Judge Berger will not have a chance to evaluate whether this legislation and the exemptions comply, not in any real sense, because the presumption, of course, is that all these suits would be barred. There are exceptions which she may consider, but, again, those exceptions are so narrowly constructed that they provide little relief, no practical relief.

Now, there is not just one case. There are multiple cases but not the thousands that the industry would lead you to believe they would be overwhelmed by—but a few cases, inconsequential in monetary effect for the industry, as they stated, but of immense consequences to the individual who has suffered financially, emotionally, personally, and to that individual's family.

This is another case. This is Guzman v. Kahr Arms, in Worcester, MA. Twenty-six-year-old Danny Guzman was fatally wounded with a 9 mm gun. It was stolen from the gun manufacturer's plant by a drug addicted employee who had a criminal record.

Stop and ask yourself: Does a gun manufacturer have a responsibility to the community to ensure that its employees who have access to firearms are not former felons or somehow at odds with the law or who is not currently addicted to drugs? Isn't that the expectation that everyone in that community and every community around the country has? Well, of course.

Any sensible employer would ensure that an employee who has access to firearms would have some type of check to ensure they are not drug addicts or former felons.

They would be amazed if this legislation passed because, frankly, what we are telling the Kahr Arms company is, no, hire anybody you want because you will have no civil liability, none whatsoever.

Now, this company had rudimentary and ineffective controls for these weapons. They had no metal detectors, security mirrors, none of these things. Is that something the citizens of Worcester, the citizens of Massachusetts, the citizens of America want?

That is common sense. These companies have to protect these weapons. They have an arsenal. They manufacture weapons.

Apparently, that was not the case. It turns out the guns were taken from the factory by felons they hired without conducting background checks.

The gun used to kill Danny Guzman was one of several stolen by Kahr Arms employees. This is not just one bad actor. And maybe that is the defense: We are really pretty good. We just made one mistake. And they were stolen before the serial numbers were etched into the weapons. They could not be traced. What kind of company is this?

But what we are telling them, if we pass this legislation, is go ahead, it is fine, no liability for that, do that every day, just one of those things.

These guns were taken and resold to criminals in exchange for money and drugs. Again, common sense suggests there has to be a civil right to go in and challenge the negligence of this company. The loaded gun that killed Mr. Guzman was found by a 4-year-old behind an apartment building near the scene of the shooting, so the gun was apparently tossed away and a 4-year-old found it. Mercifully, the child was not injured.

This company could have done a score of things to prevent the death of Danny Guzman: Screen their employees for felony convictions, screen their employees for drugs, install safety cameras. What we are telling them, if we pass this legislation, is you don't have to do any of those things, because you can do anything you want and you will never be liable in a court of law in the United States.

Will we tell that to the automobile manufacturers? Will we tell that to other industries? Absolutely not. It defies and insults common sense. But we are trying to do that today.

There is another suggestion that you are trying to punish a whole industry because of a few bad apples. Like any industry, there are some scrupulous dealers, and we hope it is the majority. In fact, it does turn out to be the majority. But according to Federal data, 1.2 percent of gun dealers account for 57 percent of all guns recovered in criminal investigations. So obviously we have a problem with a small group of dealers.

What are we telling those dealers today if we pass the legislation? Don't worry; you can't be sued. Even if you represent the worst possible dealers in the industry, even if you don't barely measure up to the standards of every other dealer, you are OK, because the rules of negligence don't apply.

This is something that confounds common sense—forget the niceties of corporate law, of consumer protection law, of the tort system.

Most people believe that if you are in the business of manufacturing and selling weapons, you have a very high standard of care, higher perhaps than other industries, because you are dealing with a weapon that has the potential to kill people, much more obviously and explicitly than perhaps any other product manufactured.

What are we telling the industry? Forget that high standard of care. Not only can you have a low standard of care, you can have no standard of care, because you can do the most outrageous things in the world and no one can sue you. There might be some criminal liability, but then again, there might not. But the people you have harmed through your negligence will remain harmed and uncompensated. Don't worry.

Most industries, manufacturers, are governed by the Consumer Product Safety Commission, which regulates the safety of nearly 15,000 consumer products used in and around the home. Guns are not regulated by the Consumer Product Safety Commission because when it was created in 1972, the gun lobby pressured Congress to specifically exempt guns and ammunition from its jurisdiction. So there is no regulation by the Consumer Product Safety Commission.

Now there is no civil liability. Whatever standard of care exists in this industry is going to further deteriorate. We are causing problems; we are not solving problems with this legislation.

There is another aspect, too. It is not just the criminal on the street who comes into control of a handgun, be it through the poor inventory controls of a Bull's Eye Shooters Company or through the lack of any apparent security procedures of the Kahr Arms Company. There were 9,485 people killed and another 127,000 wounded in unintentional shootings between 1993 and 2001. In about an 8-year period, 127,000 people were unintentionally wounded by weapons; the firearm was defective or the design was inappropriate and it contributed to their injury. Don't we want to at least ensure in the design of weapons that there is a higher standard of care?

For example, there is a case in California of a 15-year-old who was unintentionally shot and killed by a 14-

year-old friend with a defectively designed gun—Kenzo Dix. His friend Michael thought he had unloaded his father's gun. He replaced it with an unloaded magazine, he thought. But he failed to realize that in the chamber of the weapon there was still one round, and when he fired the gun, it resulted in the death of his playmate.

Sadly, we read these stories too often. We read these stories about the individual who has a gun at home and the kids find it. The kids don't realize it is loaded, and death or injury results.

Now Beretta, the manufacturer, could have easily designed the gun to have some type of indication whether there was a round in the chamber. They could have had some type of active device to prevent firing. None of that was done, and, frankly, if we pass this legislation, it will never be done because they don't have to worry about a parent coming and saying: If you had made these changes to that weapon, my son would be alive.

They don't have anything to worry about. We have to worry about it. If you are a parent and you have a firearm in your home, you have to worry about it especially. That is not right.

Again, this is not about sophisticated theories of liability, sophisticated theories of the history of tort law. It is about common sense, common decency, and common obligation. This bill violates all of them.

There are lots of experts about firearms, but there is one group that I think probably is more expert than others. That is the law enforcement community. Where do they stand on this legislation? More than 80 police chiefs, sheriffs, and State and national law enforcement organizations wrote to all of us on February 11 to express their opposition to this effort to strip away these legal rights. These are officers from Maine to Texas to Washington State to Virginia to my home State of Rhode Island, chiefs, rank-and-file police men and women.

I ask unanimous consent that a copy of this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. REED. These law enforcement officers know a bit more about crime than we do. It is their job. They do it very well. They know about the damage to communities when guns fall into the hands of those who misuse them. They see it up close and personal.

Earlier this year, we were in a situation where previous to this bill there was an effort to destroy gun records, another effort launched on behalf of the gun lobby. These records are maintained for a few days, but they wanted to eliminate these records within 24 hours. Los Angeles Chief of Police William Bratton said: I just can't understand how Members of Congress can even consider this. Obviously, they haven't shown up to the scene of enough officer shootings.

This legislation is in a similar vein. It is not about destroying records of gun purchases. It is destroying the right of an individual to say: I have been harmed. I need redress.

Again, if you talk to the law enforcement community, they are opposed to this legislation. It is a free ride for the dealers, for the manufacturers, and for others.

In this discussion, we have heard a great deal about Bull's Eye Shooters Supply. There is some suggestion that we fixed that problem. They have closed it and everyone is being punished.

Here are the facts: Bull's Eye Shooters Supply is still open for business. The alcohol, tobacco, and firearms agency revoked the license of Bull's Eye prior owner, Mr. Brian Borgelt. Mr. Borgelt's friend, Kris Kindschuh, then took over operation of the store.

Mr. Borgelt is appealing his license revocation to the Federal district court, and that case is pending. Let me stop for a moment. This is an individual who allegedly was so negligent that he could not account for 238 weapons, a litany of problems in terms of following the law. His license is being revoked, but he has a right—and he should have the right—to go into court and say this revocation is not based upon the law or the facts.

The irony here, of course, is we are telling victims—perhaps his victims—that they do not have a right to go into court to seek redress. This, again, not only is unfortunate, it just defies a rough sense of justice and fairness.

I think Mr. Borgelt should have every opportunity to appeal this revocation to prevent an arbitration action by the Government, but don't the victims of gun violence have a right to claim they have lost a great deal and they need redress in the courts? We will protect his rights, as we should, but we are undermining the rights of so many others.

As far as we know, the ATF, the Department of Justice have not filed any criminal charges against Borgelt. So the idea that this situation has been resolved, that this is fine, justice has been done, frankly, is not the case at all.

Indeed, what I am told is Mr. Borgelt runs the shooting range upstairs above Bull's Eye Shooter Supply. The shooting range is not regulated. So for all intents and purposes, particularly if you are a victim of the sniper shootings in Washington, DC, it does not look as if much has changed out there at Bull's Eye Shooter Supply.

If the ATF had recommended to the Department of Justice that they file charges, it has been almost a year. I would hope the Department of Justice, in a case such as this, could move more promptly. But we have a situation, frankly, that even if the Justice Department acted, it still would not compensate and make whole the victims of this series of crimes in Washington.

Let me focus for a minute on some of the facts we know about Bull's Eye Shooter Supply because one of the key issues here is whether or not the Washington sniper victims will be able to go into court if this legislation passes.

Here are some of the things that have been established so far about this dealer in Washington State.

There are a large number of missing guns. Bull's Eye could not account for 238 guns that were missing from its inventory when the Bureau of Alcohol, Tobacco, Firearms and Explosives inspected the gun dealer in 2000 and 2002. Bull's Eye's missing gun rate was greater than at least 99.73 percent of all Federal firearms licensees.

There was no accounting for 238 weapons. A large number of guns from Bull's Eye appeared in crimes. Between 1997 and 2001, Bulls' Eye guns were involved in at least 52 crimes, including homicides, kidnappings, and assaults, placing Bull's Eye in the top 1 percent of all dealers nationwide in the supply of guns used in crimes. This appears to be a pretty good source of weapons for crime.

In addition, the time-to-crime ratio was less than 3 years for more than 70 percent of Bull's Eye guns that were used in crimes from 1997 to 2001. Quick time-to-crime—the time the gun leaves the store and shows up at a crime—suggests this store may be a highway for guns into the criminal system. And they have a high rate.

There were a large number of multiple firearm sales. Between 1997 and 2000, Bull's Eye sold 663 guns to 265 individual buyers, as many as 10 guns at a time. This is not the record of a scrupulous, sincere dealer who is looking to enforce the standards of the industry.

Then, of course, there were numerous ATF citations. ATF cited Bull's Eye for violations at least 15 times between 1997 and 2001 and, following the sniper attacks, revoked the license of Bull's Eye's former owner.

Bull's Eye was cited 15 times between 1997 and 2001. That is not an inspiring record of scrupulous enforcement of the laws of the country.

Yet what we are saying in this legislation is: Go ahead, you are fine; you might have your license revoked, but then you are upstairs in the shooting gallery. Or you might not. Maybe the Government will make an error. Maybe procedurally they have done something inappropriate, but certainly you are not going to be able to face justice in the sense of facing the victims of this negligence.

There is something else this record says. It begs the question, What about the manufacturer? Why did Bushmaster Firearms, the manufacturer of the sniper weapon used by the Washington area snipers, tolerate this? Don't they have an obligation to ensure that the dealers they entrust with their weapons are not violating ATF regulations—cited 15 times—that they are not selling multiple guns to individuals, sometimes 10 at a time? Apparently not. After this legislation passes, they won't have to worry at all.

Many people ask, Why would a manufacturer be involved in this issue? Why should we be able to sue a manufacturer? If a manufacturer, such as Bushmaster, not only keeps supplying weapons to dealers such as this, but then turns a blind eye to all this evidence, it suggests to me they are not conforming to a reasonable standard of commercial conduct. You would not exempt an automobile manufacturer from potential liability if it was shown that they repeatedly sold cars to dealers that violated ATF—it would not be ATF regulations, but consistently violated regulations, that persistently allowed underage sales, for example, even though you could make the argument that as long as the 15-year-old does not drive the car, it is a legal sale. But I think they would be suspicious at least to what was happening.

As a result, there is not only a strong case but there is a necessary case that manufacturers have to be subject to a standard of care also. This legislation would strip that away.

My colleague from Idaho and my colleagues on this side who support this bill say: Listen, this is narrowly crafted; this is not going to throw any suits out of the courts. You cannot have it both ways. You cannot be claiming, on one hand, that we are protecting this industry from lawsuit and then, on the other hand, say everyone can still go to court after this legislation because they all qualify for the exemptions. It is nonsense. These exemptions have been made so they do not exempt very much, if anything at all.

There is an analysis—and I made reference to it in my discussion surrounding Bull's Eye Shooter Supply—by the law firm of Boies, Schiller & Flexner. I ask unanimous consent that at the conclusion of my remarks this analysis be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. REED. Mr. President, this law firm analyzed the legislation, and their conclusion is, particularly with regard to the Washington area snipers, that their cases will be thrown out.

There are two sections of the law which provide an exemption from the categorical dismissal of these cases. They are section (5)(A)(ii) and (5)(A)(iii). Mr. President, (5)(A)(ii) says:

> . . . actions against a seller for "negligent entrustment" or "negligence per se". . . .

And (5)(A)(iii) says:

> . . . actions against a manufacturer or seller who violated a statute in the sale or marketing of a firearm or ammunition, where that statutory violation was a proximate cause of the plaintiff's injuries. . . .

Their analysis concludes that neither of these exemptions would apply in the case of the Washington area snipers. Those cases are already pending. They will be dismissed, thrown out.

It is interesting because we continue to talk about, well, these exemptions will take care of all these cases, but it turns out that they will not, that the various nuances, the wording, the knowing violation of a statute, for example, the arcane cases of negligence entrustment and negligence per se, which are constructs that only a lawyer could fully appreciate and enjoy, all of this is craftily designed to prevent people from going to court, not to give them a fair right in court.

Again, it goes down not to these nuances, to this legal terminology but simple common sense. How can one stand up and say this legislation is designed to protect and insulate injury from the wanton acts of these third party criminals and then also say but, by the way, all of these cases will still go through?

I suspect there are things we could do right now to help these cases go through. "Dismissal of pending actions" could be struck. Clearly, that would suggest that the sniper cases would be in order because this legislation is not retroactive.

The thrust is not to give people rights; it is to take them away. It is to protect this one industry at the expense of individual Americans. The legislation is unusually preferential to a small interest group. It defies my understanding of why we would try to protect this industry, which is not financially at risk by their own admissions, at the expense of individual Americans who have been harmed.

I conclude by saying I never met Conrad Johnson, but like all of us in this Chamber, I woke up one morning and read about a bus driver reading his paper, waiting to go to work. I, frankly, thought of my father, who was a school custodian who got up in the morning, read the paper, getting ready to go to work.

He was shot reading that paper, killed. He left a wife and small children. That wife and that family have gone to court to say: Where is our justice? Maybe somebody will be convicted for doing something wrong, but how are we going to live for the next 40 or 50 years? People have been negligent—at least we think they have. There is a Bull's Eye Shooters store that lost 238 weapons and was cited 15 times by the ATF. They are not going to have a day in court to answer to Mrs. JOHNSON? I cannot understand this legislation.

I yield the floor.

EXHIBIT 1

FEBRUARY 11, 2004.

DEAR SENATOR: As active and retired law enforcement officers, we are writing to urge your strong opposition to S. 659, the so-called "Protection of Lawful Commerce in Arms Act." This bill would strip away the legal rights of gun violence victims, including law enforcement officers and their families, to seek redress against irresponsible gun dealers and manufacturers.

The impact of this bill on the law enforcement community is well illustrated by the lawsuit brought by former Orange, New Jersey police officers Ken McGuire and David Lemongello. On January 12, 2001, officers McGuire and Lemongello were seriously wounded in a shoot-out with a burglary suspect. The Ruger pistol used by the suspect was one of twelve guns sold by a West Virginia pawnshop, Will's Jewelry and Loan, to a "straw purchaser" for a gun trafficker. The all-cash sale, for thousands of dollars, was so obviously suspicious that Will's reported it to the Bureau of Alcohol, Tobacco and Firearms, but only after the sale was consummated. The pawnshop had every reason to believe that, as soon as the guns left its premises, they would be sold into the underground market, destined to threaten the lives of police officers and ordinary citizens.

Officers McGuire and Lemongello are pursuing legal action against Will's for negligent sales practices and against the gun's manufacturer, Sturm, Ruger, for distributing guns without requiring its dealers to adhere to a code of responsible business practices that would prevent such obvious sales to gun traffickers. A West Virginia judge recently ruled that the officers' suit against Will's and Sturm, Ruger is well-grounded in West Virginia law and should be heard by a jury. If passed into law, S. 659 would override this decision and deprive these brave officers of their day in court.

Police officers like Ken McGuire and David Lemongello put their lives on the line every day to protect the public. Instead of honoring them for their service, S. 659 would deprive them of their basic rights as American citizens to prove their case in a court of law. We stand with officers McGuire and Lemongello in urging you to oppose this bill.

EXHIBIT 2

BOIES, SCHILLER & FLEXNER LLP,
Armonk, NY, February 17, 2004.

Re opinion letter concerning proposed immunity legislation for gun dealers and manufacturers.

MICHAEL BARNES,
President, The Brady Center to Prevent Gun Violence, Washington, DC.

DEAR MR. BARNES: At your request, this letter addresses the legal implications of the proposed gun dealer and manufacturer immunity legislation, focusing specifically on the impact of the legislation on the pending civil lawsuit brought by the victims of the Washington, DC area sniper attacks in the fall of 2002. For the reasons discussed below, it is our judgment that the passage of S. 1805—the current version of the immunity bill, which incorporates the so-called "Daschle Amendments"—would require the immediate dismissal of the sniper victims' claims against the parties who supplied the assault rifle used in the attacks. We further conclude that the legislation would effect far-reaching, and unprecedented, changes in the law that would insulate the gun industry from other important pending cases as well as future accountability.

After providing a brief background concerning the sniper victims' civil suit and the proposed legislation, we analyze the impact of the legislation on the pending sniper case.

We then offer some more general observations about the proposed legislation, including a discussion of its implications for other significant cases against gun dealers and manufacturers.

BACKGROUND

I. The sniper victims' legal claims against the dealer and manufacturer who supplied the snipers' weapon

For over a month in the fall of 2002, John Allen Muhammad and Lee Boyd Malvo terrorized the nation's capital and its surrounding states through a series of sniper attacks on innocent men, women, and children. From the trunk of Muhammad's car, the snipers used a deadly-accurate assault rifle to kill thirteen people, and to seriously injure another six, in Washington, DC, Maryland, Virginia, Alabama, Louisiana and Georgia. Among the snipers' victims were a 47-year-old FBI analyst who was loading a car with her husband in a Home Depot parking lot, a 72-year-old retired carpenter who was waiting on a street corner, and a 13-year-old boy who had just been dropped off at school. Muhammad and Malvo were apprehended on October 24, 2002, and have since been convicted for their crimes.

The weapon that Muhammad and Malvo used in the sniper attacks was a Bushmaster XM–15 E2S .223 semi-automatic rifle equipped with a bipod and telescopic sight. The snipers obtained the "one shot, one kill" assault weapon they used in the shootings from Bull's Eye Shooter Supply in Tacoma, Washington, even though the law prohibited either of them from purchasing any firearm. Muhammad was under a domestic violence protective order, and Malvo was both a juvenile and an illegal alien. Bull's Eye representatives claim not to have any record of sale for the weapon and cannot account for how the snipers obtained the assault rifle.

The publicly-available evidence reveals that in addition to permitting the snipers' weapon to disappear from its shop, Bull's Eye Shooter Supply engaged in numerous irresponsible business practices:

Large Number of Missing Guns. Bull's Eye could not account for a total of 238 guns that were missing from its inventory when the Bureau of Alcohol, Tobacco, Firearms and Explosives ("AFT") inspected the gun dealer in 2000 and 2002. Bull's Eye's missing gun rate was greater than at least 99.73% of all federal firearms licensees; 80% of dealers who sell at least 50 firearms per year can provide records to account for every one of their gun sales.

Large Number of Crime Guns. Between 1997 and 2001, Bull's Eye guns were involved in at least 52 crimes, including homicides, kidnappings, and assaults, placing Bull's Eye in the top 1% of all dealers nationwide in the supply of guns used in crimes. That same 1% of gun stores supplies the weapons traced to 57% of all gun crimes.

Quick Time-to-Crime. The "time-to-crime" was less than 3 years for more than 70% of Bull's Eye guns that were used in crimes between 1997 and 2001. Quick time-to-crime is considered a "red flag" for problem gun dealers because it indicates that such dealers' guns are quickly getting into criminal hands through illegal trafficking. In 2000, the nationwide median time-to-crime was 6½ years, and the time-to-crime was under 3 years for only 31% of traced crime guns. The time-to-crime for the snipers' weapon—which was received by Bull's Eye in July 2002—was under 3 months.

Large Number of Multiple Firearm Sales. Between 1997 and 2000, Bull's Eye sold 663 guns to 265 individual buyers, as many as 10 guns at a time. Such "multiple firearms sales" are considered to be another indicator that a gun dealer may be selling to gun traffickers.

Numerous ATF Citations. ATF cited Bull's Eye for violations at least 15 times between 1997 and 2001, and, following the sniper attacks, revoked the license of Bull's Eye's former owner.

Following ATF's revocation of his license, Bull's Eye's former owner transferred ownership of the store to a close friend. Bull's Eye continues to operate today, and the store's former owner retains ownership of the property and operates a shooting range in the same building.

The manufacturer of the snipers' murder weapon of choice, Bushmaster Firearms, Inc. of Maine, not only modeled its XM–15 rifle after military-style assault weapons that Congress outlawed with the Assault Weapons Ban in 1994, but also marketed the rifle as an assault weapon designed for sniper activity. At the time, Bushmaster selected and used Bull's Eye as one of its sixty distributors nationwide despite numerous "warning signs" concerning Bull's Eye's handling of its firearms inventory. Bushmaster also allegedly failed to take certain basic precautions concerning the guns it shipped to Bull's Eye and others, including, among other things, declining the Justice Department's offer to assist Bushmaster in tracing guns that had been used in crimes in order to determine which of its dealers were supplying such guns; neglecting to require Bull's Eye to adopt any of ATF's suggested measures for preventing gun thefts; and failing to require Bull's Eye to notify it of gun trace requests initiated by law enforcement agencies or to certify its compliance with firearms laws and regulations. Even after the sniper attacks, Bushmaster, through its vice president of administration, referred to Bull's Eye as "a good customer" to whom Bushmaster would continue to sell guns.

Victims of the sniper attacks and the families of victims who were killed have filed a civil lawsuit in Washington State Court against Bull's Eye Shooter Supply and Bushmaster Firearms for their roles in permitting the snipers to access their murder weapon. According to the complaint: "In addition to the intentional acts of Muhammad and Malvo, the gross negligence of the gun industry defendants caused the injuries and deaths that resulted from the sniper shootings by enabling prohibited purchasers Muhammad and Malvo to obtain the Bushmaster assault rifle to wreak havoc on innocent persons." Specifically with respect to Bull's Eye, the plaintiffs claim that the gun dealer's grossly irresponsible business practices routinely permitted guns, including the snipers' weapon, to disappear from its store. They further claim that "Bushmaster deliberately continued to utilize Bull's Eye as a Bushmaster gun dealer and supplied it with as many guns as Bull's Eye wanted, despite years of audits by the Bureau of Alcohol, Tobacco, Firearms and Explosives showing that Bull's Eye had scores of missing guns." At the heart of plaintiffs' Complaint is their allegation that if Bull's Eye and Bushmaster had "acted responsibly in the sale of their guns, Muhammad and Malvo would not have been able to obtain the assault rifle they needed to carry out the shootings."

On June 27, 2003, Washington Superior Court Judge Frank E. Cuthbertson upheld the sniper victims' claims against the defendants' motion to dismiss, concluding that the plaintiffs' negligence and public nuisance claims were actionable against both Bull's Eye and Bushmaster. *Johnson* v. *Bulls Eye Shooter Supply*, No. 03-2-03932-8, 2003 WL 21639244 (Wash. Super. Ct. June 27, 2003). The court found that the plaintiffs' claims against Bull's Eye could stand based on "a common law duty in Washington to use reasonable care in the sale and distribution of firearms"; that the "facts in the present case indicate that a high degree of risk of harm to plaintiffs was created by Bull's Eye Shooter Supply's allegedly reckless or incompetent conduct in distributing firearms"; and that the facts alleged "demonstrate an arguably unbroken nexus between the loss of the assault rifle and the injuries of the plaintiffs." The Court further concluded that the plaintiffs' claims against Bushmaster should be permitted to reach a jury based on Bushmaster's entrusting firearms to Bull's Eye even though Bushmaster allegedly "knew or should have known that Bull's Eye Shooter Supply was operating its store in a reckless or incompetent manner, creating an unreasonable risk of harm." Trial in the case against Bull's Eye and Bushmaster has been set for November 2004.

II. The proposed immunity legislation for gun dealers and manufacturers

On April 9, 2003, the House of Representatives passed a bill (H.R. 1036) to provide sweeping immunity from pending and future lawsuits to distributors, dealers, manufacturers, and importers of firearms and ammunition. Senator Larry Craig (R–ID) introduced companion legislation in the Senate (S. 659), which, last October, was modified to incorporate certain amendments that had been proposed by Minority Leader Tom Daschle (D–SD). The current version of the immunity bill (S. 1805), which incorporates the so-called "Daschle Amendments," is expected to be considered by the Senate in the first week of March 2004.

According to its terms, S. 1805 would foreclose—and require the immediate dismissal of—any state or federal "qualified civil liability action," §3(a), which the statute defines to include any "civil action brought by any person against any manufacturer or seller" of firearms or ammunition "for damages resulting from the criminal or unlawful misuse" of such products. §4(5)(A). From this blanket prohibition on such civil actions, section 4(5)(A) of the proposed bill carves out the following exclusive list of circumscribed exceptions:

(i) actions against a manufacturer or seller who has been criminally convicted of transferring a firearm with the knowledge that it would be used to commit a violent or drug-trafficking crime, if the plaintiff was directly harmed by the conduct of which the recipient of the firearm has also been criminally convicted;

(ii) actions against a seller for "negligent entrustment" or "negligence per se";

(iii) actions against a manufacturer or seller who violated a statute in the sale or marketing of a firearm or ammunition, where that statutory violation was a proximate cause of the plaintiff's injuries;

(iv) actions for breach of contract or warranty in connection with the purchase of a firearm or ammunition; and

(v) actions for physical injuries or property damages resulting directly from a design or manufacturing defect in a firearm or ammunition, when such items have been used as intended or in a "reasonably foreseeable" manner (as that term is defined in the bill).

Because S. 1805 expressly disclaims any intention to create causes of actions or remedies, see §4(5)(D), the above-described exceptions would only preserve civil claims brought under otherwise applicable state or federal law. Other than as specifically preserved by these exceptions, however, the proposed legislation would preempt, as a matter of federal law, any state or federal lawsuits against irresponsible sellers or manufacturers of firearms or ammunition.

ANALYSIS

I. The proposed immunity legislation would likely require the immediate dismissal of the sniper victims' claims

Close examination of the exceptions enumerated in section 4 of the proposed immunity legislation reveals that none would appear to preserve the claims brought by the victims of the sniper attacks and their families against the parties responsible for permitting the snipers to obtain their murder weapon. In fact, the passage of S. 1805 would likely compel the judge in the sniper case immediately to dismiss those claims. The following analysis focuses on paragraphs (5)(A)(ii) and (5)(A)(iii) of the proposed legislation because those provisions contain the only exceptions that could even conceivably apply to the sniper case.

A. The Statutory Violation Exception Embodied in Paragraph (5)(A)(ii) Will Not Save the Sniper Victims' Claims

Section 4, paragraph (5)(A)(ii) of the proposed legislation preserves an "action in which a manufacturer or seller of a qualified product violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought. . . ." According to well-settled tort law principles, proximate cause requires that a defendant's conduct was "a substantial factor in bringing about the harm" suffered by the plaintiff. *See Restatement (Second) of Torts* §431 (2003); accord *Derdiarian* v. *Felix Contracting Corp.*, 414 N.E.2d 666, (N.Y. 1980); *Anderson* v. *Duncan*, 968 P.2d 440, 442 (Wyo. 1998). Where a defendant's statutory violation was not a requirement to reject claims based on that violation. *See, e.g., Fox* v. *Bartholf*, 374 So. 2d 294, 296 (Ala. 1979) (affirming summary judgment for defendants where there was no evidence that truck driver's alleged violation of statute, which prescribed lawful speed in approaching highway intersections when driver's view is obstructed, proximately caused plaintiff's injury); *Yates* v. *Shackelford*, 784 N.E.2d 330, 336–37 (Ill. App. Ct. 2002) (affirming summary judgment for defendants where defendant driver's violation of left-shoulder parking ban did not proximately cause collision); *Travelers Indem. Co. of Ill.* v. *28 East 70th St. Constr. Co.*, No. 01 Civ. 3001 (JGK), 2003 WL 23018604 (S.D.N.Y. Dec. 22, 2003) (granting defendant's motion for summary judgment where alleged failure to stamp pipe with manufacturer's identification number in violation of building code "clearly did not proximately cause the pipe to freeze and burst").

The plain language of paragraph (5)(A)(ii) would appear to dictate the same result in the sniper case. Despite the above-discussed evidence of Bull's Eye numerous failings as a gun dealer, there is no reason to believe that the plaintiffs in the sniper case will be able to show that Bull's Eye violated any state or federal statute with respect to the particular gun that was used by the snipers or that any such statutory violation was a proximate cause of the sniper attacks. The evidence concerning the acquisition of the snipers' weapon supports Bull's Eye's claim that Lee Boyd Malvo shoplifted the gun. Indeed, after this arrest, Malvo admitted that he shoplifted the weapon from Bull's Eye in the summer of 2002. Although the plaintiffs claim that Bull's Eye's lax security practices permitted Malvo to acquire the weapon, such proof would not establish a violation of any state of federal statute.

Of course, the plaintiffs in the sniper case could attempt to shoehorn Bull's Eye's failure to report the theft of the snipers' weapon into the illustration provided in subparagraph (A)(iii)(I), which covers "any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under Federal or State law." Federal law requires licensed gun dealers to report the loss or theft of a firearm "within 48 hours after the theft or loss is discovered." 18 U.S.C. §923(g)(6). The difficulty with this argument, however, is that Bull's Eye has denied that it knew the gun was missing until the sniper suspects were apprehended and authorities had traced the gun to the shop, and there is no known evidence to refute that claim. (Bull's Eye in fact reported the missing gun to authorities on November 5, 2002.) Given Bull's Eye's claim, and the fact that the sniper shootings were over by the time Bull's Eye's federal reporting requirement would have been triggered by its discovery that the weapon was missing, it appears unlikely that the plaintiffs will be able to avoid dismissal based on subparagraph (A)(iii)(I).

B. The Negligent Entrustment/Negligence Per Se Exceptions Embodied in Paragraph (5)(A)(ii) Will Not Save the Sniper Victims' Claims

Nor is it likely that the exceptions embodied in paragraph (5)(A)(ii) of section 4—which covers actions "brought against a seller for negligent entrustment or negligence per se"—would save the plaintiffs' civil claims against Bull's Eye and Bushmaster in the sniper case. As an initial matter, because the subparagraph (A)(ii) exceptions are specifically limited to a "seller" and, as defined in paragraph (6), seller does not include firearm manufacturers, the exceptions would not even apply to the claims against Bushmaster. Moreover, as explained below, the plaintiffs' claims against Bull's Eye would not appear to fall within the narrow "negligent entrustment" and "negligence per se" exceptions of S. 1805.

1. Negligent entrustment

For purposes of applying paragraph (5)(A)(ii), the proposed legislation provides the following definitions of "negligent entrustment": "the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others." §4(5)(B). In light of the evidence that Malvo shoplifted the snipers' weapon from Bull's Eye, the plaintiffs in the sniper case will face significant obstacles qualifying for that statutory exception.

Courts have repeatedly rejected negligent entrustment claims absent evidence that the defendant acted affirmatively in entrusting—or, in the words of paragraph (5)(A)(ii), "supplying"—the dangerous instrumentality in question. See *Butler* v. *Warren*, 582 S.E.2d 530, 532–33 (Ga. Ct. App. 2003) (affirming summary judgment against plaintiff's negligent entrustment claim where evidence did not permit finding that defendants had allowed their truck to be driven off their property); *Mackey* v. *Dorsey*, 655 A.2d 1333, 1338 (Md. Ct. Spec. App. 1995) (affirming trial court's finding that defendant was "not liable for negligent entrustment"; "We find it axiomatic that when a vehicle is stolen, as it was here, the owner cannot be said to have supplied, entrusted, or 'made available' his or her vehicle. The 'making available' of the chattel requires that the supplier do so knowingly or with the intent to supply the chattel to that person."); *Kingrey* v. *Hill*, 425 S.E.2d 798, 799 (Va. 1993) (reversing trial court and entering judgment for defendant on plaintiff's negligent entrustment claim, which was based on defendant's failure to prevent access to rifle; court analogized to car cases, in which finding of "entrustment" requires "evidence of express permission, evidence of a pattern of conduct supporting implied permission, or evidence of knowledge that an automobile would be used notwithstanding explicit instructions to the contrary"); *Todd* v. *Dow*, 19 Cal. App. 4th 253, 260–61, 23 Cal. Rptr. 2d 490, 494–95 (Cal. Ct. App. 1993) (affirming summary judgment for parents in negligent entrustment claim arising from their storage of adult child's rifle in their house: "Liability for negligent entrustment arises from the act of entrustment . . . . Parents did not sell, loan, furnish, or supply the rifle."); "*Commercial Carrier Corp.* v. *S.J.G. Corp.*, 409 So. 2d 50, 52 (Fla. Dist. Ct. App. 1981) (affirming dismissal of negligent entrustment claim for injuries sustained in car accident after defendant left keys in unattended car and car was stolen; absent proof of knowledge and consent of car owner, liability for negligent entrustment will not lie); *Cutler* v. *Travelers Ins. Co.*, 412 A.2d 284, 285 (Vt. 1980) (affirming dismissal of plaintiffs' claims arising out of collision, which resulted from car theft; fact that defendant left keys in car ignition or truck lock could not establish entrustment of car, by express or implied consent, to car thief); *Reicher* v. *Melzer*, 158 N.E.2d 191, 193 (Ohio 1959) (affirming directed verdict for defendant on plaintiff's negligent entrustment claim where record showed that employee involved in accident "was operating the truck solely for his own convenience in going from his place of employment, at the end of his day's work, to his home on a rainy day; and that he had taken the truck without anyone's permission or direction and without defendant's knowledge").

Although courts throughout the country have recognized separate claims for the negligent storage or security of firearms, see, e.g., *Heck* v. *Stoffer*, 786 N.E.2d 265, 268–70 (Ind. 2003); *Gallara* v. *Koskovich*, 836 A.2d 840, 851 (N.J. Super. Ct. Law Div. 2003); *Long* v. *Turk*, 962 P.2d 1093, 1097 (Kan. 1998); *Pavlides* v. *Niles Gun Show, Inc.*, 637 N.E.2d 404, 408–10 (Ohio Ct. App. 1994); *Kimbler* v. *Stillwell*, 734 P.2d 1344, 1346–48 (Or. 1987) (en bank); *Cathey* v. *Bernard*, 467 So. 2d 9, 11 (La. Ct. App. 1985), such claims would be foreclosed by the proposed immunity legislation.

Furthermore, the narrow definition of "negligent entrustment" in the proposed statute would likely prevent the plaintiffs from relying on that exception for yet another reason. The evidence that the snipers' weapon was shoplifted from Bull's Eye would appear to preclude the plaintiffs from making the requisite showing under the statute that the gun shop knew or should have known that the recipient of the gun (i.e., Malvo) was likely to use the product in a criminal or otherwise unreasonably dangerous manner.

2. Negligence per se

The proposed immunity bill does not define "negligence per se," but to the extent that the negligent per se exception in paragraph (5)(A)(ii) would permit the survival of state causes of action, it will not assist the plaintiffs in the sniper case: the negligence per se doctrine has been abrogated by statute in Washington State. See RCWA 5.40.050; *Morse* v. *Antonellis*, 70 P.3d 125, 126 (Wash. 2003); see also *Pettit* v. *Dwoskin*, 68 P.3d 1088, 1091-92 (Wash. Ct. App. 2003) ("But the doctrine of negligence per se is no longer viable in Washington. Rather, violation of a legal requirement is evidence of negligence.").

In any event, the negligence per se exception would not preserve the sniper case because even where that doctrine is recognized, it requires a violation of a statute or regulation that is the proximate cause of the plaintiff's injury. See 57A. Am. Jur. 2d *Negligence* §728 (2003); *O'Guin* v. *Bingham County*, 72 P.3d 849, 856 (Idaho 2003); *Elder* v. *E.I. DuPont De Nemours & Co.*, 479 So. 2d 1243, 1248 (Ala. 1985). As discussed above, however, it is doubtful that the plaintiffs in the sniper case will be able to establish that any such violation was a substantial factor in causing their injuries.

II. The proposed immunity legislation would overturn well-settled legal principles and jeopardize other important gun cases

The proposed immunity legislation would have far-reaching implications beyond its likely direct and immediate effect on the pending civil case brought by the snipers' victims. The statute would accord gun dealers and manufacturers an unprecedented immunity. Indeed, under the statute, dealers and manufacturers of lethal weapons would receive insulation from lawsuits to which the sellers and makers of virtually every other product (including even toy guns) would be subject. As discussed herein, the legislation would close courtroom doors nationwide to any claims arising out of, among other things, the negligent security or storage practices of any gun dealer or manufacturer, the negligent sale of guns by and dealer to so-called "straw purchasers" for illegal gun traffickers, and the negligent failure of any gun manufacturer to include basic safety devices that would have prevented tortious or criminal shootings.

The implications of the sweeping immunity proposed for the gun industry are further compounded by the fact that the industry is already largely exempt from federal regulations that apply to the manufacture and distribution of other products. Guns were specifically exempted from the jurisdiction of the Consumer Product Safety Commission, which Congress created in 1972 to protect the public from consumer product injuries. Even ATF—which licenses and oversees gun dealers—lacks any authority to establish manufacturing or distribution standards for firearms.

Focusing exclusively on criminal and other statutory prohibitions, supporters of the proposed immunity legislation have argued that the bill would simply eliminate lawsuits against gun dealers and manufacturers who "have not broken the law." But this oversimplified view ignores the pivotal role that state and federal common law plays in promoting public safety and accountability, in addition to ensuring compensation for the victims of dangerous and irresponsible conduct. Beyond criminal and other statutory proscriptions on such conduct, civil common law has long protected the public by holding businesses and individuals alike to a standard of reasonable care in all their activities. The broad insulation from suit promised by the immunity legislation would largely free the makers and sellers of deadly weapons from such generally applicable common law standards.

Nor does the fact that gun injuries often result from criminal acts provide a legal justification for the immunity legislation. It has long been a settled principle of tort law that an intervening act of a third party, even if criminal (*e.g.*, a sniper shooting), will not break the causal chain from a party's negligence (*e.g.*, the negligent distribution of the murder weapon) to a plaintiff's injury so long as the intervening act was reasonably foreseeable. *See, e.g., Largo Corp.* v. *Crespin*, 727 P.2d 1098, 1103 (Colo. 1986) (en banc); *Vining* v. *Avis Rent-A-Car Sys., Inc.*, 354 So.2d 54, 55–56 (Fla. 1977); *see also Restatement (Second) of Torts* §302B (2003) ("An act or an omission may be negligent if the actor realizes or should realize that it involves an unreasonable risk of harm to another through the conduct of the other or a third person which is intended to cause harm, even though such conduct is criminal."). As Judge Cuthbertson correctly recognized in the sniper case, where a defendant handles a lethal weapon in an irresponsible manner, through which criminals and other prohibited persons may access it and use it to commit dangerous crimes, the question of whether there is an adequate causal link between the tortfeasor's conduct and the resulting injuries is for a jury to decide. *Johnson*, 2003 WL 21639244, at *3-4.

In addition to the sniper case, the proposed immunity would likely require the dismissal of several other important cases that seek to hold allegedly reckless gun dealers and manufacturers responsible for their conduct, including:

Hernandez ex rel. Guzman v. *Kahr Arms*, Civ. Act. No. WOCV2002-01747 (Mass Super. Ct. 2003). Danny Guzman was shot and killed with a nine millimeter handgun, one of several guns that had been stolen and resold by employees of the Kahr Arms factory. According to the lawsuit filed by the decedent's family, defendant Kahr Arms employed a number of convicted criminals and drug addicts because it did not conduct general or criminal background checks on its employees and did not test prospective or existing employees for drugs. To make matters worse, the plaintiffs allege that Kahr Arms did nothing to prevent employees from leaving its plant with guns—which Kahr touted as "the smallest, flattest, most reliable full power compact handguns made"—even before they had been stamped with serial numbers, rendering them virtually untraceable. Among the plaintiffs' other claims, Kahr Arms had no metal detectors, x-ray machines, security cameras, or security guards; did not check employees at the end of their shifts; did not use any inventory-tracking system to determine when weapons or parts were missing; and could not account for approximately 16 outgoing shipments of weapons that never arrived at their intended destinations between February 1998 and February 1999. On April 7, 2003, the Massachusetts Superior Court upheld the plaintiffs' negligence and public nuisance claims against Kahr Arms' motion to dismiss. The Guzman's family's right to sue Kahr Arms would be immediately revoked if the proposed immunity legislation were to pass. As in the sniper case, the claims against Kahr Arms involve irresponsible security for deadly weapons, claims that would be foreclosed by the proposed immunity legislation. First, the plaintiffs' claims of negligent security against Kahr Arms do not involve any statutory violation. Moreover, the negligent entrustment exception would not apply to Kahr Arms for the dual reasons that it is a firearm manufacturer and that it did not entrust any weapon to Danny Guzman's shooter.

Lemongello v. *Will Company*, No. Civ.A. 02-C-2952, 2003 WL 21488208 (W. Va. Cir. Ct. Mar. 19, 2003). New Jersey Policy Detective David Lemongello and Officer Kenneth McGuire were seriously injured in January 2001 when they were shot by a career criminal while performing undercover police work. Even though the shooter was a person prohibited by law from purchasing a firearm, he obtained his weapon, a nine millimeter semiautomatic Ruger handgun, illegally from a gun trafficker. The trafficker, in turn, was also prohibited from buying weapons due to a prior felony, so he used an accomplice (a so-called "straw purchaser") to make multiple gun purchases from defendant Will Jewelry & Loan, in West Virginia. In their lawsuit against Will Jewelry & Loan and others, the officers allege that the gun dealer acted negligently in selling the straw purchaser twelve guns (including the Ruger used in the shooting of the two officers) that had been selected in person by the gun trafficker and paid for in a single cash transaction. The circumstances of that sale were so suspect that the defendant dealer reported it to the ATF—but only after the purchase price had been collected and the guns had left the store. The officers' suit further charges gun manufacturer Sturm Ruger & Company with negligently failing to monitor and train its distributors and dealers and negligently failing to prevent them from engaging in straw and multiple firearm sales. Although a West Virginia trial court has held that the plaintiffs have stated valid negligence and public nuisance claims under state law, the proposed immunity legislation would require the immediate dismissal of those claims. Notwithstanding the plaintiffs' claims that the defendants failed to exercise reasonable care in their sales of firearms, neither the dealer nor the manufacturer violated any statutory prohibition in selling the guns. Nor could the plaintiffs contend that their case falls within the "negligent entrustment" exception to the proposed immunity legislation because the gun dealer supplied the firearm to a straw purchaser—not to someone whom the seller knew or should have known was likely to, and did, use the product in a manner involving unreasonable risk of physical injury to the person or others.

Smith v. *Bryco Arms*, 33 P.3d 638 (N.M. Ct. App.), cert. denied, 34 P.3d 610 (N.M. 2001). Fourteen-year-old Sean Smith was seriously injured when a friend accidentally shot him in the mouth with a .22 caliber handgun, the Bryco J–22. The shooter believed the gun was unloaded because the ammunition magazine had been removed; the gun failed to reveal the hidden bullet in its chamber. Sean Smith's parents sued the manufacturer (Bryco Arms) and the distributor (Jennings Firearms) of the J-22 alleging negligence and products liability claims based on the defendants' failure to incorporate any of the various available safety features that would have prevented the accidental shooting, including an internal "magazine-out safety" lock, a "chamber load indicators," or a written warning on the gun alerting users that the J–22 could fire even with its magazine removed. Reversing a lower court decision, the New Mexico Court of Appeals has held that the defendants could be held liable for their failure to incorporate long-known, available, and economically feasible safety devices in the J-22. The proposed immunity legislation, however, would require the immediate dismissal of these claims because the shooting of Sean Smith, even if accidental, constituted an "unlawful misuse" of the J–22, thereby removing the case from the statutory exception ostensibly intended for cases involving gun design or manufacturing defects. See §§4(5)(A)(v) (preserving "an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a manner that is reasonably foreseeable") & 4(5)(C) (defining "reasonably foreseeable" for purposes of paragraph 5(A)(v) to exclude "any criminal or unlawful misuse of a qualified product, other than possessory offenses"). Indeed, given the fact that virtually any shooting of a person would constitute a "criminal or unlawful misuse" of a firearm, the immunity legislation would effectively eliminate most claims arising out of the defective design or manufacture of a firearm.

By preventing these cases, and future cases like them, from proceeding against irresponsible gun dealers and manufacturers, the proposed immunity legislation would undermine the incentives that encourage reasonable business practices in the gun industry, thereby inevitably failing to deter avoidable gun injuries and fatalities.

In sum, the proposed legislation would insulate gun dealers and manufacturers from the obligations to act reasonably and in good faith that every other business has. If the legislation were to pass, sellers of products that are among the most dangerous products would have the least obligation to act reasonably.

For all of the above reasons, it is our judgment that the passage of S. 1805 would require the immediate dismissal of the pending civil case against the gun dealer and manufacturer who supplied the snipers' murder weapon as well as other significant cases against gun dealers and manufacturers. Furthermore, by providing the gun industry with unprecedented immunity from common law claims directed at those who engage in irresponsible and dangerous business practices, the proposed legislation would further insulate the sellers and manufacturers of deadly weapons from public accountability for such conduct.

Sincerely,

DAVID BOIES.
SEAN ESKOVITZ.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I rise today in support of S. 1805, the Protection of Lawful Commerce in Arms Act. This critically important bipartisan legislation will block baseless lawsuits initiated by individuals who wish to drive out of business a lawful and legitimate business, the American firearms industry.

This bill will halt lawsuits that are nothing more than shameless attempts to advance a stalled anti-gun legislative agenda and a flagrant abuse of the judicial system. I commend my colleague, Senator LARRY CRAIG, and other cosponsors from both sides of the aisle, over 50 of them, for their hard work to get this bill to the Senate floor.

As my colleagues are aware, I have long been a proponent of legislation that addresses the growing problem of lawsuit abuse. The issues addressed by this legislation will remedy one such class of shameless and abusive lawsuits. I am hopeful this will be the first of many other reform measures that the Senate will take up before the end of the 108th Congress. This includes asbestos reform that would save this country, save jobs, provide jobs, for hundreds of thousands of people; bankruptcy, which also would save jobs that our friends on the other side seem to be stopping; and class action reform, which in the end would save jobs.

As I mentioned, this legislation has broad bipartisan support, including from the minority leader. I agreed with my colleague, Senator DASCHLE, when he quite accurately stated:

> It is wrong, and it is a misuse of the civil justice system, to try to punish honest, law-abiding people for illegal acts committed by others without their knowledge or involvement. That's not the way we do things in America. We do not hold innocent people responsible for acts they are not involved in and over which they have no control.

I commend Senator DASCHLE. He could not have said it better. I call these lawsuits shameless because the trial lawyers who bring them—and they are really personal injury lawyers, by and large, who bring them—dislike and attack a product that is produced and marketed legally. What is going on is simply outrageous. It is as absurd as suing a car manufacturer for drunken driving accidents or suing a fast food company because a hamburger has more calories than it should. We must put a stop to these senseless lawsuits before our legal system grinds to a halt.

The need for legislation of this type is imperative. This legislation will prohibit civil liability actions against the firearms industry for damages resulting from the misuse of its products by others; that is, meritless lawsuits based on lawful products that are intentionally misused are prohibited by this bill. Now, anybody who thinks ought to agree with that.

In product liability cases, plaintiffs traditionally have been able to sue for compensation for injuries because, No. 1, a product was defective; No. 2, the defect posed an unreasonable danger to the user; and No. 3, the defect caused the injury. A "defective product" is one that does not operate as a reasonable manufacturer would design and make it, as a reasonable consumer would expect, or as other products of its type.

Courts uniformly have held that a defect must exist in the product at the time it was sold and that a plaintiff's injury must have been the result of that defect. However, in the firearms context, gun manufacturers and dealers are potentially liable for injuries that occur because their properly operating product is criminally or negligently misused. Now, this is unacceptable.

I would also like to take this opportunity to make clear that this legislation does not relieve from liability gunmakers who create defective products or gun dealers who negligently sell weapons when they know or should have known that such a weapon would be used in a crime.

Additionally, this legislation contains the following significant safeguards: One, an action brought against a transferor convicted for transferring a firearm knowing it would be used in a crime of violence or drug trafficking crime by a party directly harmed by the conduct of which the transferee is so convicted; No. 2, an action brought against a seller for supplying a firearm or ammunition to another person when one knows or should know that person is likely to and does use the product in a manner involving unreasonable risk of physical injury to the person and others for negligence per se; No. 3, an action in which a manufacturer or seller violated a State or Federal statute applicable to the sale or marketing of the product and the violation was the proximate cause of the harm for which relief was sought; No. 4, an action for breach of contract or warranty in connection with the purchase of a product; or No. 5, an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product when used as intended or in a manner that is reasonably foreseeable.

Now, because this bill strikes the right balance between protecting the general public and those who manufacture a lawful product, I strongly support the legislation, and I urge all of my colleagues to do the same.

We all know what is involved. We know the personal injury lawyers are going to sue just about anybody against whom they are able to conjure up a theory of liability, and hope that some of the irresponsible judges in this country will allow those cases to go to the jury. Then on appeal, they hope irresponsible appellate lawyers and activist judges, will ignore the law, ignore every basic instinct of the law, and allow those lawsuits to go forward. And they hope their friends on the Supreme Court will ignore the law as well and through activism do whatever they believe is right, as many of the judges on the Ninth Circuit Court of Appeals do every day. They ignore the law completely, do whatever their gut tells them ought to be done, even though most of the time their gut is filled with legalistic ulcers.

The fact is, that is not the way the law should run. That is not the way it should operate. Lawyers should be ashamed to bring these type of cases. In this particular bill, we protect the consuming public and others from irresponsible misuse of firearms. We protect them from irresponsibility on the part of any gun manufacturer. That needs to be said, and it needs to be said over and over.

The fact is, what we have is a lot of very liberal thinkers who think that guns should not be owned by anybody.

or they should be owned only by a few—I guess those who have been to some sort of anti-gun college.

The fact is, most Americans own guns, most Americans value guns, most Americans believe in protecting themselves and their families. Where we have the most guns, that is where we have the lowest amount of crime.

Everybody knows I have brought a bill to the Senate to allow guns to be kept in the home in the District of Columbia, which many refer to as Murder Capital USA. I don't want to bring that up as an amendment on this. I might have to, if some of these irresponsible amendments filed pass. We know the only way this bill is going to make it to the President's signature is if it doesn't have any other amendments on it. But if any others pass, I think we ought to vote on that one as well. Because, to be honest with you, I have had hundreds of DC residents call me and say thank God somebody is acting in our interests, where we can at least protect our homes.

That is how bad it is. We have people who just don't believe in guns, don't believe in sportsmanship, don't believe in the right to collect guns, who are going to be against them for political reasons because they think there are political advantages for them. Frankly, I think they are going to find there are not any political advantages for them because most people in our country believe in the right to have their own arms. Most people hunt and fish. Most people are proud of the fact they can take their young boys or girls out and have target practice and shoot guns.

The fact is, the vast majority, the highest percentile in the world, use guns responsibly in this country. For those who do not, I am for coming down very hard against them. For those who misuse guns in the commission of crimes, you can't get any tougher on crimes than ORRIN HATCH is. Frankly, we passed legislation around here, anti-crime legislation, Senator BIDEN and myself and others, that literally goes hard on those who use and misuse weapons and use them in criminal activity. That is what we should be doing. But we certainly ought not to allow spurious, frivolous lawsuits brought against gun manufacturers who have done nothing wrong other than make guns the American people would like to own.

With that, I don't mean to demean anybody on the floor. All I can say is that for the life of me, I can't understand why anybody would be against this bill who understands the law and understands the way the law should be applied. Frankly, I am amazed that some are. There were 22 who voted against cloture this morning. That was unbelievable. The fact of the matter is, cloture should have been invoked 100 to zip, but that is how far this issue has denigrated, to the point where it is just a political issue in the eyes of some.

It is time to get rid of the politics and understand the American people are not going to put up with that kind of stuff, and they should not. The law should not be used in the frivolous fashion some of these personal injury lawyers use it. There are a lot of great personal injury lawyers out there and there are a lot of great trial lawyers who do what is right and who would not think for a minute of bringing these frivolous lawsuits against gun manufacturers who are not responsible for the misuse of their weapons. When they are irresponsibly brought, this bill takes care of them. It says you are going to pay for it.

But when they are not responsible for the misuse of their weapons, why in the world would we allow litigation to be brought, just because the trial lawyers might support us? There is a certain point where any good thinking person has to say: Look, the law is more important than just emotion. Unfortunately, most of the arguments used against this bill are emotional arguments that really have no place in the area of law. Frankly, they should not be paid very much attention.

I yield the floor.

Mr. REED. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The minority leader is recognized.

Mr. DASCHLE. Mr. President, the legislation we consider today attempts to strike a careful balance between the safety of Americans and the rights of gun manufacturers and dealers. As I have said on many occasions, the vast majority of gun owners, manufacturers, and sellers are honest and certainly obey the law. Moreover, the firearm industry is an important source of jobs and tax revenue for our country. It is wrong, and it is a misuse of the civil justice system, to punish honest, law-abiding people for the illegal acts of others.

At the same time, Americans who are injured due to defective products have a right to seek justice in the courts. In our efforts to protect the gun industry from meritless lawsuits, we should take care not to invalidate legitimate claims from being heard in court. There are several ongoing cases that involve product defects or cases where manufacturers or gun dealers may actually have broken the law, and those victims have a right to be heard.

As this bill was being written, many individuals raised concerns that the bill failed to consider the many important claims of victims of defective products or illegal actions. Because of these concerns, I have worked with my colleagues, Senator CRAIG in particular, Senator BAUCUS, and others to draft a commonsense, bipartisan amendment that improves this legislation by providing stronger protections for meritorious cases. This amendment is not perfect, but it goes a long way toward balancing both the rights of victims and the needs of the gun industry.

Our amendment makes several important changes. First, the language in the original bill forced plaintiffs to prove defendants knowingly and willfully broke the law before a suit could proceed. This is a high standard that would deny many victims the right to pursue legitimate claims. The amendment we now offer removes this language, to ensure cases in which Federal or State firearms laws have been broken can move forward without meeting an artificially high threshold of proof.

Second, as originally drafted, the bill created a few exceptions, where gun manufacturers' and dealers' immunity would not apply. These exceptions were tailored too narrowly. In fact, one of the exceptions could have invalidated cases in which an individual had sold a firearm to someone who committed a drug offense or violent crime simply because the individual had not yet been convicted of that offense. This amendment, our amendment, modifies this language to ensure these bad actors would not be protected from accountability merely because they were not successfully prosecuted.

Third, when a gun is defective, the manufacturer should be held responsible. However, as originally drafted, the bill limited product liability to such degree that it would be virtually impossible to bring cases against manufacturers. Our amendment provides greater protection for product liability cases, so, in particular, if a child is injured by a defective gun, the victim's loved ones can hold those responsible accountable.

Fourth, the original legislation did not specifically address businesses that sell to the straw purchasers; that is, people who buy guns only to resell them in the black market to criminals or children. With this amendment, the bill would include a provision to remove immunity from those dealers who sell to so-called straw purchasers.

Fifth, the amendment Senator CRAIG and I will offer addresses concerns about this bill's definition of trade associations. Many advocates indicated that, as drafted, even extremist organizations could have obtained immunity. Obviously, this is not the intent of the bill's sponsors, nor is it the intent of the gun industry. Therefore, we modified the definition to ensure that only trade associations connected to the business of manufacturing and selling firearms would be covered.

The Protection of Law Commerce in Arms Act, as amended by the Daschle-

Craig amendment, strikes a meaningful balance between the rights of legitimate business owners and the rights of individuals who have been injured by gun violence. The Senate achieves the goal of protecting manufacturers from illegitimate lawsuits, while maintaining the rights of victims to hold those responsible for their injuries accountable.

With the inclusion of our amendment, immunity will not cover a number of cases including those where a dealer sells a gun to someone who is prohibited from owning a gun, whether not they have been convicted of a crime; a dealer sells a gun to a juvenile or to an undocumented alien; a manufacturer develops a defective gun that injuries a child; or where a dealer fails to report the theft of a gun as required by law.

In each of these cases, a business loses its immunity only as a result of its own actions, not the actions of a third party.

The cosponsors of this amendment have worked hard to ensure that the gun immunity bill does not inadvertently harm important cases.

The principle of equality before the law demands that everyone—individuals and businesses alike—can be held accountable for their actions.

This legislation should not provide blanket immunity that protects "bad actors." By striking a more sensible balance, my amendment strives to preserve the long-term vitality of an important American industry, while protecting the rights and the safety of the American public.

I hope my colleagues, when the legislation is offered later, will support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank Senator DASCHLE, our minority leader, the Senator from South Dakota, for the cooperative way in which he has worked with us to, in his own words, improve, narrow, clean up this piece of legislation.

As I have already said on the floor today, a good number of times, the Daschle amendment—the effort that S. 1805 seeks to accomplish—is a very narrow way of protecting law-abiding, legitimate firearm manufacturers and dealers, but not to stand in the way of access to the courts as a result of somebody being harmed by somebody who has acted illegally as a licensed dealer or a firearms manufacturer.

I truly appreciate the Senator's efforts in behalf of this very small community of folks in the industry of manufacturing quality firearms. It is critical for our Nation, for law-abiding citizens, and for our national security. The Senator has seen that and understood it, and we will work now to hopefully get this bill before us soon this afternoon so amendments can be offered. I think the Senator has been ready to do that. That will move us down the road toward hopefully final debate and a vote on this legislation.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I appreciate the kind words of the Senator from Idaho. I also share his view that it is important we move to the bill so we can begin entertaining amendments. I think there are a number of thoughtful amendments which deserve our consideration. The sooner we move to the bill, the sooner we can begin the amendment process. Some will pass and some will be defeated, but I think it is critical we get on with that debate and offering amendments today. It is 4 o'clock. We have had a good debate about the motion to proceed, and certainly about the bill itself. It is my hope that not in the too distant future—sometime perhaps within the hour—we might move to allow floor amendments. I would certainly be prepared to offer mine at that time.

I yield the floor.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. CRAIG. Mr. President, the leadership of both sides of the aisle, at the moment, is working to try to see if we can gain a unanimous consent request that would bring us to the bill hopefully within the hour and possibly deal with one or two amendments, and at least one amendment voted up or down; and then the laying down of another amendment at least this evening and starting debate on that.

So I thought for a few moments I would give a little background as to what has brought us to this point in time and S. 1805.

Senator DASCHLE was in the Chamber a few moments ago to visit with the Senate about his amendments and what we effectively incorporated in the bill. He has some fine-tuning he may offer as one of the first amendments this evening.

But when Senator BAUCUS and I introduced S. 695 back in the spring, more than half of the Senate—Republicans and Democrats—became original cosponsors. Today we have 55 cosponsors, including the leadership on both sides. A similar bill, H.R. 1036, was passed in the House of Representatives by a 2-to-1 margin over a year ago.

Now we have before us S. 1805, again, very similar to what we did in 1995, but with some adjustments made with the Senator from South Dakota. This is an extraordinary showing of support for a bill. I believe it is a testament to the gravity of the threat addressed by this legislation: The abuse of our courts through lawsuits filed to force law-abiding businesses to pay for criminal acts by individuals beyond their control.

The businesses I am talking about are collectively known as the U.S. firearms industry. The lawsuits I am talking about claim that even though these businesses complied with all of the laws and sell a legitimate product, they should be responsible for the misuse or the illegal use of the firearm they produce, misused by a criminal. These actions are pursued with the intent of driving this industry out of business—regardless of the thousands of jobs that would be lost in the process and the impact on citizens across the Nation who would never contemplate committing a crime with a gun.

Let's be very clear about this. These lawsuits are not brought by individuals seeking relief for injuries done to them by anyone in the industry. Instead, this is a politically inspired initiative trying to force social goals through an end run around the Congress and the State legislatures.

I believe that is worth repeating because it is the essence of the legislation. Instead, I believe these lawsuits are politically inspired initiatives trying to force social goals, or public policy, if you will, through an end run around the Congress and the State legislatures.

The theory on which these lawsuits are based would be laughable if it were not so dangerous: To pin the responsibility for a criminal act on an innocent party who was not there and had nothing to do with the act. They argue that merely by virtue of the fact that a gun was present, those who were part of the commercial distribution chain should be held responsible for the gun's misuse.

Earlier today, I talked about all kinds of chains in commerce—automobiles, and other vehicles, and other tools that are used tragically enough sometimes or misused in a way that they take a human life. What about a baseball bat? We hear, every so often, of a baseball bat used in the commission of a crime in which the baseball bat or the use of it struck a person and killed them. Should we make a person who manufactured that baseball bat liable or should we do that which we have always done in this country: made the individual responsible for his or her action?

This is not a legal theory. It is just the latest twist in the gun controller's notion that it is the gun, and not the criminal, that causes the crime: it is the car, and not the drunk driver, that kills the child it runs over.

The truth is, there are millions of firearms in this country today. Yet only a very tiny fraction of them are ever used in the commission of a crime. The truth is, again and again law-abiding firearms owners are using their guns, often without ever firing a shot, to defend their life or the lives of their family and their property. That is what the second amendment is all about. That is why this right is ingrained within the character and the culture of this country. The truth is, the intent of the user, not the gun, is what determines whether that gun will be used in a crime. A gun can be nothing but a piece of metal until it is used carefully and wisely by an individual in defense of themselves or in hunting by the expertise of the shooter, or it can become a very lethal weapon in the hands of a criminal in the taking of a life.

The trend of abusive litigation targeting the firearms industry not only defies common sense and concepts of fundamental fairness, but it would do nothing to curb criminal gun violence.

Let me repeat that. Does it stop gun violence in this country? No, it does not. The only way you do that is to sweep our country clean of the millions of firearms that are owned out there, and certainly take them out of the hands of criminals. But we know that is a near impossible task, too. Furthermore, the trend jeopardizes America's constitutionally protected access to firearms for defense and other lawful uses.

The bill that more than half of the Senate has already endorsed is a measured response that would put a stop to this abusive trend without endangering legitimate claims of relief. Let me emphasize that it does not insulate the firearms industry from lawsuits or deprive legitimate victims of their day in court, as some critics have already charged.

Nowhere in S. 1805 is there a padlock on the courthouse door. Quite the opposite. If this becomes law, this is the law that will be argued in court by some as to why a given lawsuit ought to be thrown out. And we trust the judge, wise and learned, will listen to all of those arguments and make a decision as to whether the lawsuit goes forward because it is legitimate within the law or it is simply just that, frivolous, it is not legitimate within the law, and it ought to be denied or cast aside.

Again, let me emphasize, it does not insulate the firearms industry from all lawsuits or deprive legitimate victims of their day in court, as some critics would, in fact, argue, and has been already argued several times on the floor today. In fact, it specifically provides that some actions can be brought against those in the business of manufacturing and selling firearms when they violate the law or act wrongfully themselves.

Earlier today, I went through those five areas that we have clearly identified in the law where action can be taken. Senator DASCHLE has even refined that a little more to make sure all is clear in this given area. Actions based on breaches of contract, defects in firearms, negligent entrustment, criminal behavior—these actions would not be affected by this legislation. The laws there are already clear. People are being tried today in the courts based on those laws, and S. 1805 in no way would wipe them aside or cause a different action.

S. 1805 is solely directed at stopping frivolous politically driven legislation against law-abiding individuals for the misbehavior of criminals over whom they have no control. The courts of our Nation are supposed to be forums for resolving controversies between citizens and providing relief where warranted, not a mechanism for achieving political ends that are rejected by the people's representatives—the Congress or the State legislatures.

I believe that is the fundamental essence of 1805. It is direct. It is clearly to the point. It ought to be. I am pleased that 75 Members of the Senate earlier today said let's move this legislation to the floor. Let's begin the process. Let's vote up or down. Let's keep the bill clean and deal with this critical issue.

Once again, let me talk for a few moments about those exceptions we have carved out or defined within the law in the bill to make sure there is no question. The key to S. 1805 is the definition of qualified civil liability action which is addressed in the definitions section, section 4. I ask all of my colleagues to go there and read it. It is a simple bill, an easy bill to read, of 11 pages. But we made sure that we clearly spelled out a qualified civil liability action, which is defined as a lawsuit brought by any person against a manufacturer or a seller of a qualified product or a trade association for damages resulting from the criminal or unlawful misuse of a qualified product by a person or a third party.

Section 4, subsection 5, the definition then excludes five categories of lawsuits from coverage under 1805. In other words, we make very clear these following areas:

No. 1, an action brought against a transfer convicted under section 924(h) of title 18 United States Code, or a comparable or identical State felony law, by a party directly harmed by the transferee's conduct. In other words, illegal movement of the weapon itself.

An action brought against a seller—this is the second one—for negligent entrustment of negligence per se. Negligent entrustment is defined in section 4, subsection 5(a), as the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person and others. Misuse of the firearm, knowing that is going to happen. That is what Senator DASCHLE spoke to so clearly today in his clarifying amendment.

The third item, an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a State and Federal statute applicable to the sale or marketing of the product and the violation was a proximate cause of the harm for which relief is sought.

No. 4, the action for breach of contract or warranty in connection with the purchase of the product.

No. 5, an action for physical injury or property damage resulting directly from a defect in the design or manufacturing of the product—in other words, product liability—when used as intended or in a manner that is reasonable and foreseeable.

And then, as I mentioned, the Daschle language amends the text to permit suits against manufacturers or dealers engaging in straw purchase transactions. That is, when one individual purchases a firearm on behalf of a third party.

Why did we spell these out? We wanted the Senate and the citizens of our country to understand that this was not broad, nor was it sweeping. At the same time we wanted everyone to understand that what we were saying very clearly is something that has been said time and time again as it relates to the value of this legislation; that is, the reenforcement of centuries of legal precedent based on individual responsibility, not responsibility for actions of third parties. In other words, if you manufacture a product legally in our economy and it sells and someone misuses it and a life is taken with the misuse of that product, should we be able to come back through the court to the person who produced it when they abided by the law and in no way knew that the product would be used with the intent of harming someone?

That is the basis of individual responsibility in our country and, as I said, of centuries of legal precedent based on individual responsibility and not the responsibility of the actions of third parties. Many judges have already rejected these suits that have been brought. Antigun activists are trying to distort tort law by creating totally new and expansive theories of liability to win restrictions that have been rejected in the legislative process.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. I ask unanimous consent that I be yielded Senator NICKLES' hour under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I thank Senator NICKLES for generously yielding me his hour. In a postcloture environment, the sponsors of the legislation are allowed 2, individual Senators are allowed 1. I didn't realize I had already spoken that much today.

Having said what I have just said, I hope I have laid a clear and unambiguous basis to why we are here today and why this legislation is sponsored and supported by so many groups across the United States: the United States Chamber of Commerce; the United Mine Workers of America; National Association of Wholesaler Distributors—and the list goes on—the National Association of Manufacturers; the Boone and Crockett Club; the Buckmasters American Deer Foundation; the Campfire Clubs of America; Congressional Sportsmen's Foundation; Council of Wildlife Management and Education; Dallas Safari Club; Foundation for North American Wild Sheep; Hunting and Shooting Sports Heritage Foundation; International Association of Fish and Wildlife Agencies; International Hunter Education Association; Izaak Walton League of America; Mule Deer Foundation; National Rifle Association; National Shooting Sports Foundation; National Trappers Association; National Wild Turkey Federation; Pheasants Forever; Pope and Young Club; Quail Unlimited, Rocky Mountain Elk Foundation; Ruffed Grouse Society; Safari Club International; Texas Wildlife Association; the Wildlife Society; U.S. Sportsmen's Alliance; White Tail Unlimited; Wildlife Forever; Wildlife Management Institute; the Sports Fishing Association of America; America Tort Reform Association; National Association of Independent Insurers; National Alliance of American Insurers.

Here is something I found most interesting. We began to debate it on the floor today. Representatives from the International Association of Machinists and Aerospace Workers of East Alton, IL. Why? Because many of their members are employed in the Savage Arms Company in Westfield, MA, where they have already lost some 340 jobs over the last few years because that arms company has been so weakened by some of these lawsuits. They have had to pay out since 1999 over $425,000 as the cost of being at court with some of these lawsuits.

They are obviously concerned about their jobs. Somebody scoffed a bit this afternoon that I am standing here talking about jobs, that this is some kind of a jobs bill. It is just that. These industries are at risk today. They are not huge, deep-pocket industries. If we put every gun manufacturer in this country all together, they would make up, in total assets, less than a Fortune 500 company. So they are extremely concerned.

The aerospace workers in Waltham, MA, in Chicopee, MA, along with Westfield, MA, the United Mine Workers, again the United Steelworkers from Gainseville, FL—all of them have spoken to it. The United Auto Workers have employees at the Colt plant in Newington, CT. Today they say, and I read from their letter:

> We have 383 members from the Colt workforce. By comparison, about 5 years ago, we had over 600 Colt workers who were members of our local. Our members built the finest small arms in the world, including M-4 carbines, M-16 rifles, and M-203 grenade launchers.

Obviously, those are not civilian weapons, they are military weapons. Those are the kinds of tools that our men and women use in Iraq today in defense of themselves and in defense of our freedoms. Many of them provide the U.S. military and law enforcement. Our law enforcement people carry, in most instances, American firearms at their side.

Do we really want, by forcing these industries out of business, Chinese or Yugoslavian or Hungarian firearms to be packed by our military? Some would say: Senator CRAIG, you are just exaggerating. No, I am not. If ever one of these frivolous lawsuits would find root and grow, the kinds of millions of dollars in potential settlement for an argument that a criminal act caused by a third party was ultimately the result of an individual manufacturer who operated in a legal way could easily put them out of business because they simply do not have the kind of depth that, for example, the tobacco industry had years ago when these kinds of lawsuits began to be won against that industry.

Others have been tried in a variety of industries, but there is a reality, and that is why unions are now stepping forward as strong supporters of this legislation saying: Wait a moment, enough is enough. As long as our companies are legal and responsible and producing quality products, leave us alone, unless we act in a criminal fashion or in violation of Federal law in this country.

I cannot blame them for asking it. I believe they should ask it, and I believe we ought to grant that right. That is what S. 1805 does.

There are a good many issues we will be discussing over the course of this debate. My guess is there will be a variety of amendments offered. I find it interesting that this debate gets us to where we are today.

Let me cite something that is interesting, and I will bring some charts to the Chamber probably within the next day. Here is a question asked by the political studies at Southern Methodist University and the Zogby poll people in examining the differences in thinking between people who lived in the States who voted for George Bush in 2000, the red States, and those who voted for Al Gore, the blue States. Think red and blue here for a moment. We all saw those maps after the election, so we begin to think in reds and blues.

Here was the question asked by the Zogby poll people. I don't think you would call Zogby a conservative pollster. He is either center left or is certainly viewed by most as not being conservative. Let me stop there.

Here is a question asked by the Zogby pollster:

> Do you agree or disagree that American firearm manufacturers who sell a legal product that is not defective should be allowed to be sued if a criminal uses their product in a crime?

The answer came back showing a phenomenal result. Opposition in the States that voted for President Bush, the red States, was 74 percent. In other words, 74 percent said that gun manufacturers that operate in legal ways ought to be protected. And in Al Gore States, 72 percent, a 2-percent difference. One could almost say that a vast majority of Americans agree with the essence and the principles of S. 1805. I found that very interesting.

Interestingly, across the board, those most strongly opposed to these lawsuits against the firearms industry are currently members of the military and their families.

There has been a lot of talk about our military these days because we have phenomenally brave men and women standing in harm's way in Iraq, Afghanistan, and other parts of the world. Our military said: We oppose frivolous lawsuits of our gun manufacturers by 83 percent. That was a Zogby poll taken earlier this year of 1,200 voters nationwide. So I find it interesting that opposition occurs to the very narrow approach we have taken when all of these large numbers begin to appear.

Zogby also asked this question:

> Which of the following two statements regarding gun control comes closer to your opinion? Statement 1: There needs to be new and tougher gun law legislation to help in the fight against gun crime. Statement No. 2: There are enough laws on the books. What is needed is better enforcement of current laws regarding gun control.

By a better than 2-to-1 margin, 66 to 31, voters nationwide agreed on statement 2: that is, there are enough laws on the books. What is needed is better enforcement of current laws regarding gun control.

Overwhelmingly, Americans are now speaking out very clearly on gun issues. They are also overwhelmingly speaking out against frivolous lawsuits of the kind that we have seen now launched against this industry. Some 30-plus have been filed. Some are still pending. Some are on appeal. Some have already been thrown out by judges.

That is why we are here today. It is time that Congress stands up and speaks to clarify and disallow the gaming of the system, if you will, by some who want to line their pockets first and, oh, if there is a little bit left, maybe the victim or at least the person in the name the suit was brought would gain some benefit, but large compensation to those who have a license to argue before the courts of the land. That is the reality of what we are dealing with.

I close by saying that we do not block lawsuits that are responsible, that are within the law as we see it today and that we understand have a legitimacy because some manufacturer or some dealer acted beyond and outside the law in a criminal fashion that causes us to suggest that their misaction means they ought to pay the price for that misaction because someone else paid dearly by the use of that firearm.

Those are the fundamental issues before us in this debate, and I think it is important we have these votes. I hope within the next few minutes or within the hour we will have an agreement that allows us to move forward and possibly go to an amendment tonight, and then we will be back tomorrow for the balance of at least Thursday dealing with other critical votes on this issue.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. REED. Madam President, I ask unanimous consent, under rule XXII, that Senator SARBANES' hour be yielded to me as manager on the Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, may I inquire as to how much time is remaining overall?

The PRESIDING OFFICER. The Chair informs the Senator that there are 24½ hours remaining.

Mr. REED. Madam President, how much time is reserved for the Democratic side?

The PRESIDING OFFICER. The Senator has 82 minutes remaining.

Mr. REED. I yield the floor, retaining my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

ADVANCED TECHNOLOGY PROGRAM

Mr. BINGAMAN. Madam President, right before the last recess I came to the floor to address the need for a revitalized science and technology policy in the country. One example that I gave of the current administration's inattention to science and technology and high-wage job creation was the proposal in the budget that we received a couple weeks ago to eliminate the Advanced Technology Program, or ATP, in the Department of Commerce. This is in the President's fiscal year 2005 budget request.

In my view—as I stated it then; and I want to repeat it now—eliminating the Advanced Technology Program makes no sense. Even the administration's own budget justification, which clearly praises the program, makes clear that the program is valuable.

The Advanced Technology Program has been a constant target over the years of those who would like to kill the program for philosophical reasons. But I believe those of us in Congress need to make decisions about Federal programs on a logical basis and on the basis of the good that those programs are doing for the people we represent.

So I believe we should examine the Advanced Technology Program by asking two fundamental questions. First, should our Government be sponsoring an Advanced Technology Program at all? And second, is the Advanced Technology Program we are talking about an effective program for advancing technology development in our country?

In discussing the need for a Government role, a basic principle with which nearly everyone would agree is that a Government role makes sense when there is a market failure of some sort. When it comes to advanced technology, there is ample empirical evidence of a critical gap between the point at which Federal support for basic research ends and the point at which private capital market support of product development begins.

Now, let me try to illustrate that by referencing this chart. This chart is called the "Valley of Death" just to try to wake up my colleagues to the fact that this is an important issue. Here, looking at this vertical axis, we are showing the invested money. Along the horizontal axis, we are showing the various stages of developing a technology-based product for use.

The Government does invest a fair amount of money in basic research. That is shown over here at the left, in the beginning stages of developing a product or developing a technology. Here we show labs and universities. Our Federal Government does invest a substantial amount in that area, and that is certainly commendable. Of course, many of my colleagues would argue that we do not invest enough there, and I would agree with that, but that is a subject for another day.

Industry invests most of its research and development dollars at the other end of this development continuum and invests those funds on commercializing short-term, low-risk, reliably profitable products, and then making incremental improvements on those products which they are fairly confident they can make a return on in the market.

In between these two stages of the research and development process, we have what many in the industry call the "Valley of Death." That is the gap where our private capital markets fail to invest applied research dollars to create preproduct, so-called platform technologies. This market failure occurs because such generic technologies are too expensive or they are too risky for industry to develop on its own.

At the same time, it is precisely these generic, platform technologies that are the seed corn for new products, and in many cases new market categories. The benefits to industry generally and to our national economy far outweigh the costs of developing such technologies.

In the case of defense technologies, the Federal Government is the ultimate customer, and programs such as the Defense Advanced Research Projects Agency—the work that they fund in DARPA in the Defense Department—plays an important partnering role with defense contractors and high-technology firms.

But for technologies with predominantly civilian applications, the Federal Government does not have the strong customer stake in developing specific technologies. So filling in this funding gap in the "Valley of Death" is precisely the role that the Advanced Technology Program plays for civilian technology.

That brings me to the second question that I outlined earlier. That is, is this advanced technology program an effective program for promoting these new platform technologies? Some in the Congress have reacted over the years to the ATP as if it were some sort of Federal program to help Gillette make a five-bladed razor or to help Microsoft write Windows 2006. This is not an accurate description of the ATP by any stretch.

Let me give a few examples of actual ways in which the Advanced Technology Program has succeeded in bridging the "Valley of Death" for U.S. industries with a resulting positive impact on our economy and our global competitiveness.

In 1991, the Council on Competitiveness characterized the U.S. printed wiring board industry as losing badly or lost. That was their description. By this they meant the U.S. was not likely to have a presence in that industry within 5 years. It attracted little private venture funding. Only a handful of the 700 firms in the industry had the capability to undertake advanced research. Through the ATP, a new joint venture between the printed wiring board industry as a whole and the Government was formed that would not have occurred otherwise. The new manufacturing technologies that were developed in the joint venture yielded an estimated cost savings for industry in excess of $35 million.

Another example: In the past, U.S. car makers tolerated dimensional variations of up to 5 or 6 millimeters. That is a level that often complicated the assembly process. It required custom manual reworking, and compromised vehicle fit and finish, as it was referred to in the industry. An advanced technology project was put together with the U.S. auto industry, reducing this variation to less than 2.5 millimeters by inventing an array of new technologies. This one project is credited with increasing the U.S. gross domestic product by over $200 million and creating 1,400 jobs. In short, empirical research demonstrates this project helped increase the demand for domestically produced vehicles and helped domestic producers stem the loss of market share to offshore manufacturers.

The Advanced Technology Program has also been called the godfather of the DNA diagnostic tool industry. That is another example which clearly my colleagues should look into before they follow the administration's recommendation and try to terminate this program.

The Advanced Technology Program was making investments in nanotechnology long before it became a household word, along with investments in homeland security and bringing fuel cells and solar cells and microturbines to the marketplace. In 2003, the White House sponsored a fuel cell demonstration and the President tested a long-life mobile phone. Let me put another chart up here. You might recognize this photo. The President was testing a long-life mobile phone powered by advanced fuel cell technology. Without the Advanced Technology Program, MTI microfuel cells would not have been able to develop this breakthrough technology to power this very phone. So that is another example.

As I have tried to make amply clear, there are many examples of ATP successes. There are certainly also other examples where ATP projects have not been successful. That is the nature of a high-risk, high-payoff research program. But let's put the successes and the failures in the overall context.

The total cost of ATP funding to date has been about $2.1 billion. That is over the life of that program. All told, the preliminary results of a 2003 ATP survey of over 350 companies indicates the actual economic value resulting from ATP joint ventures exceeds $7.5 billion. The benefits from just a few projects analyzed to date are projected to exceed $17 billion, when those platform technologies are fully exploited by the industries involved.

ATP has also been the subject of a recent overall assessment by the National Academies of Science and Engineering, and the core conclusions of this 2001 study speak strongly both to the success of the program and to the generic focus of the program. The national academies concluded the ATP was an effective partnership program at the generic technology level. The academies specifically found the selection criteria applied by the ATP enabled it to meet broad national needs and to help ensure the benefits of successful awards extend across firms and industries. The national academies have also found the ATP peer review of applicants for both technical feasibility and commercial potential was effective in targeting promising new technologies that were unlikely to have been funded through the normal operation of the capital markets.

I could go on and on about the conclusions of the national academies study. Let me just say the reality is industry will not fill the void the President would create if his budget proposal to kill this Advanced Technology Program were agreed to. Given industry's increased emphasis on short-term applied R&D and consequently reduced emphasis on early phase technology research, the elimination of the Advanced Technology Program would simply trigger the further erosion of U.S. technology leadership and lead to even greater loss of high-technology, high-wage jobs in the future.

I would like to end with a quote from David Morgenthaler, former president of the National Venture Capital Association. The members of the National Venture Capital Association account for around 80 percent of the venture investment taking place in the United States today. David Morgenthaler says:

> It does seem that early stage help by the government in developing platform technologies and financing scientific discoveries is directed exactly at the areas where institutional venture capitalists cannot and will not go.

When experts in venture capital and leaders in industry and our National Academies of Science and Engineering all agree the Advanced Technology Program plays a unique and valuable role in supporting our high technology competitiveness, we ought to pay attention.

I hope all my colleagues will join me in resisting the unwise proposal which we have been given by the President to terminate the Advanced Technology Program. ATP has demonstrably contributed to maintaining our manufacturing strength. A strong and well-funded Advanced Technology Program will help the United States remain competitive in high tech manufacturing in the future. Instead of ending this program, we should look for ways to duplicate its strengths in other civilian technology areas such as energy and environment and homeland defense.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, returning to the gun immunity bill that is being presented, this is legislation that is being bullied through the Congress.

I have been here a long time, now going into my 20th year. This is one of the most outrageous pieces of legislation I have ever seen. We have never seen such a complete sellout. This is like a fire sale to a special interest lobby.

The bill is absolutely a free pass. It says to the gun industry: Do anything you want, and you have no one who can punish you by going to our court system, established effectively by our Constitution. They can do whatever they want, no matter how negligent, reckless, or irresponsible.

Of all the people in society to provide special protections to, why in the world would we give immunity from redress to this industry?

This immunity bill says even reckless behavior—forget about negligence. Negligence says I didn't mean to do it, but I didn't check on the process. Reckless behavior could be deliberate. There could be reckless behavior in the manufacture, sale, or distribution of guns. No matter how destructive the result is to life and limb of innocent people, the victims of that conduct cannot hold you accountable. It just does not make sense.

We hear this claim from our friends on the other side about "frivolous lawsuits" is how they describe it. Frivolous lawsuits—lawsuits that, frankly, are far from frivolous because the damage is beyond description when a family loses a child, a father, a brother, a mother, or a sister, or some child is permanently injured and cannot function normally. Frivolous? I don't call that frivolous. These are valid claims of wrongdoing by an industry that puts profit ahead of human life, and we can't let them go without consequence.

Let us ask the gun victims if their lawsuits are frivolous. Ask those who have lost loved ones at the hands of the DC area snipers just over a year ago. And talking about the DC snipers, they were prohibited by law from buying guns. Under law, they could not sell guns to Lee Malvo. He walked into a gun shop and walked out with a sniper rifle. A sniper rifle is a pretty big piece of equipment.

I invite my colleagues to look at this image. This chart says they lost 237 guns; 237 guns for which they have no responsibility to account. They said:

Gee whiz, how do you like that, we lost all these lethal weapons that may have just kind of walked out or fallen down a crack in the floor someplace. It is outrageous—including one of those weapons that wound up in the hands of those who committed these atrocities, Lee Malvo and John Muhammad.

This is a picture of a gun shop that has become all too familiar. It is called the Bull's Eye Shooter Supply. They lost the guns.

In the wake of the sniper case, we now know that in addition to losing hundreds of guns from their inventory, this gun shop cannot locate the firearms sales records they are required by law to keep to help police solve crimes. Those records that were recovered showed that Bull's Eye frequently sold numerous guns to individual buyers, a sure sign of phony straw purchases. But obviously this rogue gun store looked the other way.

According to ATF records, between 1997 and 2001, guns sold by Bull's Eye were involved in at least 52 crimes, including homicides, kidnappings, and assaults. Guns in 52 crimes were traced back to this one gunshop.

Under this gun immunity bill, Bull's Eye gets a free pass. They would not be accountable to victims of their negligence, and it is a despicable proposal.

DC sniper Lee Malvo could not have legally purchased a Bushmaster assault weapon from Bull's Eye. He was too young. But he walked into the Bull's Eye store in broad daylight and walked out in a short time with a Bushmaster XM-15. That is the weapon he and John Muhammad used to murder and injure their victims.

I ask my colleagues to take a look. How could he get behind the counter, walk out with a weapon, and not be noticed? It was captured on film, but they didn't see it. What an odd coincidence that is.

It is outrageous. It is an insult to the intelligence of anyone who looks at this picture to know this weapon could not have disappeared without being noticed. Look at the size of it. It tells the story. But then I guess what is being asked for is sympathy for this gun shop, this place that let the murder weapon out of its sight and into the hands of these madmen who shot people at random.

Let them get away with that, with no repercussion, no lawsuits: You injured my child, you injured my husband, you injured my wife? People were shot sitting alongside their mates, and we want to protect them? What do we have to protect them for? I don't understand it.

To me there is an element of curiosity here that just does not register. I don't understand the wailing and weeping about how to protect these guys, these dispensers of murder. It is awful. Yet we hear the case: Gee whiz, if you had an automobile and a drunk driver drove it and killed somebody, why should the automobile company be responsible? We saw that once.

Ford Motor Company made the Pinto. When it was struck from the rear, it would catch fire. We had people testify. They were so disfigured, it was painful to look at them. Imagine what it felt like to be one of them—so disfigured.

They went to the Ford Motor Company and said: Change the design. Ford had a board meeting supposedly in which they said: Change the design? Do you know what that is going to cost us? The heck with it. Let's pay the damages that come from lawsuits. That is the way it goes sometimes.

The automobile is not intended to be a lethal weapon, and we lose a lot more from fewer of these gun manufacturers every year than we do manufacturers of cars. We lose over 28,000 people a year, 11,000 of them homicides, the rest suicides, accidents. That is what happens. We have millions of cars on the road, and we do not have much more of a mortality rate with those cars than we have with these weapons. But we do not try to protect the automobile industry.

We do not try to protect the aviation industry if there is negligence in an air crash. You can bet people have a right and do take advantage of the right to get some redress. They don't want the money, for gosh sakes. They do not want any other families to have to suffer the same humiliating loss they experienced.

If anyone proposed that we go ahead and say to the airlines: Look, tell you what, for reckless behavior and one of those planes goes down with 200, 400 people on it, we know you really didn't intend to do that, so, therefore, you ought to be excused. We are not going to excuse them, and we should not excuse the gun industry, the people who manufacture these weapons in any form, any shape, disguises for assault weapons that say this really isn't an assault weapon. It passes the specifications test, except if you make an adjustment here in the cartridge carrier or there, it becomes, effectively, an assault weapon. No, we are saying, no, we are not going to punish you for that. Go ahead, be careful because people may not like you, but we are not going to punish you for it.

That is the situation in which we find ourselves.

Do we really believe that in this situation these weapons were lost or stolen from this store? It is ludicrous. So we should not pretend we do not know what really happened. What we are doing is closing our eyes to responsible behavior throughout our Nation. It is obvious they sold the Bushmaster to Malvo under the table, or however he got it. It is a pathetic and irresponsible recognition we are giving these people.

Should Bull's Eye be held accountable for their outrageous actions that resulted in the death of innocent people? The sponsors of this bill say, no, they should not pay for approximately a dozen deaths. The sponsors of this bill say, no, this outlet should not be punished for murder; that, after all, they are okay. They sell things that kill people or close their eyes to the distribution of weapons.

The sponsors of this bill say, no, if one is negligent, they cannot be held accountable. It says if they are reckless, they cannot be held accountable.

The bottom line is there are many victims with valid legal claims who will have their lawsuits wiped out. It is outrageous.

Today we were visited by a policeman from my home State, the town of Orange, NJ. He was shot in an exchange of fire with an assailant. He has a lawsuit in place. He can no longer work at his job. We are saying, too bad. Why were you standing in the way of that bullet when it came? Essentially that is what we are saying: Why did you get in the way of the guy who was going to pull the trigger? You should not have done that. They should not be punished for their complicity by getting a gun for this would-be murderer.

This bill before us tells Bull's Eye and their cronies in the business, keep up the good work; do not worry about it; in the Senate, we are going to take care of you. We are going to immunize them from wrongdoing.

Why on God's Earth do they want to immunize these people? I do not understand it. I have seen pretenses at logic that said, well, we will have no gun industry to supply our Army. Baloney. Everybody knows that is a phony argument. They will get their weapons made. We can protect those who make arms for the military and we can make sure they are under better care than we see now.

The snipers who did the killing wreaked havoc on our society and now we want to reward the gun dealer responsible for illegally giving them their killing weapon with immunity from civil lawsuits. This is absurd.

This Senate is about to make these sniper victims and their families victims a second time. After all they have gone through and that they are going through, we are going to pass a bill to take away their fundamental legal rights. It is reprehensible. There are so many other people who are going to be denied justice by this bill.

I want to take a moment to tell the Senate about two brave police officers, one of whom I mentioned earlier, who are going to be victimized by this bill, Ken McGuire and David Lemongello. They are two police officers from Orange, NJ, who were shot and seriously wounded by a criminal who obtained his gun through the negligence of a gun manufacturer and gun dealer in the State of West Virginia. The criminal who shot them was barred from legally buying guns, but he was able to obtain these weapons from a straw purchaser who was sold 12 guns by a West Virginia gun dealer in a single transaction.

This gun dealer completed the sales in spite of the obvious signs that the purchaser was not buying the guns for himself. The gun dealer admitted he was suspicious of the transaction but turned the other way. Then less than 6 months later, Officers McGuire and Lemongello were shot by one of those weapons.

Is the police officers' lawsuit against the gun dealer frivolous? A West Virginia judge ruled the officers' claims are supported by West Virginia negligence and public nuisance law and that the officers' case should proceed against the dealer as well as the manufacturer of the gun who imposed no requirements on its dealers to cut large volume sales.

If this gun immunity bill is passed, the rights of these two brave police officers are abolished. To make matters worse, it will allow other gun dealers to look the other way and complete suspicious sales because, well, there are not any consequences; we cannot be sued for our negligence.

I want my colleagues to know Officer Ken McGuire is in the Capitol today. He is here to ask Senators not to take his rights away, and I ask my colleagues to give him a moment of their time if he approaches you.

These lawsuits are the only real way to hold these rogue dealers accountable because current laws regulating dealers are a joke. The ATF is restricted to only one announced inspection per year.

In reference to Bull's Eye, I heard the Senator from Idaho say the shop is shut down now. He is very careful with the things he said, but I think he made a mistake. It just is not true. Bull's Eye took advantage of the weak gun dealer laws and merely transferred its license. They are very much in business. My staff called Bull's Eye today and they said they are open until 7 p.m. It does not sound to me as though they are closed. So if someone from the Senate wants to make a quick trip over there today to pick up an assault weapon, they have until 7 Pacific time to do so.

There are a host of other cases that would be affected if this bill is passed. Supporters of this bill will be trampling the rights of innocent victims who only want their day in court, to which I think they are entitled.

The supporters of this bill claim the lawsuits against the gun industry are frivolous. Frivolous? Ask Denise Johnson whether her lawsuit is frivolous. She lost her husband at the hands of the DC area snipers. On the morning of October 22, 2002, Denise Johnson said goodbye to her husband Conrad with her usual "be careful." Neither he nor her children had any idea this would be their last words to their husband and father.

This 35-year-old bus driver was shot on October 22 in Silver Spring, MD. He was standing at the top step of his empty bus when he was hit. He was killed instantly by the Bushmaster portrayed here that Bull's Eye "lost" to Lee Malvo.

Some have the impression it is only the DC sniper victims and Officers McGuire and Lemongello from New Jersey who would have lawsuits blocked by this bill. Unfortunately, there are many other victims of gun violence with valid cases who would have their suits dismissed. I ask the sponsors why do they want to do that? Why? Loss of a family member? Perhaps it is the principal breadwinner in the family. Should we have the family suffer from now newly found poverty and doing without the capacity to pay the rent, perhaps be evicted from their homes? Why do we want to punish them a second time? Was it not enough they suffered like that the first time? We want to cut away from them their right to have redress for what took place.

There is Tenille Jefferson. Her 7-year-old son was killed by another child with a .44 caliber rifle. This tragic shooting occurred because the gun ended up in the streets after being negligently sold through a gun dealer to an illegal drug user and gun trafficker.

Then there is Sherilyn Byrdsong who lost her husband, former college basketball coach Rick Byrdsong, when he was shot and killed as he walked with their children in Evanston, IL. The crime was committed by a white supremacist, Benjamin Smith, who targeted minorities in a shooting spree through Illinois and Indiana. Even though Smith was prohibited from buying guns, he was able to obtain a gun because of the actions of a reckless gun dealer.

This reckless dealer sold one gun trafficker over 70 handguns in less than 2 years, almost all of them Saturday night specials, commonly used by criminals. Mrs. Byrdsong's lawsuit is pending in a State court in Chicago. Other victims of this same shooter have joined the lawsuit. If this bill passes, their lawsuits are wiped out. I cannot understand why we would want to do that in this, the Capitol of this Government of our great country. I can't understand why we are bent on taking away people's rights and making them suffer because of a special interest group that has a special reach to those in this Senate and the House who say: We have to take care of this industry. This is an essential industry. We want this. Maybe we can build this into a major industry, make it bigger than it is, sell more guns.

That is hardly a way to see a productive existence in a society that essentially has respect for the law.

The Reverend Stephen Anderson, a minister shot during this spree I was talking about, on his way to join his family in a Fourth of July celebration, would have his lawsuit dismissed. Steven Kuo, a graduate student at the University of Illinois, would have his rights taken away. Hillel Goldstein, one of several Orthodox Jews shot when walking home from temple services, would have his family's lawsuit terminated.

There are other cases that would be dismissed—the parents of 15-year-old Kenzo Dix, who was shot and killed unintentionally by a 14-year-old friend because the gun lacked well-known safety features. The boy thought his father's pistol was unloaded as he had emptied the magazine. Had the gun included an indicator that alerted him that a round was in the chamber, or an integral lock that would have prevented him from firing, Kenzo would not have been killed. But Kenzo's parents' case would be terminated by this bill.

The family of Joan Moore, who was shot and killed by a mentally deranged man in the town of Belle, WV, would have their suit dismissed. Her family brought suit for negligence against the gun dealer who sold a 9 mm rifle to Moore's killer, 18-year-old Robert Copen. Mr. Copen stood in the gun shop's parking lot all day in plain sight, smoking marijuana before he entered the store. He apparently acted so oddly while in the store that an employee asked his supervisor if Copen should be trusted with a gun. Management told the employee to go ahead and make the sale anyway.

This gun dealer was clearly negligent. But Mrs. Moore's family would lose their rights under this bill.

This Senate looks as if it wants to administer a second punishment because the first punishment was not severe enough. It is shocking to believe this could take place.

Since when is Congress in the business of rewarding the worst in our society? Why would we want to send a message that says: Circumvent the law, put our families in danger, and we are going to protect you?

The reality is that the gun industry engages frequently in improper conduct with deadly consequences. We have seen many examples of this. Corrupt dealers who frequently sell to criminals would be immune. Straw purchasers who work with rogue gun dealers to obtain guns for people who are not eligible to buy guns would be immune. Dealers who engage in large volume sales, such as the Illinois dealer who sold 60 Saturday night special handguns to one customer, would be immune.

And, of course, there is the problem of gun shows, where criminals and terrorists can buy guns without background checks.

As many here know, the Senate passed my gun show amendment with the help of Vice President Gore, a 50–50 tie in 1999. But the House Republicans killed the provision in conference. They were not willing to shut down dealers who are not required to get any data about a purchaser—no names, no addresses, no pictures, nothing, not even a fingerprint.

If the NRA immunity bill is signed into law—and I call it the NRA immunity bill deliberately because that is who we are servicing today. We are not servicing this list of people who had the punishment we have seen, punishment that should never be permitted to be put upon a family, a loss of a child, a loss of a husband, a loss of a wife or mother. We should not do that. But if the NRA immunity bill is signed into law, victims of industry recklessness will be denied their day in court.

It doesn't make sense. It doesn't make sense to me, and I am sure it doesn't make sense to people across the country. And I hope they are listening. People across the country have to understand what we are doing. We are protecting an industry that provided the murder weapon to kill lots of people. Why in the world do we want to protect those people? If your behavior is bad, no matter what the product is, if it is a toy, if it is a crib or otherwise, and it is made improperly, you pay a price for it. I come from a State where pharmaceutical manufacturers are a giant industry. Let a pharmaceutical manufacturer put the wrong ingredient in the capsule which hurts somebody's health, they go to court. They are very conscious of that. They are very much afraid of the repercussions of a lawsuit. That is what makes people pay attention. It does it in that industry. It does it in all other industries.

But we want to exempt this one industry for their noble behavior, for their concern for human life, for their concern for jobs, I heard earlier. The Senator from Illinois scoffed at it and said: Oh, I didn't know we were talking about a jobs bill.

Why don't we make hand grenades and distribute them freely? You could get people to do that.

This is ridiculous. Unfortunately, it is not about common sense but, rather, it is about dollars and cents. It is about political support on the outside. It is about nasty mail campaigns. It is about the deterioration of common sense and collegiality. It says: Look, I don't owe my constituents all that. What I do owe is I owe some special interest friends of mine who helped author the legislation in the House that applies to this. We know the role that the NRA plays in financing political campaigns. It seems as if it is paying off for them right now.

Thankfully, there are still people here who see their responsibility differently, who will stand up for principle, who will do all they can to prevent this unconscionable piece of legislation from passing. We have friends on both sides of the aisle, Democrats and Republicans. This isn't the special property, the unique property of Republicans. It is people who are not looking clearly at the problem, who are not willing to say: Hey, I can catch a little abuse from the NRA and its membership and its friends.

I took a lot of it in my previous term in the Senate. But we did take gun permits away from spousal abusers. Some 40-plus thousand were denied gun permits because of a piece of legislation we passed. Does anybody regret that fact? I wonder, if we asked the question, do you, sir/ma'am, regret the fact that we have taken away those permits from those spousal abusers, permission to buy guns, permits.

I wonder if you feel badly about that, and about other things that try to curb gun violence.

This bill takes away a critical tool in the fight to eliminate gun violence. It is comparable, in my view, to taking away medication from doctors trying to treat a deadly disease, perhaps to prevent death, or immobility, or mental fatigue in a person without proper medication. Why do we not want to prevent the possibility that someone can be permanently injured or incapacitated?

What are the symptoms of this disease? In the year 2000, there were more than 28,000 firearm-related deaths in the United States. About 11,000 were homicides. These deaths and injuries cost an estimated $2.3 billion a year in lifetime medical expenses alone, much of which is borne by the U.S. taxpayer. The total societal cost of firearms is much higher—an estimated $100 billion a year—and the cost to families cannot be measured.

But we know this: The bill on the floor today is a direct attack on people who have already suffered a tragedy. This bill is an embarrassment to the Senate, to our Government, and our Nation, and it ought not to be permitted to go forward.

I ask my colleagues one thing. Before you cast your vote on this bill, spend a second thinking about a child's face who learns that daddy is dead, or about a father's face when he learns that his child is dead—killed not by nature or something that perhaps could not be prevented. Much of this can be prevented. Think about these victims. Give them their fair consideration before you victimize them once again.

I hate to think that this wonderful body in which I am privileged to serve would want to inflict punishment on those who have already suffered so deeply, or who will suffer so deeply by protecting those scoundrels who break the rules with reckless behavior. Imagine what is being said—that even if you are reckless, you are going to be immunized by this legislation. Negligence is bad; reckless is unacceptable under any condition.

I hope I am talking for the majority of those so we can get a vote against this bill.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Idaho.

Mr. CRAIG. Mr. President, we are hoping in a few moments that we might have a unanimous consent request to allow us to get to this bill.

I will respond only briefly to the Senator from New Jersey and his comments because he did suggest that I had implied something that is not fact on the floor of the Senate today. I want to make sure the record is clear because I don't want in any way to mislead any of my colleagues.

I said that the Bull's Eye gun store was closed. It, in fact, did close. The license of the dealer at the time the weapon was stolen was jerked. He could no longer conduct the business. He sold the business to a new licensed dealer. What the Senator from New Jersey failed to recognize is that licenses aren't given to locations; they are given to individuals, and those individuals must qualify. A condition of the new license also was all new personnel in the gunshop.

The Senator is accurate in suggesting that he might have called today and the gunshop is open under new management and new license and new people. The person who I said this morning had lost his license because BATF had jerked it and he had to close his business is, in fact, a legitimate and valid statement. That did happen. It is also my understanding that the criminal investigation is now underway, and that BATF is recommending to Justice that they file felony charges against this particular dealer. I do not know anything more about the facts. But I do know one thing.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. CRAIG. Let me complete this thought, and I would be happy to yield.

I do know one thing. Lee Malvo himself said: I stole the weapon. That is very important. But the Senator suggested—and his words were: Well, maybe an under-the-table deal. I do not know that stealing is under the table, and the man who pulled the trigger admitted he had stolen the weapon. You can imply anything you want. I can't. I have to use factual statements given by, in this case, a man who has been apprehended and we now believe by all evidence committed that tremendously tragic crime and was one of the District of Columbia snipers. That is the reality. I believe those are the facts. I believe them to be honest and straightforward facts.

I would be happy to yield to the Senator.

Mr. LAUTENBERG. I thank the Senator from Idaho.

One thing I know is that we often disagree, but I would never accuse him of these statements. He is an honorable man. We have our differences on things that we ought to be putting into law. But I would like, if I may, to correct my friend's impression because not only was there a phone which was answered but the now owner of the license is a good friend of the former owner.

If one looks at the pictures that we displayed, the weapon used was a pretty sizable piece of equipment. As I remember from what I saw on the film shown on television, there was evidence that this Lee Malvo was carrying a weapon out of that store. The camera saw it. Certainly it could have been negligence. It could have been reckless or maybe the gun was paid for by a friend, and with the wink of the eye, out it went. But to give this criminal credit for telling the truth is something that I—

Mr. CRAIG. I did yield for the sake of a question and not a comment. I would like to reclaim the floor.

Mr. LAUTENBERG. The Senator is absolutely right. My question was, Did the Senator know that the new owner of the license was the friend of the former owner?

Mr. CRAIG. I didn't inquire about friendships or relationships. I inquired about the legality of the license that operates the store, and whether the store is still in business, and whether the owner who is alleged to have mishandled records owns it today; does he operate it. The answer is no.

Let me also add that I appreciate the Senator's logic about the stealing of a weapon. Automobiles are stolen from automobile lots and the thieves are caught on camera. The last I checked, an automobile is substantially larger than a rifle. Is it possible that Lee Malvo picked up a gun and walked out of the store? He says he did. He says he did. He stole the weapon.

I am not going to in any way attempt to defend the man who once owned the Bull's Eye gunshop. He may be indefensible. He may have violated the law. If he did—and he is being investigated for it—S. 1805 does not immune him from any of those actions. That is what is important to understand as we debate the bill. His acts were criminal. If he is in violation of the Federal firearm license, if he has mishandled his records, and if he had, in fact, seen a robbery and failed to report it, then this man is in trouble because that is the law. We would not protect him nor does this bill protect him from that law.

I yield the floor.

Mr. REED. Mr. President, we have heard a lot today about the exceptions contained in that bill which, arguably, might result in liability to someone such as the dealer in the Bull's Eye Shooting Gallery store but legal analysis by eminent attorneys suggests they would not apply to that particular case.

Mr. LAUTENBERG. Mr. President, I wonder if I could ask the distinguished Senator a question.

Mr. REED. Yes.

Mr. LAUTENBERG. I believe the Senator has examined the opinion offered by Mr. Lloyd Cutler and others. Is it not their opinion that these lawsuits would be obstructed from proceeding as a result of this law being put in place?

Mr. REED. The Senator is accurate. The analysis by eminent attorneys looking at this legislation, looking at the exemptions, suggests in the case of Bull's Eye that this dealer would not be subject to liability; he would be immunized from liability because of this particular bill.

This is a situation that has to be made very clear to people. We are essentially giving this individual an opportunity to walk away from serious negligence. I don't think it is appropriate. In fact, I think it is unconscionable.

There is a factual discussion about the status of the Bull's Eye Shooting Gallery. My understanding is—and it is close, I think, to that of the Senator from Idaho with additional detail—as I understand it, the individual who was in fact the owner-operator, Brian Borgelt, had his license revoked. He is appealing that revocation in court. That is his right. He somehow transferred ownership of the store to someone we have been informed is a friend, a colleague, which is also permissible under the law. It appears, though, that Mr. Borgelt is operating a shooting gallery in the same building, but it does look as if this might be an entirely legal transaction.

The point was raised earlier, and Senator LAUTENBERG and I have tried to clarify, at least there was an impression this store was closed, out of business, and not operating. The agreement and the factual accuracy as of this point that we both share is the store is operating. The individual who owned it is no longer operating it because his license has been revoked and he is challenging the revocation.

Mr. CRAIG. If the Senator will yield, I think that is a valid analysis and I certainly did not intend to misportray that.

Again, let's go back to the law. Are you suing the store if there are lawsuits, or are you suing the individual who had the Federal firearms license? Is it the physical structure that is liable or is it the individual who owned the structure who is liable? We know what the law is. It is the individual and not the store.

I cannot, nor do I, know the details of the relationship. What I do know is that he cannot sell firearms today. His license has been pulled. That is what the law requires, and a criminal investigation proceeds at this moment. I believe that is the essence of the argument.

Mr. REED. That is an accurate description of the situation but, again, the imprecision was whether the store is operating, not who is operating it. The individual is not able to operate because he lost his license.

Mr. CRAIG. If the Senator will further yield, I did use the phrase "store closed." I meant the ownership, as it was; he closed. It reopened. Whether it was 24 hours or 48 hours, he could no longer operate it when his license was revoked. We understood he sold it to a new operator who is licensed.

Mr. REED. I think it is important to clarify that because it has been a matter of factual dispute.

The other issue which has to be clarified is the applicability of this legislation to that original owner-operator who had been accused of a laundry list of inappropriate actions. I had the opportunity to review some of them today.

With respect to the owner of the Bull's Eye Shooting Gallery at the time the Malvo gun was obtained, under his ownership and under his license, 238 guns were missing. Many guns between 1997 and 2001 found their way into crime scenes. A remarkable record of guns found their way from a licensed dealer to crime scenes. Many found themselves to crime scenes in a rapid period of time. The nomenclature is "time to crime." Time to crime was remarkably narrow. The time to crime was less than 3 years in more than 70 percent of Bull's Eye cases between 1997 and 2001, suggesting this organization was a conduit for obtaining weapons for crimes.

There were large numbers of multiple firearms sales. Sometimes he would sell as many as 10 guns at a time. There were numerous ATF citations, at least 15 times between 1997 and 2001. That is the record of the individual whose license was suspended, finally, by the ATF.

But the issue is, with respect to this individual, if we pass this legislation, will he be immunized after this record of negligence, recklessness, irrational responsibility? Most people would say that is the record. The exemption provided by paragraph (5)(A)(iii) says, in effect, the action would be preserved in which a manufacturer or seller of a qualified product violated a State or Federal statute applicable to the sale or marketing of the product and the violation was a proximate cause of harm for which relief is sought.

Two elements: You have to violate Federal and State statutes; and that violation was the proximate cause of the damage to the individual. According to the well-settled tort law principle, proximate cause requires that the defendant's conduct was a substantial factor in bringing about the harm suffered by the plaintiff.

Remember, two elements: State and Federal statutes violated, and that violation being a proximate cause.

Here is the difficulty with respect to the situation at the Bull's Eye Shooting Gallery. Despite the evidence we have that there were certain violations, many of them record keeping, it is going to be virtually impossible that the plaintiffs in the sniper case will be able to show that Bull's Eye violated any State or Federal statute with respect to the particular gun that was used by the snipers or that any such statutory violation was a proximate cause of the sniper attacks.

The evidence concerning the acquisition of the snipers' weapon supports Bull's Eye's claim that Lee Boyd Malvo shoplifted the gun. That is not in dispute. Indeed, after his arrest, I believe Malvo admitted he shoplifted the gun from Bull's Eye. Although the plaintiffs or the family of the plaintiffs claim that Bull's Eye's lax security practice permitted Malvo to get the weapon, that would not establish a violation of any Federal or State statute.

Again, a reading of this exception would say that you have to show, first, a Federal or State statute was violated, and the violation of that statute was the proximate cause was reading to injury. It is virtually impossible in this case.

What is happening in all of these exceptions that are built into the bill is, this is a trapdoor, if you will. We have a general prohibition against any type of suit against these individuals, these dealers, these manufacturers, or trade associations; and then we have exceptions. And they point out within the exceptions, artfully constructed by very good lawyers, provisions for an escape clause for the potential defendants. Here it is, the combination of proximate cause and violation of Federal-State statute.

Again, close analysis of the evidence—and I don't think any of this evidence is in dispute; Malvo admitted he shoplifted the weapon—suggests strongly this exception would not apply in the case of the Bull's Eye shooter. These sniper victims will be without relief. That is not just my view but the view of attorneys who have looked at it very carefully.

Now, this is a very detailed legal analysis. But, again, we so often—all of us—appeal to rather common, homely—in a literal sense—illustrations, something with which we are comfortable. I was struck when the Senator from Idaho talked about, Goodness gracious, if someone stole a car off a lot and drove into another car and caused damage, that you could not hold that dealer responsible.

Well, I can conceive of a situation. For example, if a dealer ordinarily left the keys in all of the cars on his lot, and they were cited 15 or 20 times before for doing that, and people knew that the dealer's cars were available, and young kids came in and jumped into a car and drove off at 60 miles an hour careening into another car and killing someone, I will tell you what I think. You have a pretty good suit against that automobile dealer for negligence, for abandoning the care that any other dealer in the country would adopt. They would not be protected from a suit as we propose to protect the gun industry.

Again, this legislation is very troubling to me. I do not think it provides adequate protections for people who have legitimate claims, the most graphic example of which is the sniper victims in the Washington, DC, area. But they are not alone. Danny Guzman was killed in Worcester, MA, as a result of what I think is gross negligence. A gun manufacturer employed, without background checks, ex-convicts, drug addicts, allowing them to steal weapons from the production inventory of the company, and to sell them to criminals in exchange for cash and drugs. This involved a multiple of weapons. They got the weapons out of the factory before they could stamp the serial numbers on them. Again, common sense would say: My goodness gracious, somebody has to be able to go in and require that employer to be conscious of their weapons, their security procedures.

I also understand—and again it is an understanding that is not shaped by a footnote at the moment—there are really no effective State or Federal laws about the security of weapons. I do not think there is any requirement specifying you have to have triple locks or double locks, et cetera. I think that is left to the reasonable business standards of an individual dealer. Again, if we do not have those rules and regulations or they are not effective, how do we then insist we cannot have a negligence action, as this legislation proposes?

For these reasons and many others I reiterate my opposition to the legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Hope springs eternal that we might, sometime in the late of the afternoon—I guess it is now described as early evening—see a unanimous consent agreement that would take us into tomorrow and the remainder of the week as to how we are able to move to and deal with S. 1805 and its amendments.

I am going to respond only briefly to what my colleague has just said because I am not an attorney and I am not going to attempt to outlawyer the lawyers. Mr. Cutler is a fine lawyer. There are many other fine lawyers who disagree with Mr. Cutler. It is not our job to outlawyer the lawyers, but it is our job to write law as clearly as we can and then allow judges, listening to the arguments of lawyers as they relate to how a given situation might fit in a suit, to make the determination as to the applicability of the law.

Now, having said that, I would like to refer to another lawyer. Is he as recognized as is Mr. Cutler? No, probably not. But this does come from the Congressional Research Service, and it is one of those services that we utilize. The Senator has, I think, the same work product I have. We are talking about the Daschle-Craig-Baucus amendment that Senator DASCHLE came to the floor to speak to a few moments ago.

> The Daschle-Craig-Baucus Amendment would strike "knowingly and willfully" in the preceding sentence—

That we are talking about—

> potentially increasing the likelihood that [certain exceptions] to the general immunity afforded under the [law] would be applicable in any given case.

They looked at it in relationship to the Bull's Eye case to which the Senator was referring.

Now, these are not my words. I am not this good. I am not an attorney. But I do listen to them, and I seek out their advice when it comes to writing law and making sure that it is clear and unambiguous.

They cite two examples and they say:

> Applying these changes to the scenario at issue—

We are talking about Bull's Eye—

> it would appear that the Amendment could have the effect of making it more likely that this exception to immunity would be applicable, if certain facts are established.

"If certain facts are established." Those facts have not yet been established. They were not established for Attorney Cutler. He is simply looking at the broad presence of the law, or application of it, as are we.

If certain facts are established in an investigation and charges are brought against an owner, then we believe our amendment clarifies and does not provide the immunity, if those facts are established.

Now, the changes we are talking about are twofold:

> (I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record which he is required to keep pursuant to State or Federal law—

If weapons are stolen and they fail to note it, fail to report it to the police, that fits that area—

> or aided, abetted or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness or the sale or other disposition of a qualified product.

"Other disposition"—theft. At least this is my interpretation now. I am not a lawyer. Secondly:

> [A]ny case in which the manufacturer or seller aided, abetted or conspired with any other person to sell or otherwise dispose of a

> qualified product, knowing or having reasonable cause to believe that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under section 922(g) or (n) of title 18, United States Code. . . .

That is what the Congressional Research Service says. Then it draws that conclusion I gave earlier:

> Applying these changes to the scenario at issue—

That is what the Daschle-Craig-Baucus amendment does. "The scenario at issue," the arguments put forth, the concern about somehow, if the facts are established, this firearms dealer being immune by S. 1805—

> it would appear that the Amendment could have the effect—

The amendment is in large part incorporated in S. 1805 now, and Senator DASCHLE is going to offer another amendment that we know will be accepted and will clarify it even more—

> of making it more likely that this exception to immunity would be applicable, [again] if certain facts are established.

That is the argument at hand. We can trade arguments of attorneys. We will place all these kinds of things in the RECORD so our colleagues can understand them and hopefully sort them out, but it is my opinion that we are not exempting this formerly licensed gun dealer who has now had his license revoked. Because if an investigation goes forward, and charges are filed against him, I believe we have clearly not granted him immunity under S. 1805 if it, in fact, becomes law. I do believe that is the strength of our argument, and one that certainly is believed to be what we represent here. It is certainly from the Congressional Research Service, which has very active attorneys who deal constantly with the law as we shape it and form it and look at arguments that are placed out there in the public arena in relation to the legislation that we bring before the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I recognize there are different legal interpretations. I recognize also the Senator from Idaho has introduced an interpretation of the Congressional Research Service. I have one, too. Theirs is dated November 3, 2003. Mine is dated October 20, 2003. We made a request. They looked at the amendment, the perfecting amendment offered by Senators CRAIG, DASCHLE, and BAUCUS. In the context of that correcting amendment, they opined in October:

> Again, you have specifically inquired as to whether the Amendment would alter the bill to such a degree as to allow the pursuit of a civil action against the gun dealer from whom the weapon used in the D.C.-area sniper shootings was stolen. A review of federal and Washington State law indicates that there are no statutory requirements regarding the storage and security of firearms by licensed firearm dealers. Accordingly, it seems evident that there would be no basis for the application for this exception in the case at hand, irrespective of the presence of the "knowing and willfully" requirement, given that there appears to be no violation of a relevant underlying federal or state statute.

That is an October CRS.

Obviously a second opinion was sought. That is the nature of legal opinions many times. This opinion was premised on certain facts that are not yet obvious and perhaps never to be obvious.

In fact, in reference in the report Senator CRAIG referred to:

> Thus, in the event that it is established that Bull's Eye was aware that the firearm was missing from its inventory more than 48 hours prior to November 5, 2002, the Amendment would appear to lend further support to the application of the exception to immunity . . . of the bill.

Essentially what was done in this latest CRS was to say: We will assume hypothetically that in fact they violated the Federal statute, i.e., the requirement to report a weapon within 48 hours of its disappearance. Well, if you assume a violation of the statute, you have gotten way over the curve, because once again, Federal statute or State statute has to be violated, proximate cause.

The problem is this assumption does not have much of an evidentiary base. The footnote to the report Senator CRAIG referred to suggests:

> These examples are pertinent to the extent—

examples of potential violations—

> they could be implicated in any hypothetical sale or transfer to the D.C.-area sniper suspects. It should be noted, however, that it does not appear that any evidence has been produced of actual violations of these provisions by Bull's Eye in the case at hand.

The answer to qualifying this exemption is not to assume a violation of Federal law. There has to be some evidence. But there does not appear to be any evidence of violations of Federal statutes. There are no Federal/State statutes with respect to security of firearms, the physical security. The slender reed—no pun intended—they might hang it upon is they somehow knew the weapon was missing a long time before November 5, 2002, and they failed to report it. No evidence from Malvo suggests that. I don't know if there is, frankly. The stories we have all heard from the operator were he didn't know the weapons were missing until the day they showed up, the ATF showed up and said the weapons were missing. The practical effect of this is a judge might have the opportunity for a few minutes to look at this record, but where is the evidence?

The practical effect of this legislation is these claims will be barred. That would be a great misfortune, not only for the families involved but a misfortune in terms of setting up a very bad precedent in terms of undermining the common law sense of responsibility for your actions. Senator CRAIG is a very articulate advocate for his position and has referred to that several times; this is just about maintaining centuries of legal precedent about individual responsibility. I disagree. I think it is about overturning centuries of legal precedent, the precedent that an individual is responsible for their actions, that an individual, such as the licensee at Bull's Eye, is responsible for not securing the weapons, is responsible for not knowing he has lost weapons—according to his view at this point—for days and weeks and weeks. If we immunize the individual, we will undercut that basic principle of individual responsibility.

One of the things I find amazing in this whole discussion of the security of weapons is, I commanded a paratrooper company at Fort Bragg. I worried every day about the weapons in my outfit. We had double locks on the doors, locks on the racks, individual accounting every day of weapons. One of the things that as a young airborne captain you are worried about was showing up one day and discovering a weapon or part of a weapon or even equipment associated with a weapon was missing. That was a big deal. That is a standard of the United States Army.

We are telling people who maintain large arsenals in commercial venues that the standard for them is nothing. Miss a few weapons, don't even pay attention because, frankly, knowledge will hurt you.

This goes also to the principle of why we have laws of negligence, tort laws. It is not just for individual compensation. That is an important part of giving an individual the right to make themselves whole after they have been harmed. It is something else. It is about having a system of standards that are self-enforcing, not because there are ATF agents walking around, but because in addition to that, an owner of one of these stores will simply say: You know, I better make sure all these weapons are accounted for at least every week. I better make sure they are secure. I better make sure if people walk in who might not be eligible to purchase a weapon I at least ask them what they are doing. None of that appears to be done.

In response to the specific question of the application of the exemption, I think the proponents have tried all they can to dress it up. It just doesn't work. There is a huge trapdoor when you put together violation of State or Federal statute and that violation causes proximate cause.

Someone could go in and show they didn't file the records properly. That is a violation of Federal and State regulation. They could show perhaps they were lax in some other capacity. Then you have to make the further showing that violation was directly connected. So literally in this case you are going to have to show that particular weapon that found its way into Malvo's hands was the subject or involved with a specific violation of Federal/State law. That is why this CRS report has to assume that particular weapon, of all the 248, was noted as missing more than 48 hours before November 5, 2002. That is an extra burden of proof. That is, again, why I don't think this will work for the victims of these crimes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we hope we are narrowing down to a time when we will have a unanimous consent request which then—and I can't judge this yet—might conclude our efforts today. We will be back early tomorrow morning to resume. I thank my colleague for his arguments. We are not going to try this case here on the floor of the Senate because we don't have a judge. I am not a lawyer. He is; I am not. But I would also ask him to look at another provision we have in the bill as he argues the case. That is that a lawsuit could also be allowed under the bill's exception allowing actions for negligence per se or for negligent entrustment, depending on, of course, the condition of the dealer and the dealer's knowledge, if any, of the suspects.

Having said that, let's remember to address these issues, the victim would need to get his day in court. The case will be filed. The defendant would file a motion to dismiss based on provisions of 1805. And if the judge—remember there is going to be the impartial judge weighing all the law and the findings—decides this case did not fall under those exceptions, then the litigation would proceed. That is the essence. We are not going to argue the case effectively here because, frankly, we don't know all of the facts. We are not a part of ATF's investigation, and all of those facts are not yet public. They will not be public until charges are filed, a suit is brought, and that day in court I just spoke of is at hand.

Obviously, the Senator and I can disagree on what the meanings are, but I do believe the arguments we put forth are extremely valid. Certainly, the minority leader, myself, and others, in a very bipartisan fashion, have worked tremendously hard to craft this bill in a way that is as narrow as I expressed it to be earlier in the day to deal only in the protection of law-abiding dealers, law-abiding manufacturers who make a legitimate product, and to deny the kind of lawsuits we have seen that are more intent on bankrupting the manufacturer than they are in bringing resolution to or, if you will, dealing with the victims and rewarding them in any fashion.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Rhode Island.

Mr. REED. Mr. President, my colleague from Idaho has invited me to look at the theory of negligent entrustment and negligence per se. I will try to do that.

Again, this is not an attempt to dispose of a case before a court. But we all have an obligation to understand what we are voting on, what these provisions will do based on the plain language of the provisions and based upon the facts as we know them in certain cases. That is why I think this is a positive exercise. It is insufficient to say that we pass laws, but we do not have to know what they mean because some judge will figure out what they mean. No, no, I think we have to know what they mean because that should drive our decision about whether this legislation will pass or fail.

Let me turn for a moment to these two theories of negligent entrustment/negligence per se.

Negligent entrustment is generally understood as "the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others."

Again, the seller has to know, or is likely to know, that the person they transfer the weapon to or supplied it to is likely to harm himself or harm someone else.

The problem we have with respect to the sniper case is that the evidence the snipers' weapon was shoplifted from Bull's Eye would appear to preclude the plaintiffs from making the requisite showing under the statute that the gunshop knew or should have known that the recipient of the gun, Malvo, was likely to use the product in a criminal or otherwise unreasonably dangerous manner.

Malvo indicated he shoplifted the weapon. The owner said he must have taken it. He didn't know it was missing until ATF showed up.

The theory of negligent entrustment is fancy-sounding terminology, but it is another trapdoor from which the exception falls out.

Negligence per se, under most—I am a lawyer, but I am hesitant to say I am a lawyer who is familiar in every detail with Federal practice, but my assumption is since we are talking about Federal and State laws, this negligence per se is a State common law concept that would apply to the laws of Washington State because that is where the Bull's Eye shooting gallery is located.

In any event, with respect to negligence per se, it would not preserve the sniper case because even where that doctrine is recognized, it requires a violation of statute that is a proximate cause of the plaintiff's injury. Once again, you have to show not only the violation but that violation of that particular law was a proximate cause of injury. As discussed above—again I am borrowing from one of these legal analyses—that would be very difficult to show. In fact, also I think there is another problem in Washington State about the doctrine of negligence per se.

The negligence per se doctrine has been abrogated by statute in Washington State. It doesn't apply.

Once again, I think we have an exception that does not provide relief for these individuals.

I conclude by joining my colleague in hoping we have some resolution soon on the procedural process for this evening and tomorrow. I yield the floor.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, after consultation, we have reached a unanimous consent agreement which I will now propound.

I ask unanimous consent that at 9:30 a.m. tomorrow morning the Senate proceed to the consideration of S. 1805; that Senator DASCHLE then be recognized to offer his perfecting amendment; that there be 30 minutes equally divided for debate on his amendment; that at the conclusion or yielding back of time the Senate, without any intervening action or debate, vote on the Daschle amendment; that upon the disposition of that amendment Senator BOXER be recognized to offer a gun lock amendment; further, that following 30 minutes of debate equally divided in the usual form Senator DEWINE be recognized to offer a relevant second degree under the same conditions; further, that following the use of time the Senate proceed to a vote in relation to the second degree to be followed by a vote in relation to the underlying amendment.

Further, I ask unanimous consent that following those votes Senator CAMPBELL be recognized in order to offer an amendment regarding conceal-carry and that there be 60 minutes equally divided in the usual form with no second degrees in order; provided that following that time the amendment be set aside and Senator KENNEDY be recognized to offer an amendment on "cop-killer" bullets with 60 minutes equally decided, and that there be no second degrees in order, and that following that time the amendment be set aside.

I further ask unanimous consent that Senator CANTWELL then be recognized to offer her unemployment extension amendment; that there be 60 minutes for debate equally divided on her amendment and it then be laid aside; that no second-degree amendments be in order to her amendment; further, that Senator FRIST or his designee then be recognized in order to offer an amendment relating to voting rights and that there then be 60 minutes of debate equally divided with no amendments to the amendment; provided further that the Senate then proceed to vote in relation to the Cantwell and Frist amendments in that order, and that if either amendment fails to receive 60 votes, the amendment be withdrawn or fall due to a pending point of order.

I also ask unanimous consent that Senator MIKULSKI then be recognized to offer her amendment on snipers with 40 minutes equally divided in the usual form, to be followed by a vote in relation to the amendment, to be followed by an amendment offered by Senator CORZINE on law enforcement officers for 30 minutes equally divided in the usual form, to be followed by a vote in relation to the amendment, to be followed by an amendment by Senator BINGAMAN on definition, with 30 minutes equally divided in the usual form, to be followed by a vote in relation to the amendment.

I further ask unanimous consent that following each of the Boxer, Kennedy, Mikulski, Bingaman, Corzine amendments it be in order for Senator FRIST or his designee to offer a first-degree amendment that would be relevant to the mentioned amendments and limited under the same time constraints; and that the possible Frist amendment on "cop-killer" bullets be set aside after time has expired or yielded on the amendment; and that the possible Frist amendments would be voted on prior to the respective Democratic amendments; that on Tuesday morning at 9:30 a.m. the pending amendments be withdrawn with the exception of the Campbell amendment, the Kennedy amendment, and a possible amendment by Senator FRIST regarding "cop-killer" bullets, if there are any pending at the time; that Senator REED then be recognized to offer a gun show amendment; that it then be immediately laid aside and Senator FEINSTEIN be recognized to offer her assault weapons ban amendment, that it then be set aside, and that Senator FRIST or his designee be recognized to offer a DC gun ban amendment; that the time prior to 11:35 a.m. that day be equally divided for debate on all amendments concurrently; that no second-degree amendments be in order to any amendment; that at 11:35 a.m. the Senate vote on the Feinstein amendment, followed immediately by a vote on Senator REED's amendment, to be followed by a vote on the Campbell amendment, to be followed by a vote on the Kennedy amendment, to be followed by a vote on the District of Columbia ban amendment; further, that following the disposition of the above amendments the bill be read the third time and the Senate proceed to a vote on final passage of the bill with no intervening action prior to those votes; that where this agreement provides for two or more votes in sequence there be 2 minutes for debate equally divided in the usual form prior to each vote; that all time for debate be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, it has obviously taken a good deal of time to reach this agreement due to the complexity that is apparent as Senator MCCONNELL has read it.

There are two matters that ought to be recognized. First, this does not preclude Senators who are not listed in this unanimous consent agreement from offering an amendment sometime either this week or early next week. Senators who have additional amendments are certainly welcome to do so.

Second, this does not preclude those who have amendments on Tuesday from discussing and speaking to those amendments at any time between now and when those amendments are raised. There was some question about whether 2 hours on Tuesday for three very important amendments is adequate. My answer is that it is more than 2 hours if people want to devote more than that time between now and the time they are offered. I encourage Senators who wish to speak longer to come to the floor over the course of the next week to do so.

This is a very fair agreement. It is one that takes into account a lot of concerns and interests on the part of many Senators. I am supportive of the agreement and hope that we can have a good debate as a result of it.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. I echo the comments of the Democratic leader. This agreement, which is quite complex, allows us to accommodate various interests on both sides of the aisle but then move to final passage on the underlying bill, which, of course, was the goal of the majority leader in bringing it up at this time. I particularly commend Senator CRAIG, who has done a marvelous job of managing this issue on our side, and I thank him for his important contribution in reaching this agreement that will allow the Senate to achieve final passage on a bill that he is the principal sponsor of and that we believe a substantial majority of Senators on a bipartisan basis would like to see ultimately become law.

Mr. CRAIG. Will the Senator yield?

Mr. MCCONNELL. I yield.

Mr. CRAIG. Let me thank both the leadership on our side of the aisle and certainly the minority leader and the minority whip for the work they have done in trying to bring this together.

Is this something that I wholeheartedly support? Well, let me put it this way: It is something I support because it gets us to a final vote, which is very important, in a timely way.

But something is absent from this unanimous consent agreement that is very important: to allow the underlying bill, however it is changed, to become law. That is why we are here on the floor. Not that this is how we get to conference, which oftentimes is agreed to. When we craft a bill and arrive at a time of final passage, we almost always include in it the procedure by which we will get to conference.

I hope that our minority leader, in good faith, would work to help us get to that point so we can work out the differences between the House and the Senate. There will be differences; that is quite obvious now. Some of these amendments could pass. It is important we work that out.

We saw the underlying bill gain a substantial bipartisan majority support in the Senate, and therefore it is incumbent upon all of us, I trust, to get this bill to a conference between the House and the Senate, work out our differences so we can vote on a conference report and allow this underlying bill now changed to get to our President's desk.

Having said that, let me thank everyone for the work they have done. This is a very busy schedule. But let me also echo what the minority leader said. It does not stop other Members who feel they must offer amendments from bringing those to the floor. I said early on today we wanted an open process, amendments voted on, but at the end of the day we wanted to vote on final passage. We helped facilitate that by this agreement, and I appreciate the work done by our leaders.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. I was just reminded by floor staff that the Reed amendment is, in fact, the McCain-Reed amendment. I ask consent that the agreement we just reached be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic whip.

Mr. REID. Mr. President, I feel constrained to say that we have been in a quorum call now for 4 hours 10 minutes, but that does not take away from the fact that people have been working very hard during this entire period of time, plus earlier this day. I personally extend my appreciation to the two leaders, the Republican leader and the Democratic leader, for working with us. Senator FRIST is not on the floor tonight. We have been in constant contact with him during the evening.

I also want to say that Senator REED, my counterpart from Rhode Island, has been representing those people who are extremely concerned about this issue, probably 12, 15 Senators. He has been extremely helpful, as he always is. He has represented his cause in the most efficient way. Without his cooperation and work, Senator DASCHLE and I could not be at the point where we are today.

The PRESIDING OFFICER. The majority whip.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT PURSUANT TO WAR POWERS RESOLUTION

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached report from the President of the United States be printed in the RECORD, consistent with the War Powers Resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, February 25, 2004.

Hon. TED STEVENS,
President pro tempore of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Increasing armed rebellion in Haiti, the limited effectiveness of the Haitian National Police, and insecurity in Port-au-Prince brought on by increased armed pro-government gang activity have contributed to a climate of insecurity for the U.S. Embassy and its supporting facilities in Port-au-Prince, Haiti. These circumstances and the potential for further deterioration of the security environment in Haiti render the safety of the U.S. Embassy, its facilities, and U.S. personnel uncertain.

On February 23, 2004, a security force of approximately 55 U.S. military personnel from the U.S. Joint Forces Command deployed to Port-au-Prince, Haiti, to augment the Embassy security forces.

Although the U.S. forces are equipped for combat, this movement was undertaken solely for the purpose of protecting American citizens and property. It is anticipated that U.S. forces will provide this support until such time as it is determined that the security situation has stabilized and the threat to the Embassy, its facilities, and U.S. personnel has ended.

I have taken this action pursuant to my constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive. I am providing this report as part of my efforts to keep the Congress informed, consistent with the War Powers Resolution.

Sincerely,

GEORGE W. BUSH.

CONGRATULATING VIRGINIA SCHUYLER

Mr. DASCHLE. Mr. President, I come to the floor today to congratulate Virginia Schuyler, a woman from my hometown of Aberdeen, SD, who has dedicated her life to helping those in need. Virginia is the recipient of South Dakota's 2003 Outstanding Older Worker Award, an honor bestowed by Experience Works, an organization committed to improving the lives of seniors in South Dakota through quality job training and employment programs.

Virginia decided early on that she wanted to be a nurse. From a very young age, Virginia knew she wanted to travel. When her mother told her that nurses travel on boats and planes, her mind was made up. For 60 years she has been a registered nurse, and she has traveled all over the world. For the past 5 years, Virginia, 81, has cared for residents at the Bethesda Towne Square, an assisted living facility. The residents there deeply appreciate her dedication—she insists on working every weekend—as well as everything she does for them, activities that range from bringing them hot tea at night to painting stained-glass windows for the residents in her spare time.

Virginia earned an RN degree in 1943. She joined the U.S. Army, serving in England, France, and Germany, and recalls treating as many as 500 patients daily from the Normandy invasion in France. After her discharge from the Army, she stayed in Germany, where her volunteer work at an orphanage led her to adopt two children who were on the brink of starvation. In 1954, she earned an RN in Pathology degree, the equivalent of a master's degree, from St. Joseph's Hospital in Burbank, CA.

After she earned her pathology degree, Virginia worked in pathology for 7 years at St. Joseph's Hospital, and at St. Luke's Hospital in Aberdeen for 25 years. She also spent 5 years working with Alzheimer's patients at Arcadia in Aberdeen. Today, in addition to her work at Bethesda Towne Square, Virginia works between 30 and 50 hours a week on her stained-glass window business, and acts as her church secretary.

I join Virginia's many admirers in congratulating her on receiving this prestigious and well-deserved award.

TAIWAN

Mr. FEINGOLD. Mr. President, over recent months, aggressive rhetoric has escalated across the Taiwan Strait. In response to Taiwanese President Chen Shui-bian's pledge to hold a nationwide referendum "to demand that the Taiwan Strait issue be resolved through peaceful means," Chinese officials have threatened the use of force. Prime Minister Wen Jiabao of the People's Republic of China has stated that China will "crush" any attempts by Taiwan to seek independence and that it will "pay any price to safeguard the unity of the motherland." In addition on November 20, 2003, PRC Major General Wang Zaixi was quoted saying that "the use of force may become unavoidable" in dealing with Taiwan. On February 11, 2004, Chinese officials stated the referendum would "provoke confrontation."

Threats of violence by the People's Republic of China only undermine efforts to resolve longstanding China-Taiwan tensions. Intimidation and warnings of bloodshed have taken the place of constructive dialogue. I fear that these threats will only intensify as Taiwan's presidential elections on March 20, 2004, draw nearer.

In the midst of this bellicose rhetoric, I express my support for the people of Taiwan and to compliment the Taiwanese people and their leadership for the great strides they have made in strengthening their democracy. Since 2000, with the first peaceful transfer of power from one political party to another in Taiwan's history, Taiwan's democracy has thrived. The U.S. State Department's annual Human Rights Reports for 2002 reported that the government of Taiwan largely respected the independence of both the judiciary and press in practice and stated, "Taiwan's strides were also notable, with consolidation and improvement of civil liberties catching up to its free and open electoral system." Transparency International has ranked Taiwan's economy as one of the five least corrupt in Asia; and Freedom House labeled Taiwan "free" in 2003 with an improvement in political rights since 2002. President Chen Shui-bian has also demonstrated a commitment to human rights and is credited with solidifying a place for human rights within Taiwanese society during his presidency. The Human Rights Advisory Committee, established by Chen in 2000, is currently in the process of creating a National Human Rights Commission that will serve as the highest institution in Taiwan for the protection and promotion of human rights.

I remain committed to protecting the civil and political rights of the people of Taiwan, and I support Taiwan's inclusion in international organizations, such as in the World Health Organization, WHO. The recent SARS and avian flu outbreaks highlight the importance of giving the people of Taiwan a voice in these organizations. I agree with claims by Taiwanese authorities that it is inhumane for the international community to deny the people of Taiwan access to WHO's medical data and assistance. Unfortunately, despite congressional efforts, Taiwan has still not been granted observer status. This should change in the coming year.

I fear that provocative statements will have dangerous repercussions in this region of the world. Rather than warn and provoke, I hope that the governments of China and Taiwan will engage in a more constructive dialogue and encourage increased cross-strait people to people linkages. I support a peaceful resolution to the Taiwan-China situation, and I will continue to support policies that keep cross-strait tensions in check.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President. I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable to our society.

Last fall in Portland, ME, Joshua Nisbet pulled up in a car near a bar that caters to the gay community. Nisbet and a friend yelled an antigay slur at two men walking nearby and assaulted them.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law we can change hearts and minds as well.

PETER VLČKO, HUMANITARIAN

Ms. STABENOW. Mr. President, I note with sadness the passing of Peter Vlčko, a hero for all of humanity. When immense love and bravery coalesce in one person, as they did in Mr. Vlčko, amazing things are bound to happen.

And they did.

Mr. Vlčko's love for humankind manifested itself in his brave fight against evils such as totalitarianism, fascism, and anti-Semitism. During the dark days of World War II, at huge and constant risk to his own life, he fought against the pro-German Slovak Government and rescued over 20 Jews from deportation and death by the Nazis.

His heroic efforts have not gone unnoticed. Among other awards and recognitions, in 1981, Mr. Vlčko received the Silver Medal for Righteous Gentiles from Israel. With descendants of the Jews he saved looking on, he stood witness as a tree was planted in his honor at the top of a hill in Jerusalem. His name has also been forever memorialized in a large granite relief in the Garden of the Righteous at the Holocaust Memorial center in West Bloomfield.

Born in a Slovak village in 1912, Mr. Vlčko volunteered for military service immediately upon completion of his secondary education. He rose quickly through the ranks until the invasion and occupation of Czechoslovakia by the German military in 1939 forced him to be disarmed and reassigned to a war college in Bratislava. He took a break from his studies to serve a tour of duty on the Russian front, but his service was cut short when he sustained shrapnel wounds and an injury to his left leg from the heavy mortar fire. Returning to his studies, he met his future wife, Georgina Reichsfeld.

The strict anti-Semitic laws could not deter his love for Georgina, who was of Jewish ancestry. At a risk to Mr. Vlčko's life, the two entered into wedlock.

As the danger to his young bride and her family mounted, he hid them until he could obtain false identification papers. His perilous efforts did not stop with his bride's family. He continued on, obtaining false papers for twenty other Jews, which identified them as "essential personnel," preventing certain deportation and death.

Summoning more courage still, Mr. Vlčko offered his assistance to an attempt to overthrow the Nazi-friendly regime in Slovakia. Through a variety of disguises, such as a shoemaker and a woman, Mr. Vlčko managed to evade German forces and twice to escape capture. Forced into hiding for the remainder of the war, he was separated from his family for a year when he escaped into Bavaria.

Once reunited, Mr. Vlčko and his family immigrated to the United States, where they began a new life in Michigan. After attending a community college, he went to work for Ford Motor Company.

His new surroundings, however, could not make him forget his violent past. Through his narrative, he tried to educate people on the horrors of fascism and anti-Semitism. To do so, he both lectured throughout the United States and Canada and published an 860-page autobiography. People needed to know and, thanks to him, we do.

In 1991, Mr. Vlčko was granted honorary Israeli citizenship, and both he and his wife regained their Czechoslovakia citizenship, which was taken from them when they fled Czechoslovakia after the Communists seized power in the 1948 coup. In fact, he had been living under a death sentence issued by the Czech government until 1989. He has been honored by the Czech President and Czech Minister of Defense and has often been the guest of honor of the Czech and Slovak Ambassadors to the United States.

Mr. Vlčko is survived by his wife, Georgina, and their four children. Despite what severe images a background as a soldier might evoke, his wife affectionately describes the full picture: "He loved his family very much and worked his whole life to keep them safe."

Mr. Vlčko left behind more than a family, however; he left behind a legacy of love and hope embodied in the children of the Jews he saved and an outstanding example of courage and decency in the face of darkness and tyranny.

It is that legacy that I am sure will surround him as he rests in peace.

ADDITIONAL STATEMENTS

HONORING THE SERVICE OF BRENDA COWAN

• Mr. BUNNING. Mr. President, today I would like to take the opportunity to honor the service of Ms. Brenda Cowan, originally of Sturgis, KY. Her death while performing her duty as a firefighter is a great loss to us all.

On February 13, 2004 Brenda was responding to a domestic violence call. Tragically, Brenda and the person she was trying to help were shot and killed while waiting for police to arrive on the scene.

Her service with the Lexington, KY fire department was exemplary and duly appreciated. Brenda was also a pioneer. She was the first African American woman to become a firefighter in Lexington. As one of the U.S. Senators from Kentucky, I know that Brenda served as a fine example of what it means to serve one's community.

We are humbled and honored by the sacrifice Brenda has made. Without men and women such as Brenda, America would not be as great as it is now. Lexington and Kentucky are truly lucky to have benefited from her fine service. She is an example to us all.•

HONORING SY AND ESTELLE OPPER

• Mrs. BOXER. Mr. President, I am pleased to note that Sy and Estelle Opper are being honored on February 29, 2004 in Sacramento, CA on the occasion of the Shalom School's "Lighting the Way Gala" for their lifelong contributions to improving our society. Sy and Estelle's extraordinary dedication to helping others is worthy of this special recognition.

The Oppers have an exceptional history of humanitarian work. They provided goods and services to their community as owners of five plumbing supply stores and shared their success and time with deserving causes close to their hearts.

In addition to traveling to Israel for several missions, the Oppers are longtime members of American Israel Public Affairs Committee, AIPAC. Sy and Estelle are major donors and participants and helped the Jewish Federation purchase the property and building where Shalom School, Sacramento's only Jewish Day School, is located. Sy Opper has served as president of the board for several Jewish organizations, including the Jewish Federation and B'nei Israel Congregation, and is currently serving on the board of the Trust Fund for the Jewish Elderly and the Jewish Family Service Board.

Estelle Opper has also been active in many Jewish organizations such as Hadassah, TDX, Sisterhood, Jewish Family Service and the Grandparents Club at Shalom School.

Children's and health causes have also been a priority for the Oppers. Sy has personally contributed and organized fund raising for the Washington Neighborhood Center of Sacramento. This center provides after-school programs that include performing arts classes and tutoring to at-risk children and teens. Estelle has supported and helped raise funds for the Breast Cancer Fund of San Francisco and the River Oaks Center for Children, a multi-service behavioral healthcare agency for abused children and their families. Estelle has also raised funds for the City of Hope National Medical Center that provides assistance to millions of people battling life-threatening diseases.

I applaud Sy and Estelle for committing their lives to the betterment of their community and beyond, and extend my sincere best wishes for their continued health, happiness and good work. Sy and Estelle Opper are distinguished members of the Sacramento community, and it is with great pleasure that I recognize them today.●

RECOGNIZING LYNN AUSTIN MONROE

● Mr. MILLER. Mr. President, I want to speak about a great veteran of the U.S. Army, Mr. Lynn Austin Monroe. Mr. Monroe is a World War II veteran who honorably and proudly served his country in the European Theater as a mess sergeant in the Sixth Field Hospital. Prior to his overseas duty, he was an instructor in the Bakers and Cooks school at Camp Pickett, VA. Major Reiber said Sergeant Monroe was the best instructor he ever had. From there he was sent to be the first mess sergeant to open the Finney General Hospital, Thomasville, GA. His next assignment was the transfer to England to serve as mess sergeant for the Sixth Field Hospital. He remained in that capacity until the war's end.

Oftentimes he had to prepare meals without notice to feed a company of soldiers instead of a squadron. On one occasion, a hungry soldier came to Sergeant Monroe, who asked for a second helping of meat, which was chicken that day. The soldier said, "The chicken is so good, it ain't nothing but a Georgia bird, anyway." Wish granted. That was one happy soldier. In emergency situations, the Sixth Field Hospital kitchen staff would help unload patients who were flown in from the combat zone. Sergeant Monroe's joy as a serviceman in "The Greatest Generation" was feeding the Army of our great country as they fought to save freedom and democracy for future generations.●

HONORING FREDERICK AND MARY ANN LIPPITT OF PROVIDENCE, RI

● Mr. CHAFEE. Mr. President, this week, Frederick and May Ann Lippitt will be honored as recipients of Brown University's President's Medal.

The President's Medal is the highest honor a Brown president may bestow, and honors a person who has achieved distinction in a particular field, including education, scholarship, public service, the arts or philanthropy. It has been awarded seven times since its origination in 1994.

Fred Lippitt has spent more than four decades working on behalf of Brown, including 25 years as a lifetime Fellow, offering his expertise on countless committees spanning every aspect of university life.

Fred has given a lifetime of public service, including service as an elected member of the Rhode Island House of Representatives from 1961 to 1983, and as its minority leader for 10 years. He served as director of the State Department of Administration, as a Providence Housing Court Judge, and as the chairman of the RI Board of Regents for Elementary and Secondary Education.

Mary Ann Lippitt, as the founder of Lippitt Aviation and a leader in a wide array of nonprofit and charitable organizations, has been a pioneer in demonstrating the role that women can play in business and community affairs, and she has inspired a generation of influential Rhode Island women. She has been a consistent supporter of women's athletics, including her own years as an Early Bird Swimmer. This is a testament to her commitment to ensuring a rewarding college experience for Brown's student athletes.

This award is well deserved. Fred and Mary Ann have been consistent advocates for the education and well-being of all citizens, working for equality, opportunity, and assistance for those striving to advance through education. They are widely admired not only at Brown but throughout Rhode Island for contributing to the betterment of our State.

I know my colleagues join me in saluting Frederick and Mary Ann Lippitt on this achievement.●

MESSAGE FROM THE HOUSE

At 11:35 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2696. An act to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

H.R. 2707. An act to provide for an assessment of the extent of the invasion of Salt Cedar and Russian Olive on lands in the Western United States and efforts to date to control such invasion on public and private lands, including tribal lands, to establish a demonstration program to address the invasion of Salt Cedar and Russian Olive, and for other purposes.

The message also announced that the House passed the following bill, without amendment:

S. 714. An act to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas county, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2696. An act to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 3783. An act to provide an extension of highway, highway safety,motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6397. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; and A300 B4-600, B4-600R, C4-605R Variant F, and F4-600R (Collectively Called A300-600) Series Airplanes Doc. No. 03-NM-248" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6398. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company (GE) CF6-80E1A4 Turbofan Engines Correction Doc. No. 03-NE-26" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6399. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A321 Series Airplanes Doc. No. 03-NM-257" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6400. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Mark 0070 and 0100 Series Airplanes Doc. No. 2004–NM–10" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6401. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL–215–1A10 and CL 215–6B11 Series Airplanes Doc. No. 2003–NM–139" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6402. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–102, 103, 106, 201, 202, 301, and 311 Airplanes Doc. No. 2002-NM-11" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6403. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS332C, L, and L1 Helicopters Doc. No. 2002–SW–45" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6404. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–102, 103, 106, 201, 202, 301, 311, and 315 Series Airplanes Doc. No. 2003-NM-154" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6405. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aeropastiale Model ATR42 and ATR72 Series Airplanes Doc. No. 2002-NM-116" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6406. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330 and A340-200 Series Airplanes Doc. No. 2001–NM–284" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6407. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B, 100B SUD, 200B, 200F, 200C, 300, SR and SP Doc. No. 2001–NM–238" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6408. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Mark 1000, 200, 300, and 400 Series Airplanes Doc. No. 2001–NM–333" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6409. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328–300 Series Airplanes Doc. No. 2002-NM-267" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6410. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 2000 Series Airplanes Doc. No. 2002-NM-233" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6411. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC-8-102, 103, 106, 201, 202, 301, 311, and 315 Doc. No. 2002-NM-79" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6412. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-100, 100B, 100B SUD, 200B, 200C, 200F, 300, SP and SR Series Airplanes" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6413. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330–200, 300, A340–300 Doc. No. 2003-NM-223" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6414. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727, 727–100C, 200F, and 727C Series Airplanes Doc. No. 2003-NM-191" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6415. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pacific Aerospace Corporation, Ltd. Models FU24-954 and FU24A Airplanes Doc. No. 2003–CE–38" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6416. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 717-200 Airplanes Doc. No. 2002–NM–213" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6417. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: New Piper Aircraft, Inc. Model PA 16 500TP Airplanes Doc. No. 2003–CE–32" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6418. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasleira de Aeronautica S.A. (EMBRAER) Model EMB–135 and 145 Airplanes Doc. No. 2004-NM-14" (RIN2120 AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6419. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328-100 Series Airplanes Doc. No. 2002–NM–226" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6420. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-300, 400, and 500 Series Airplanes Doc. No. 2002–NM–174" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6421. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727, 727C, 727–100, and 100C Doc. No. 2003–NM–205" (RIN2120–AA64) received on February 24 , 2004; to the Committee on Commerce, Science, and Transportation.

EC-6422. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model 2000 Series Airplanes Doc. No. 2001–NM–365" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6423. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasilera de Aerunautica S.A. (EMBRAER) Model EMB–135 and 145 Series Airplanes Doc. No. 2002-NM-330" (RIN2120-AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6424. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd. Models PC-7, 12, and 12 45 Airplanes Doc. No. 2003–CE–45" (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6425. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives:

Raytheon Model Beech 400A and 400T Series Airplanes Doc. No. 2002–NM–225'' (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6426. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Doc. No. 2001–NM–156'' (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6427. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Air Cruisers Company Emergency Evacuation Slide/Rafts Doc. No. 99–NE–31'' (RIN2120–AA64) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6428. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments, Amendment No. 3058'' (RIN2120–AA65) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6429. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments, Amendment No. 3057'' (RIN2120–AA65) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6430. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments, Amendment No. 3064'' (RIN2120–AA65) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6431. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments, Amendment No. 3063'' (RIN2120–AA65) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6432. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments, Amendment No. 3089'' (RIN2120–AA65) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 930. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to prepare for and respond to all hazards, and for other purposes (Rept. No. 108–227).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2111. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of New York; to the Committee on Finance.

By Mr. VOINOVICH (for himself and Mr. BREAUX):

S. 2112. A bill to prohibit racial profiling by Federal, State, and local law enforcement agencies; to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 2113. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Michigan; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2114. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of New Mexico; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2115. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of South Dakota; to the Committee on Finance.

By Mrs. BOXER:

S. 2116. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of California; to the Committee on Finance.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 2117. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of New Jersey; to the Committee on Finance.

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2118. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Florida; to the Committee on Finance.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2119. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Connecticut; to the Committee on Finance.

By Mr. WYDEN:

S. 2120. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Oregon; to the Committee on Finance.

By Mr. REID:

S. 2121. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Nevada; to the Committee on Finance.

By Mr. AKAKA:

S. 2122. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Hawaii; to the Committee on Finance.

By Mrs. LINCOLN (for herself and Mr. PRYOR):

S. 2123. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Arkansas; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2124. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in Massachusetts; to the Committee on Finance.

By Mr. REED:

S. 2125. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Rhode Island; to the Committee on Finance.

By Mr. EDWARDS:

S. 2126. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of North Carolina; to the Committee on Finance.

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 2127. A bill to build operational readiness in civilian agencies, and for other purposes; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Ms. LANDRIEU, and Mr. INHOFE):

S. 2128. A bill to define the term ''natural born Citizen'' as used in the Constitution of the United States to establish eligibility for the Office of President; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 2129. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety device in connection with the transfer of a handgun and to provide safety standards for child safety devices; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Ms. SNOWE, Mr. INOUYE, Mrs. HUTCHISON, Mr. LEVIN, Mr. MILLER, Mr. BIDEN, Mr. BREAUX, Mrs. BOXER, Mr. LUGAR, Mr. LAUTENBERG, Ms. COLLINS, Ms. STABENOW, Mr. BURNS, Mr. SMITH, Ms. MURKOWSKI, Mr. LIEBERMAN, Mr. KENNEDY, Mr. FRIST, Mr. BINGAMAN, Mr. SPECTER, Mr. FITZGERALD, Mrs. FEINSTEIN, Mr. ALLARD, Mr. ENSIGN, Mr. CRAPO, Mr. STEVENS, Mr. GRAHAM of South Carolina, Mr. DURBIN, Mr. BENNETT, Mr. SESSIONS, Mr. DAYTON, Mr. BOND, and Mr. JOHNSON):

S.J. Res. 28. A joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself and Mr. INHOFE):

S. Con. Res. 91. A concurrent resolution designating the month of April 2005 as

"American Religious History Month", to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Con. Res. 92. A concurrent resolution congratulating and saluting Focus: Hope on the occasion of its 35th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and for the United States; considered and agreed to.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 478

At the request of Mr. SARBANES, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 478, a bill to grant a Federal charter Korean War Veterans Association, Incorporated, and for other purposes.

S. 741

At the request of Mr. SESSIONS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 742

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 742, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of warfare and civil strife, and for other purposes.

S. 748

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 748, a bill to amend the Internal Revenue Code of 1986 to make inapplicable the 10 percent additional tax on early distributions from certain pension plans of public safety employees.

S. 874

At the request of Mr. TALENT, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1516

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1516, a bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive.

S. 1559

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1559, a bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1703

At the request of Mr. SMITH, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1765

At the request of Mr. LOTT, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1765, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 1805

At the request of Ms. MIKULSKI, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

S. 1873

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1873, supra.

S. 1890

At the request of Mr. ENZI, the names of the Senator from Virginia (Mr. WARNER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. NICKLES), the Senator from Texas (Mr. CORNYN) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 1931

At the request of Mr. BUNNING, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1931, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 1944

At the request of Mr. ENSIGN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1944, a bill to enhance peace between the Israelis and Palestinians.

S. 1946

At the request of Mr. CORZINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1946, a bill to establish an independent national commission to examine and evaluate the collection, analysis, reporting, use, and dissemination of intelligence related to Iraq and Operation Iraqi Freedom.

S. 1977

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1977, a bill to promote the manufacturing industry in the United States by establishing an Assistant Secretary for Manufacturing within the Department of Commerce, an Interagency Manufacturing Task Force, and a Small Business Manufacturing Task Force, and for other purposes.

S. 2004

At the request of Mr. GRASSLEY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2004, a bill to permanently reenact chapter 12 of title 11, United States Code, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the name of the Senator from Alaska (Ms.

MURKOWSKI) was added as a cosponsor of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 2057

At the request of Mr. DAYTON, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Washington (Mrs. MURRAY), the Senator from North Dakota (Mr. DORGAN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 2057, a bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

S. 2090

At the request of Mr. DASCHLE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2090, a bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Mississippi (Mr. LOTT) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 168

At the request of Mr. CAMPBELL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 168, a resolution designating May 2004 as "National Motorcycle Safety and Awareness Month".

S. RES. 293

At the request of Mr. FEINGOLD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 293, a resolution expressing the sense of the Senate that the President and United States Trade Representative should ensure that any future free trade agreements do not harm the dairy industry of the United States.

S. RES. 299

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. VOINOVICH (for himself and Mr. BREAUX):

S. 2112. A bill to prohibit racial profiling by Federal, State, and local law enforcement agencies; to the Committee on the Judiciary.

Mr. VOINOVICH. Mr. President, today, Senator BREAUX and I introduced a bill entitled the "Uniting Neighborhoods and Individuals to Eliminate Racial Profiling Act of 2004" (UNITE) that I believe will put us on the road to preventing problems caused by racial profiling and help begin reconciliation in communities torn apart by racial unrest.

Rooted in the belief that education and dialogue are the most effective tools for bridging racial divides, our bill bans racial profiling by Federal, State and local law enforcement officers. Our bill also provides important new tools to help law enforcement leaders train their officers in eliminating the practice, including the creation of a National Task Force on Racial Profiling within the U.S. Department of Justice, a Racial Profiling Education and Awareness Program, a nondiscriminatory State-based administrative complaint procedure that allows individuals to file complaints with the State, and a grant program to assist State and local law enforcement agencies in developing programs to eliminate racial profiling.

I am personally aware of this issue because of the time I spent as Mayor of Cleveland. I worked for 10 years to promote understanding and positive race relations, and my work there has spurred me to continue on this path at the national level. We've heard all too often of situations in cities and towns across the country in which poor race relations are creating serious divisions between communities and law enforcement agencies. Despite the shared interest we all have in fighting crime and making neighborhoods safer, mistrust and wariness often stands in the way of cooperation.

To name just a few examples: A January 21, 2004 state study of racial profiling in Massachusetts has found that minority drivers are disproportionately ticketed and searched by police officers in dozens of communities, including Boston. According to a joint study completed by the Council on Crime and Justice (CCJ) and the Institute on Race & Poverty (IRP) at the University of Minnesota Law School and released on September 24, 2003, African-American, Latino and to a lesser extent American-Indian motorists are stopped and their cars searched at rates significantly greater than white motorists. The study found that racial profiling is widespread throughout Minnesota and cuts across urban, suburban and rural police boundaries. In February, 2004, a study was released by the Steward Research Group analyzing data from 413 Texas law enforcement agencies. The study found that based on racial disparities in stop and search rates, there is a pattern of racial profiling by law enforcement agencies across Texas.

While studies such as these are not widespread among the States, I do believe these results, along with many other cases clearly indicate that we have a nationwide problem. And while the overwhelming number of police officers discharge their duties professionally and without bias, I think we need to address those that do not.

As I mentioned before, my experience as Mayor of Cleveland and Governor of Ohio has taught me that reaching the hearts and minds of people is the most effective means of dealing with intolerance and the problems that result.

As mayor of Cleveland I established the city's first urban coalition, the Cleveland Roundtable, to bring together representatives of the City's various racial, religious and economic groups to create a common agenda. When we found that members of the police department weren't receiving proper diversity training, we completely revised the police academy program, establishing sensitivity training for all Cleveland police officers and creating six police district community relations committees to open lines of communication between police officers and community members. We eventually put all City employees through this diversity training, and you know what? It worked.

As governor, in my first State of the State Address I said, "We must never forget that the infrastructure of good race relations and human understanding is more important than any roads or bridges we might build." We launched efforts to increase community outreach by law enforcement in order to foster a cooperative, rather than adversarial, relationship between citizens and law enforcement. Through our biannual "Governor's Challenge," conferences I worked to bring members of local communities together with law enforcement officials and members of the business community in order to educate and break down barriers that lead to intolerance. We recognized and shared "best practices" procedures so that communities could benefit from the success of others—all with an emphasis on rewarding those that are doing a good job. We made wonderful progress and outstanding communities were recognized for their efforts.

As I said earlier, the overwhelming majority of state and local law enforcement agents throughout the nation discharge their duties professionally and justly. I salute them for their dedication efforts in what is one of America's toughest jobs. It is unfortunate that the misdeeds of a minute few have such a corrosive effect on the police-community relationship. Based on my experiences in Ohio—10 years as Mayor of Cleveland and 8 years as Governor of Ohio, I know what works. Through education and dialogue we can help turn situations around so that groups who once thought they had little in common can realize how much they actually have to gain by working together to make our communities safer places to live.

Mr. BREAUX. Mr. President, I rise today with my colleague, Senator VOINOVICH, to introduce the Uniting Neighborhoods and Individuals to End Racial Profiling Act, also known as the UNITE Act.

In the fall of 2002, there was a meeting in my office with a number of African-American leaders from Louisiana. They told me that the single most important issue they want to resolve is racial profiling.

I turned to Senator VOINOVICH, who has been a leader on this in Ohio and in the Senate, to come up with the first, truly bipartisan racial profiling bill to be introduced in the Senate. After more than a year of hard work, we have finally come up with a bill that meaningfully responds to the issue of racial profiling while striking the right balance between the concerns of law enforcement and the minority community. Most importantly, our UNITE Act will begin to end racial profiling in this country.

This bill strives to fix the real incidents of racial profiling through education, public outreach and oversight. It also combats the perception that law enforcement is engaging in racial biased policing. By banning racial profiling, putting safeguards in place and providing the public with a meaningful complaint procedure, this bill responds to the concerns of minority communities and hopefully helps rebuild their trust in law enforcement agencies.

I believe we have crafted the first, reasonable and passable solution to the issue of racial profiling.

I hope as we unveil this legislation publically for the first time today, that both the civil rights and law enforcement communities will see this bill as a good starting point to find a solution to this serious problem. I look forward to working with my colleagues, law enforcement and the civil rights community to get this legislation passed and signed by the President this year.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 2113. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Michigan; to the Committee on Finance.

Ms. STABENOW. Mr. President, today I am introducing legislation with my distinguished colleague, Senator CARL LEVIN, that would protect my State of Michigan from being forced to participate in an experiment that could lead to the unraveling of Medicare as we know it.

This project, mandated under the Medicare reform bill approved in late 2003, effectively replaces Medicare in the designated demonstration area with private voucher coverage in six sites in 2010. I have strongly opposed the portion of the Medicare bill that authorizes this project, and I particularly oppose Michigan seniors being forced to participate in this ill-advised experiment.

If Michigan is included in one of these areas, then older and sicker seniors who want to stay in traditional Medicare will be forced to pay higher premiums. This is wrong, and my bill will stop this from happening to my constituents.

By Mr. BINGAMAN:

S. 2114. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of New Mexico; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that would prohibit the comparative cost adjustment (CCA) or premium support demonstration that was included in the Medicare prescription drug bill last year from operating in the State of New Mexico.

There are many problems with the demonstration that I will describe which will have the result of fundamentally undermining the traditional Medicare program and directly conflicts with the President's commitment in his State of the Union address in 2003 when he said, "Seniors happy with the current Medicare system should be able to keep their coverage just the way it is." That would not be the case in what is being referred to as the comparative cost adjustment program.

What is the comparative cost adjustment program? Starting in 2010, the Medicare prescription drug bill provided for a six-year demonstration in selected demonstration sites where private health plans and traditional Medicare would supposedly compete on the basis of price. The demonstration will be conducted in up to six metropolitan areas in which at least 25 percent of eligible beneficiaries are enrolled in some type of managed care plan.

Albuquerque, NM, already has an enrollment in private plans that exceeds 25 percent and so would obviously be a targeted community for the demonstration. Santa Fe, NM, could also be on the demonstration list by 2010 as its current reported managed care enrollment is at 17 percent and that is why Congressman TOM UDALL is joining us here today in introducing the companion bill in the House of Representatives.

Congressman UDALL and I oppose our Medicare beneficiaries being subjected to a grand experiment, just as similarly proposed premium support demonstrations have been blocked in recent years in Baltimore, Denver, Phoenix, and Kansas City, Missouri.

Just as members of Congress blocked those proposed demonstrations, the legislation I am introducing today would protect the entire State of New Mexico from being subjected to such an experiment. I understand that other Senators and Congressmen are introducing similar legislation today to protect the citizens of their respective states as well.

I am opposed to the comparative cost adjustment or premium support demonstration being imposed upon the Medicare beneficiaries in New Mexico because the demonstration: 1. fails to truly provide for a level playing field of competition between traditional Medicare and private health plans; 2. leads to much higher volatility and uncertainty in the Medicare program as beneficiaries would have their premiums vary dramatically according to the plan chosen during the demonstration from year to year and from region to region; 3. directly contradicts President Bush's guarantee and the promise of the current multi-million advertising campaign by the Centers for Medicare and Medicaid Services that people can keep their traditional Medicare as is; and, 4. pushes traditional Medicare in such regions into what health economists refer to as a "death spiral."

Proponents of the premium support demonstration argue that the intent of the experiment is, according to the conference report, "to test whether competition between private plans and the original Medicare FFS program will enhance competition in Medicare, improve health care delivery for all Medicare beneficiaries, and provide for greater beneficiary savings and reduction in government costs. . . ."

The conference report adds that the demonstration "will level the playing field between all options available to Medicare beneficiaries."

Unfortunately, the demonstration will not focus competition or choice on either price or quality precisely because it fails to provide for a level playing field. Under the guise of making Medicare more efficient, the legislation dramatically overpays private health plans in comparison to traditional Medicare.

In fact, during testimony before the Senate Finance Committee a few weeks ago, Health and Human Services Secretary Tommy Thompson acknowledged that both the Congressional budget Office and the Office of Management and Budget believe the prescription drug bill creates a situation whereby every percentage increase of enrollment by Medicare beneficiaries will cost the Medicare program and American taxpayers billions of dollars. How is this possible?

The bill creates this situation by intentionally paying private health plans, on average, an estimated 107 percent of the cost of traditional Medicare. Health plans are receiving disproportionate share hospital payments, graduate medical education funding, and other complicated formula adjustments that ensure payments well in excess of the Medicare fee-for-service program.

In addition, health plans, by enrolling healthier patients than traditional Medicare, receive an additional estimated benefit of about eight percent over fee-for-service Medicare. Numerous studies, including those by the General Accounting Office, find that high-cost beneficiaries—including the functionally disabled, the mentally impaired, and the chronically ill—were less likely to join a Medicare HMO.

When you combine all the factors, health plans will be paid at least 115 percent of the cost of traditional Medicare.

This makes absolutely no sense, particularly when you consider that the bill provides for this despite the fact that studies by Marilyn Moon, Karen Davis, and other respected health care analysts have consistently shown that traditional Medicare provides Medicare beneficiaries a less expensive product with greater patient satisfaction and greater access to providers than private health plans.

Although the demonstration would strip out graduate medical education payments to HMOs, it fails to fully eliminate excessive payments to health plans caused by risk selection and includes disproportionate share hospital payments in the FFS benchmark—inevitably raising FFS premiums in comparison to private health plans.

Furthermore, there is no level playing field if HMOs enroll healthier and lower cost patients than traditional Medicare and do not have to make the billions of dollars in disproportionate share hospital payments that traditional Medicare must make.

Second, a hallmark of the Medicare program has been its beneficiary satisfaction ratings despite the lack of prescription drugs or preventive health benefits. Medicare beneficiaries strongly prefer the guarantee and predictability of coverage and the greater level of access to providers than is provided by private health plans.

The demonstration undermines this because it would lead to differential premiums among Medicare beneficiaries in different regions of the country based on rapidly changing health plans options offered and chosen annually.

In fact, premiums will fluctuate under the demonstration on an annual basis because the government contribution will be based on the bids of all plans during a particular year. As a result, even if a plan's costs does not increase from one year to the next, the amount paid by a beneficiary can change due to changes in other health plans in the region and changes in the region's benchmark.

This makes absolutely no sense and is the second reason why I oppose the premium support demonstration.

Third, as noted before, in the President's 2003 State of the Union address, he committed that Medicare beneficiaries would be able to keep their Medicare coverage as is. Moreover, the Centers for Medicare and Medicaid Services, or CMS, is currently spending millions of dollars in an advertising campaign with the assertion that "you can always keep your same Medicare coverage."

The comparative cost adjustment program or premium support demonstration completely undermines traditional Medicare and should, as a result, be repealed. Neither the President nor the Federal Government should be telling our Nation's Medicare beneficiaries one thing when the reality is clearly something different, particularly under the demonstration program.

This occurs due to the "death spiral" that health care economists note will likely occur under the demonstration. If, as numerous studies indicate, private health plans continue to enroll healthier and less costly Medicare beneficiaries than fee-for-service Medicare, then fee-for-service Medicare would be more likely to have higher premiums. Over time, if sicker individuals stay with traditional Medicare and healthier ones move away as premiums rise, traditional Medicare is likely to enter in what is known as a "death spiral." Despite the President's guarantee that "[s]eniors happy with the current Medicare system should be able to keep their coverage just the way it is . . .," that would clearly not be the case in these comparative cost adjustment program demonstrations.

If the administration and Congress wants real competition, private plans should be required to compete with traditional Medicare in a manner where both traditional Medicare and private plans are paid the same amount on a risk adjusted basis for the same services. If that were the case, Medicare beneficiaries could select whether they would like to enroll in traditional Medicare or in a competing private health plan based on factors such as quality, access, and cost.

Unfortunately, the administration and proponents of premium support know that private plans cannot successfully compete with traditional Medicare. Ironically, in the name of reforming Medicare through competition, they have purposely tilted the playing field toward private health plans. Taxpayers should not have to bear the billions of dollars in additional Medicare spending that overpayment to private plans will cost them over the next 10 years and Medicare beneficiaries should not be subjected to a grand premium support experiment in 2010 where the winner has already been pre-determined.

Mr. President, I ask unanimous consent that the text of the bill and a document from Families USA be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON OPERATION OF MEDICARE COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM IN NEW MEXICO.

(a) IN GENERAL.—Section 1860C–1(b) of the Social Security Act, as added by section 241 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is amended by adding at the end the following:

"(3) NO CCA AREAS WITHIN NEW MEXICO.—A CCA area shall not include an MSA any portion of which is within the State of New Mexico."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

[Report from FamiliesUSA, June 24, 2003]

WHAT HAPPENS WHEN TRADITIONAL MEDICARE HAS TO BID AGAINST PRIVATE PLANS?

AN EXAMPLE OF HOW THE HOUSE BILL WOULD PRIVATIZE MEDICARE

The U.S. House of Representatives is considering legislation that would force the traditional Medicare program to bid competitively against private insurance plans, beginning in 2010. This proposal, embedded in the House Medicare prescription drug bill, may sound reasonable, but let's look at how it would really work.

We start with five Medicare beneficiaries, with the following yearly medical expenses: Bill—$1,000; Jane—$4,000; Joan—$5,000; James—$6,000; and Sam—$10,000. Amongst them, they have total medical expenses of $26,000, or an average of $5,200 each.

Now imagine that Congress has enacted the House Medicare drug bill, which requires the traditional Medicare fee-for-service program to enter into competitive bidding with private insurance plans.

So traditional Medicare would bid $5,200 per person for Bill, Jane, Joan, James, and Sam, since that's been the average cost of caring for these five folks.

But a private plan, DollarCare, knowing roughly what the traditional Medicare bid is, bids $5,000 per member. Since they are clever about their marketing (they advertise at athletic clubs and recreational facilities), DollarCare enrolls healthy beneficiaries (like Bill) who only cost $1,000 each. This ensures that they have a high profit ($5,000 bid − $1,000 expenses = $4,000 profit per enrollee). The existing Medicare law requires DollarCare to give Bill some extra benefits; these extra benefits make the plan more attractive to other people when they hear about the "extras." (Jane, Joan, James, and Sam decide to stick with traditional Medicare so they can keep their long-time family doctors.)

And there's another wrinkle. The new House bill rewards beneficiaries who choose "cheaper" plans. Here's how it works: Each year, the government will compute a new "benchmark" by calculating the average payment for each Medicare beneficiary. In the beginning, the benchmark is $5,200 (that's what Medicare has been paying, on average, for the five people). Because the DollarCare bid of $5,000 is $200 under the "benchmark" of $5,200, Bill and the government get to split the difference: Bill gets to pocket 75 percent of the savings ($150), and the government/Medicare saves the other 25 percent ($50).

So a year passes, and it's time for a second round of competitive bids. What happens to the bids in the second year? The four people left (Jane, Joan, James, and Sam) had combined expenses of $25,000, so traditional Medicare submits a bid of $6,250 per person, the average cost for caring for these four people. DollarCare has a good thing going, so they bid $5,000 again.

Then the benchmark is adjusted to reflect the average per-person cost of everyone in Medicare—those in traditional Medicare and those in private plans. The new benchmark is $6,000 (Bill in DollarCare at $5,000 and the four others still in traditional Medicare at $6,250).

Now all the people in traditional Medicare have to pay an extra $250 in premiums because their "plan" (that is, the traditional Medicare program) has submitted a bid $250 higher than the benchmark plan ($6,000). Meanwhile, lucky Bill gets 75 percent of the $1,000 "savings," the difference between DollarCare's $5,000 bid and the $6,000 benchmark.

DollarCare keeps advertising at gyms and other recreational facilities and attracts fairly healthy Jane.

Obviously, traditional Medicare's premiums will spiral upward as this process repeats itself each year. Traditional Medicare will become a plan of the very sick, very frail, very elderly—those who need lots of services, want to keep their long-time doctors, etc.

This is the beginning of an insurance death spiral that will ultimately destroy the traditional Medicare fee-for-service program. The older, chronically ill people who need the types of services offered by traditional Medicare will face ever-spiraling costs. As the premiums for traditional Medicare rise, the price tag will drive them into private plans like DollarCare, even though studies have shown that private plans are not good for the very old, chronically ill.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2115. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of South Dakota; to the Committee on Finance.

Mr. DASCHLE. Mr. President, I ask uanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON OPERATION OF MEDICARE COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM IN SOUTH DAKOTA.

(a) IN GENERAL.—Section 1860C–1(b) of the Social Security Act, as added by section 241 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is amended by adding at the end the following:

"(3) NO CCA AREAS WITHIN SOUTH DAKOTA.—A CCA area shall not include an MSA any portion of which is within the State of South Dakota.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

By Mrs. BOXER:

S. 2116. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of California; to the Committee on Finance.

Mrs. BOXER. Mr. President, in accordance with the Medicare legislation that Congress passed and the President signed into law last year included, beginning in 2010, a "premium support" demonstration project in up to 6 areas of the country. If included in this project, seniors will face increased premiums if they choose to stay in traditional "fee-for-service" Medicare instead of joining an HMO. They call it a "demonstration project" but it ought to be called a "demolition project" because this plan will demolish Medicare for millions of seniors.

CBO estimates that 1 to 1.5 million Medicare beneficiaries are likely to be involved in the demolition project. In reality, the numbers could be much higher—one in six Medicare beneficiaries could be forced to participate in this experiment. In California, 12 of its metropolitan statistical areas (MSAs) now qualify for the demonstration project. If the two largest MSAs are chosen for this demonstration project, 1.4 million Californians will be forced into this experiment and will be faced with a Hobson's choice. They will be required to join an HMO or pay higher premiums.

We know what happens in these situations. Healthy people will choose the HMO, leaving sicker seniors in fee-for-service plans. As costs in traditional Medicare spiral even higher due to its pool of sicker seniors, the costs of Medicare will rise. Medicare will be weaker.

That brings us to the real question: Why is this necessary? Is it because seniors can't choose HMOs under the current system? No. Seniors can choose to join an HMO right now if they wish. I'll tell you why: It is a backdoor attempt to achieve Newt Gingrich's vision for a Medicare that will "whither on the vine."

Twenty-two of my colleagues are introducing bills to exempt their States from this demolition project. Along with them, I am introducing a bill that will exempt California as well. I do not want California seniors to be forced to swallow the bitter choice between high costs or lower quality HMO service.

I urge my colleagues to support this legislation.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 2117. A bill to amend part C of title XVII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of New Jersey; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today with my colleagues from New Jersey, Senator FRANK LAUTENBERG, and Congressmen FRANK PALLONE and ROB ANDREWS, who are introducing comparable legislation in the House of Representatives today, to introduce a bill to protect from privatization the Medicare program that more than 1 million New Jersey seniors rely on.

As a result of a provision in the new Medicare law, more than 1 million Medicare beneficiaries nationwide, including 186,000 New Jersey Medicare beneficiaries who live in Camden, Salem, Burlington and Gloucester counties, will be subject to a risky Medicare privatization scheme beginning in 2010. This scheme, which is called premium support, will give seniors a set Medicare premium payment—similar to a voucher—that would be based on a combination of the prices that private plans in their area charge and the cost of Medicare fee-for-service in their area. Seniors choosing to enroll in a plan that costs more than the amount of that voucher would have to pay the difference.

While it may seem like an easy and straightforward choice to seniors who currently enjoy and thrive on traditional Medicare to choose to remain in the fee-for-service program, under this privatization scheme, those seniors who make that choice will end up paying significantly higher premiums than their counterparts in private plans. Because the private plans will be able to cherry pick the healthiest seniors to enroll in their plans and will receive huge subsidies from the federal government, they will be able to provide lower cost health care than the traditional Medicare program. That means that sicker, older beneficiaries will remain in the traditional Medicare, thereby increasing costs in that program, while younger, healthier beneficiaries will choose to enroll in private plans where they will pay lower premiums.

That's right. Under this privatization scheme, seniors who choose to remain in the Medicare program they know and trust will pay more—significantly more than they pay now—for their coverage.

Not only will these seniors pay significantly higher premiums than they do now for fee-for-service Medicare, and much more than they would if they enrolled in a private plan, but also depending on where a senior lives they will pay a different price for the same Medicare coverage that a senior in a neighboring community might pay. So, for the first time in history, seniors in some areas will pay higher premiums for their Medicare coverage than seniors in other areas.

How much more will seniors who want to stay in the traditional Medicare program pay? According to documents released by the Centers for Medicare and Medicaid Office of the Actuary on August 9, 2003, seniors living in Gloucester and Hudson counties in New Jersey could pay as much as $1,700 more than they pay now for traditional Medicare. Yet, seniors in these counties could, depending on the plan they select, join an HMO for a premium that is $2,000 less. Why is that? This is because private plans will select healthier seniors will offer fewer choices than traditional Medicare and, at the same time will receive grossly inflated payments from the government.

In fact, the new Medicare law overpays private plans by $1,920 per beneficiary—at a total cost of $14 billion to taxpayers—so that these plans may compete with Medicare. This sounds like socialized privatization to me. Indeed, in the last 6 months I have struggled to understand the logic behind paying private plans more than we pay Medicare. The only logical reason I've come up with is that this is the perfect plan to make the Medicare program fail—to give my Republican colleagues the read meat they need to raid and privatize Medicare.

This is not competition. It is a plan to force seniors into private plans and out of the Medicare program they trust. There is no real choice here. Very few seniors will have the luxury of choosing to pay $2,000 more a year for traditional Medicare. Most seniors will be forced into managed care plans.

Seniors in my State want no part of this privatization scheme. Baby boomers in my State want no part of this. New Jerseyans want to know that the Medicare program, as we know it, will be there for them when they need it. My legislation provides that assurance. Under my bill, no New Jersey county and no New Jersey senior will be subject to this disastrous privatization scheme.

In closing, I urge my colleagues to pass this bill and the many other bills that Democratic members are introducing today to exempt their States from this program and to protect and preserve the Medicare program for our seniors today and our seniors tomorrow.

By Mr. REID:

S. 2121. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Nevada; to the Committee on Finance.

Mr. REID. Mr. President, there is nothing more important we could do for our senior citizens than help them with the soaring cost of health care, especially the high cost of prescription drugs.

Unfortunately the Medicare bill passed by this Congress and signed into law by President Bush doesn't do this. In fact, for many seniors this law will do more harm than good.

One provision of this new and overly complicated law establishes "comparative cost adjustment" demonstration programs that will take place in six metropolitan areas. "Comparative cost adjustment" is just a fancy term that really means: How much you pay for your Medicare premiums depends on where you live.

In other words, some Medicare recipients will pay more than others for the exact same coverage, simply because of where they live.

Medicare premiums for seniors living in the six regions selected to participate in the pilot program would be based on a set payment—like a voucher—from the government. This payment would be based on a combination of the prices charged by private plans and the cost of Medicare fee-for-service in their area.

Seniors would enroll in either a private plan or in fee-for-service Medicare. But those who chose a plan that cost more than the defined contribution would have to pay the difference out of their own pockets.

And since senior citizens in the fee-for-service program tend to be older and sicker than those who enroll in Medicare HMOs, costs for that group would probably be higher, and the defined contribution likely would not cover the entire cost of the fee-for-service premium.

So over time, seniors who want to remain in the traditional Medicare program, because they want to keep choosing their own doctor or for any other reason, would have to pay more and more out of their own pockets.

Under this experimental program, I fear that traditional Medicare would become too expensive for many patients simply because of where they happen to live. We have a large population of retirees in north and south Nevada, and I am told there is a good chance one or both of these areas will be selected for this experimental pilot program. That would place a disproportionate burden on seniors in my State who are already struggling to make ends meet and pay for their health care.

So the legislation I am introducing today will prohibit any of the six demonstration programs from occurring in Nevada.

Senior citizens in Nevada should not have to pay more than their neighbors for the same Medicare services. I will keep fighting to protect Nevadans from being used as guinea pigs in this ill-advised experiment.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON OPERATION OF MEDICARE COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM IN NEVADA.

(a) IN GENERAL.—Section 1860C–1(b) of the Social Security Act, as added by section 241 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is amended by adding at the end the following:

"(3) NO CCA AREAS WITHIN NEVADA.—A CCA area shall not include an MSA any portion of which is within the State of Nevada.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

By Mr. AKAKA:

S. 2122. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Hawaii; to the Committee on Finance.

Mr. AKAKA. Mr. President, I rise today to introduce legislation to prohibit the comparative cost adjustment program, which is commonly known as premium support, from operating in Hawaii.

The Medicare Prescription Drug Improvement and Modernization Act of 2003 included the creation of premium support demonstration programs in select metropolitan statistical areas starting in 2010. In these demonstration programs, seniors would be provided with a defined contribution payment for Medicare Part B rather than a defined benefit. Seniors would receive a set minimum payment to be used towards enrolling in either traditional fee-for-service Medicare or a managed care plan. Seniors that choose options that are more expensive than the defined premium would have to pay the difference themselves.

Many of the older and less healthier seniors stay in the traditional fee-for-service Medicare rather than enrolling in Medicare managed care programs. The defined contribution premium will likely not be able to cover the entire cost of their fee-for-service premium. So, they may not be able to afford to stay in the traditional Medicare program and will be forced to enroll in lowest-cost health maintenance organization, HMO, or preferred provider organization, PPO, in their community. Seniors deserve to have their right to choose whether to remain in traditional Medicare or enroll in a managed care program based on their health care needs and not be forced into managed care programs because they are not able to pay the increased premium required for traditional Medicare.

Now, seniors across the country pay the same premium for Medicare Part B services. After the implementation of the premium support demonstration programs, this will not be the case. Not only are there likely to be wide variations in Medicare Part B premium rates for beneficiaries across the country, but there will even be differences among seniors within the same State. This is unjust. Seniors that receive the same benefits should be paying the same premium in an entitlement program such as Medicare.

Proponents of the premium support plan believe that this will help control Medicare costs and save money. However, this proposal will only work if more of the costs are shifted to seniors who will have to pay higher premiums or have their benefits reduced.

It is my hope that these demonstration projects are never implemented in any state. My legislation would ensure that the residents of Hawaii are protected from having this demonstration program impair their Medicare Part B choices. I am pleased that several of my colleagues have also introduced legislation to protect seniors in their states from the premium support demonstration projects.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON OPERATION OF MEDICARE COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM IN HAWAII.

(a) IN GENERAL.—Section 1860C–1(b) of the Social Security Act, as added by section 241 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is amended by adding at the end the following:

"(3) NO CCA AREAS WITHIN HAWAII.—A CCA area shall not include an MSA any portion of which is within the State of Hawaii.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 2127. A bill to build operational readiness in civilian agencies, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the Stabilization and Reconstruction Civilian Management Act. Senator BIDEN is an original co-sponsor and his involvement in the Committee's work on this issue and the resulting legislation is deeply appreciated.

Over the past decade the United States has undertaken a series of post-conflict stabilization and reconstruction operations that have been critical to U.S. national security. In the Balkans, Afghanistan, and now in Iraq, the U.S. government has cobbled together plans, people and resources in an ad hoc fashion with the Defense Department in the lead.

The efforts of those engaged have been valiant, but these emergencies have been complex and time sensitive. Our ad hoc approach has been inadequate to deliver the necessary capabilities to deal speedily and efficiently with complex emergencies. The purpose of this bill is to establish a more robust civilian capability to respond quickly and effectively to post-conflict situations or other complex emergencies.

The prevailing inclination to deal with these problems through ad hoc methods has stemmed, in part, from our bipartisan hope that post-conflict stabilization efforts will not be required of us on a frequent basis. But we should not engage in wishful thinking. Crises are inevitable, and in most cases, U.S. national security interests will be threatened by sustained instability. The war on terrorism necessitates that we not leave nations crumbling and ungoverned. Our tolerance for failed states has been reduced by a global war against terrorists. We have already seen how terrorists can exploit nations afflicted by lawlessness and desperate circumstances. They seek out such places to establish training camps, recruit new members, and tap into a black market where all kinds of weapons are for sale.

In this international atmosphere, the United States must have the right structures, personnel, and resources in place when an emergency occurs. A delay of a few weeks, or even days, in our response can mean the difference between success and failure. As a Nation, we have accepted stabilization and reconstruction challenges in the Balkans, Iraq and Afghanistan, but we need to go a step further and create structures that can plan and execute strategies to deal with future emergencies.

While recognizing the critical challenges that our military has undertaken with skill and courage, we must acknowledge that certain non-security missions would have been better served by a civilian response. Our post-conflict efforts frequently have had a higher than necessary military profile. This is not the result of a Pentagon power grab or institutional fights. Rather, the military has led post-conflict operations primarily because it is the only agency capable of mobilizing large amounts of people and resources for these tasks. As a consequence, the resources of the Armed Services have been stretched and deployments of military personnel have had to be extended beyond expectations. If we can improve the surge capacity and capabilities of the civilian agencies, they can take over many of the non-security missions that have burdened the military.

The Senate Committee on Foreign Relations embarked on a bipartisan experiment beginning in late 2003, assembling an impressive array of experts from inside and outside of government to provide advice on how best to achieve this goal. This Policy Advisory Group held a series of discussions in which Senators, group members, and invited experts spoke frankly about their ideas to improve the U.S. response to post-conflict reconstruction problems and complex emergencies. The bill that Senator BIDEN and I are introducing draws on these discussions and the comments of participants. I believe that we need structural change, accomplished through legislation, to guarantee improvements in our capabilities.

Serving as members of the Policy Advisory Group were Ambassador James Dobbins, Director of International Security and Defense Policy at the RAND Corporation; Dr. John Hamre, President and CEO of CSIS; Gen. George Joulwan, former Supreme Allied Commander Europe; Gen. William Nash, Senior Fellow and Director of the Center for Preventive Action of the Council on Foreign Relations; Mr. Walter Slocombe, former Senior Advisor for National Security to the Coalition Provisional Authority; and Dr. Arnold Kanter of the Scowcroft Group. Other participants included Mr. Marc Grossman, Undersecretary of State for Political Affairs; Mr. Andrew Natsios, Administrator of USAID; Dr. Joseph Collins, Deputy Assistant Secretary of Defense for Stability Operations; Mr. James Kunder, Deputy Assistant Administrator of USAID; Mr. J. Clint Williamson, Director of Transnational Crime Issues on the NSC; Dr. Hans Binnendijk of the National Defense University; Ms. Sheba Crocker of CSIS; Mr. Frank Kramer of Shea and Gardner; Mr. Bernd McConnell, formerly with USAID and now with the Department of Defense; Mr. Larry Nowels of the Congressional Research Service; Ambassador Robert Oakley of the Institute for National Security Studies at the National Defense University; Mr. Robert Perito of the U.S. Institute of Peace; and Ms. Julia Taft of the UNDP.

Although I have tried to incorporate as many of the insights of the group as possible, not every participant will agree with every provision in the bill. This is not surprising given that one of our goals in constructing the group was guaranteeing a diverse set of perspectives. Nevertheless, there were several themes developed that achieved, or at least approached, a consensus: The civilian foreign affairs agencies should be better organized for overseas crisis response and the Secretary of State should play a lead role in this effort. There should be improved standing capacity within the civilian agencies to respond to complex emergencies and to work in potentially hostile environments. The agencies must be capable and flexible enough to provide a robust partner to the military when necessary or to lead a crisis response effort when appropriate. The rapid mobilization of resources must be shared by the civilian agencies and the military. While the need to ensure security will continue to fall on the shoulders of the military, the post-conflict demands on the military for stabilization and reconstruction would be lessened by tapping into the expertise of civilian forces.

During this process, the Bush Administration was extremely helpful and forthcoming. Officials from the State Department, the Defense Department, the NSC, and USAID attended as guests of the group and participated in their private capacities. The participation of these officials does not constitute an official endorsement of this legislation by their employing agencies, but the final product was greatly improved by their collective experience and wisdom. We are extremely grateful to the Administration for its willingness to engage the Foreign Relations Committee during this process.

This bill urges the President to create a Stabilization and Reconstruction Coordinating Committee to be chaired by the National Security Advisor. This Coordinating Committee would have policy oversight responsibility for ensuring appropriate interagency coordination in the planning and execution of stabilization and reconstruction efforts. The Coordinating Committee would have representation from the Department of State, USAID, and the Departments of Commerce, Justice, Treasury, Agriculture, and Defense and other agencies as appropriate.

This bill would authorize the creation of an office within the State Department to be the focal point for coordinating the civilian component of stabilization and reconstruction missions. The Office would be headed by a Coordinator who is appointed by the President and reports directly to the Secretary of State. The Coordinator would also work to ensure that civilian components of the United States Government are prepared for joint civilian/military operations if they become necessary.

The bill would authorize the Secretary of State to establish a Response Readiness Corps with both active duty and reserve components available to be called upon at a moments notice to respond to emerging international crises. In the reserves would be both federal government officials from the non-foreign affairs agencies who have volunteered to participate and members recruited from the private sector based on the applicable skills each could contribute to the mission.

The bill urges the Foreign Service Institute to work with both the National Defense University and the United States Army War College to establish an educational and training curriculum to bring together civilian and military personnel to enhance their stabilization and reconstruction skills and increase their ability to work together in the field.

I introduce this bill today to set in motion legislative efforts to strengthen the capacity of our civilian agencies to handle complex emergencies overseas, including post-conflict stabilization and reconstruction efforts. I am hopeful that this legislation will garner further bipartisan support. Its intent is not to critique past practices, but rather to improve our stabilization and reconstruction capacity for the future. We recognize that the bill does not address many facets of this issue that fall under the jurisdiction of the military and the Armed Services Committee. I know that my colleagues on that committee have thought about many of these issues, and they may recommend additional steps.

The inevitable post-conflict stabilization and reconstruction demands of future crises will require a formidable capacity to respond to challenges—both military and diplomatic. It is crucial to our success that the necessary resources and plans be put in place now. Let us give the President the tools he needs to carry out these most demanding foreign policy missions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stabilization and Reconstruction Civilian Management Act of 2004".

SEC. 2. FINDING; PURPOSE.

(a) FINDING.—Congress finds that the resources of the United States Armed Forces have been burdened by having to undertake stabilization and reconstruction tasks in the Balkans, Afghanistan, Iraq, and other countries of the world that could have been performed by civilians, which has resulted in lengthy deployments for Armed Forces personnel.

(b) PURPOSE.—The purpose of this Act is to provide for the development, as a core mission of the Department of State and the United States Agency for International Development, of an effective expert civilian response capability to carry out stabilization and reconstruction activities in a country or region that is in, or is in transition from, conflict or civil strife.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Agency for International Development.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) DEPARTMENT.—Except as otherwise provided in this Act, the term "Department" means the Department of State.

(4) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(5) SECRETARY.—Except as otherwise specifically provided in this Act, the term "Secretary" means the Secretary of State.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the civilian element of United States joint civilian-military operations should be strengthened in order to enhance the execution of current and future stabilization and reconstruction activities in foreign countries or regions that are in, or are in transition from, conflict or civil strife;

(2) the capability of civilian agencies of the United States Government to carry out stabilization and reconstruction activities in such countries or regions should also be enhanced through a new rapid response corps of civilian experts supported by the establishment of a new system of planning, organization, personnel policies, and education and training, and the provision of adequate resources;

(3) the international community, including nongovernmental organizations, and the United Nations and its specialized agencies, should be further encouraged to participate in planning and organizing stabilization and reconstruction activities in such countries or regions;

(4) the President should establish a new directorate of stabilization and reconstruction activities within the National Security Council to oversee the development of interagency contingency plans and procedures, including plans and procedures for joint civilian-military operations, to address stabilization and reconstruction requirements in such countries or regions;

(5) the President should establish a standing committee to exercise responsibility for overseeing the formulation and execution of stabilization and reconstruction policy in order to ensure appropriate interagency coordination in the planning and execution of stabilization and reconstruction activities, including joint civilian-military operations,

of the United States Government, and should provide for the committee—

(A) to be chaired by the Assistant to the President for National Security Affairs; and

(B) to include the heads of—

(i) the Department;

(ii) the United States Agency for International Development;

(iii) the Department of Labor;

(iv) the Department of Commerce;

(v) the Department of Justice;

(vi) the Department of the Treasury;

(vii) the Department of Agriculture;

(viii) the Department of Defense; and

(ix) other Executive agencies as appropriate;

(6) the Secretary and the Administrator should work with the Secretary of Defense to establish a personnel exchange program among the Department, the United States Agency for International Development, and the Department of Defense, including the regional commands and the Joint Staff, to enhance the stabilization and reconstruction skills of military and civilian personnel and their ability to undertake joint operations; and

(7) the heads of other Executive agencies should establish personnel exchange programs that are designed to enhance the stabilization and reconstruction skills of military and civilian personnel.

SEC. 5. AUTHORITY TO PROVIDE ASSISTANCE FOR STABILIZATION AND RECONSTRUCTION CRISES.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is amended by inserting after section 617 the following new section:

"SEC. 618. ASSISTANCE FOR A STABILIZATION AND RECONSTRUCTION CRISIS.

"(a) AUTHORITY.—If the President determines that it is important to the national interests of the United States for United States civilian agencies or non-Federal employees to assist in stabilizing and reconstructing a country or region that is in, or is in transition from, conflict or civil strife, the President may, in accordance with the provisions set forth in section 614(a)(3), notwithstanding any other provision of law, and on such terms and conditions as the President may determine, furnish assistance to respond to the crisis and authorize the export of goods and services needed to respond to the crisis.

"(b) SPECIAL AUTHORITIES.—To provide assistance authorized in subsection (a), the President may exercise the authorities contained in sections 552(c)(2), 610, and 614 of this Act without regard to the percentage and aggregate dollar limitations contained in such sections.

"(c) AUTHORIZATION OF FUNDING.—

"(1) INITIAL AUTHORIZATION.—There is authorized to be appropriated, without fiscal year limitation, $100,000,000 in funds that may be used to provide assistance authorized in subsection (a).

"(2) REPLENISHMENT.—There is authorized to be appropriated each fiscal year such sums as may be necessary to replenish funds expended as provided under paragraph (1). Funds authorized to be appropriated under this paragraph shall be available without fiscal year limitation for the same purpose and under the same conditions as are provided under paragraph (1).".

SEC. 6. OFFICE OF INTERNATIONAL STABILIZATION AND RECONSTRUCTION.

Title I of the State Department Basic Authorities Act of 1956 is amended by adding after section 58 (22 U.S.C. 2730) the following new section:

"SEC. 59. INTERNATIONAL STABILIZATION AND RECONSTRUCTION.

"(a) OFFICE OF INTERNATIONAL STABILIZATION AND RECONSTRUCTION.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Department of State an Office of International Stabilization and Reconstruction.

"(2) COORDINATOR FOR INTERNATIONAL STABILIZATION AND RECONSTRUCTION.—The head of the Office shall be the Coordinator for International Stabilization and Reconstruction, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary and shall have the rank and status of Ambassador-at-Large.

"(3) FUNCTIONS.— The functions of the Office of International Stabilization and Reconstruction include the following:

"(A) Monitoring, in coordination with relevant bureaus within the Department of State, political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for the stabilization and reconstruction of countries or regions that are in, or are in transition from, conflict or civil strife.

"(B) Assessing the various types of stabilization and reconstruction crises that could occur and cataloging and monitoring the non-military resources and capabilities of Executive agencies that are available to address such crises.

"(C) Planning to address requirements, such as demobilization, policing, human rights monitoring, and public information, that commonly arise in stabilization and reconstruction crises.

"(D) Coordinating with relevant Executive agencies (as that term is defined in section 105 of title 5, United States Code) to develop interagency contingency plans to mobilize and deploy civilian personnel to address the various types of such crises.

"(E) Entering into appropriate arrangements with other Executive agencies to carry out activities under this section and the Stabilization and Reconstruction Civilian Management Act of 2004.

"(F) Identifying personnel in State and local governments and in the private sector who are available to participate in the Response Readiness Corps or the Response Readiness Reserve established under subsection (b) or to otherwise participate in or contribute to stabilization and reconstruction activities.

"(G) Ensuring that training of civilian personnel to perform such stabilization and reconstruction activities is adequate and, as appropriate, includes security training that involves exercises and simulations with the Armed Forces, including the regional commands.

"(H) Sharing information and coordinating plans for stabilization and reconstruction activities with rapid response elements of the United Nations and its specialized agencies, nongovernmental organizations, and other foreign national and international organizations.

"(I) Coordinating plans and procedures for joint civilian-military operations with respect to stabilization and reconstruction activities.

"(J) Maintaining the capacity to field on short notice an evaluation team to undertake on-site needs assessment.

"(b) RESPONSE TO STABILIZATION EMERGENCY.—If the President makes a determination regarding a stabilization and reconstruction crisis under section 618 of the Foreign Assistance Act of 1961, the President may designate the Coordinator, or such other individual as the President may determine appropriate, as the coordinator of the United States response. The individual so designated, or, in the event the President does not make such a designation, the Coordinator for International Stabilization and Reconstruction, shall—

"(1) assess the immediate and long-term need for resources and civilian personnel;

"(2) identify and mobilize non-military resources to respond to the crisis; and

"(3) coordinate the activities of the other individuals or management team, if any, designated by the President to manage the United States response.".

SEC. 7. RESPONSE READINESS CORPS.

(a) IN GENERAL.—Section 59 of the State Department Basic Authorities Act of 1956 (as added by section 6) is amended by adding at the end the following new subsection:

"(c) RESPONSE READINESS FORCE.—

"(1) RESPONSE READINESS CORPS.—

"(A) ESTABLISHMENT AND PURPOSE.—The Secretary, in consultation with the Administrator of the United States Agency for International Development, is authorized to establish a Response Readiness Corps (hereafter referred to in this section as the 'Corps') to provide assistance in support of stabilization and reconstruction activities in foreign countries or regions that are in, or are in transition from, conflict or civil strife.

"(B) COMPOSITION.—The Secretary and Administrator of the United States Agency for International Development should coordinate in the recruitment, hiring, and training of—

"(i) up to 250 personnel to serve in the Corps; and

"(ii) such other personnel as the Secretary, in consultation with the Administrator, may designate as members of the Corps from among employees of the Department of State and the United States Agency for International Development.

"(C) TRAINING.—The Secretary shall train the members of the Corps to perform services necessary to carry out the purpose of the Corps under subparagraph (A).

"(D) COMPENSATION.—Members of the Corps hired under subparagraph (B)(i) shall be compensated in accordance with the appropriate salary class for the Foreign Service, as set forth in sections 402 and 403 of the Foreign Service Act of 1980 (22 U.S.C. 3962 and 22 U.S.C. 3963), or in accordance with the relevant authority under sections 3101 and 3392 of title 5, United States Code.

"(2) RESPONSE READINESS RESERVE.—

"(A) ESTABLISHMENT AND PURPOSE.—The Secretary, in consultation with the heads of other relevant Executive agencies, is authorized to establish and maintain a roster of personnel who are trained and available as needed to perform services necessary to carry out the purpose of the Corps under paragraph (1)(A). The personnel listed on the roster shall constitute a Response Readiness Reserve to augment the Corps.

"(B) FEDERAL EMPLOYEES.—The Response Readiness Reserve may include employees of the Department of State, including Foreign Service Nationals, employees of the United States Agency for International Development, employees of any other Executive agency (as that term is defined in section 105 of title 5, United States Code), and employees from the legislative and judicial branches who—

"(i) have the training and skills necessary to enable them to contribute to stabilization and reconstruction activities; and “(ii) have volunteered for deployment to carry out stabilization and reconstruction activities.

“(C) NON-FEDERAL PERSONNEL.—The Response Readiness Reserve should also include at least 500 personnel, which may include retired employees of the Federal Government, contractor personnel, nongovernmental organization personnel, and State and local government employees, who—

“(i) have the training and skills necessary to enable them to contribute to stabilization and reconstruction activities; and

“(ii) have volunteered to carry out stabilization and reconstruction activities.

“(3) USE OF CORPS AND RESERVE.—

“(A) RESPONSE READINESS CORPS.—The members of the Corps shall be available—

“(i) if responding in support of stabilization and reconstruction activities pursuant to a determination by the President regarding a stabilization and reconstruction crisis under section 618 of the Foreign Assistance Act of 1961, for deployment in support of such activities; and

“(ii) if not responding as described in clause (i), for assignment in the United States, United States diplomatic missions, and United States Agency for International Development missions.

“(B) RESPONSE READINESS RESERVE.—The Secretary may deploy members of the reserve under paragraph (2) in support of stabilization and reconstruction activities in a foreign country or region if the President makes a determination regarding a stabilization and reconstruction crisis under section 618 of the Foreign Assistance Act of 1961.”.

(b) EMPLOYMENT AUTHORITY.—The full-time personnel authorized to be employed in the Response Readiness Corps under section 59(b)(1)(B)(i) of the State Department Basic Authorities Act of 1956 (as added by subsection (a)) are in addition to any other full-time personnel of the Department or the United States Agency for International Development authorized to be employed under any other provision of law.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the status of efforts to establish the Response Readiness Corps and the Response Readiness Reserve under this section. The report shall include recommendations—

(1) for any legislation necessary to implement subsection (a); and

(2) related to the regulation and structure of the Response Readiness Corps and the Response Readiness Reserve, including with respect to pay and employment security for, and benefit and retirement matters related to, such individuals.

SEC. 8. STABILIZATION AND RECONSTRUCTION TRAINING AND EDUCATION.

Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

“(g) STABILIZATION AND RECONSTRUCTION CURRICULUM.—

“(1) ESTABLISHMENT AND MISSION.—The Secretary, in cooperation with the Secretary of Defense and the Secretary of the Army, is authorized to establish a stabilization and reconstruction curriculum for use in programs of the Foreign Service Institute, the National Defense University, and the United States Army War College.

“(2) CURRICULUM CONTENT.—The curriculum shall include the following:

“(A) An overview of the global security environment, including an assessment of transnational threats and an analysis of United States policy options to address such threats.

“(B) A review of lessons learned from previous United States and international experiences in stabilization and reconstruction activities.

“(C) An overview of the relevant responsibilities, capabilities, and limitations of various Executive agencies (as that term is defined in section 105 of title 5, United States Code) and the interactions among them.

“(D) A discussion of the international resources available to address stabilization and reconstruction requirements, including resources of the United Nations and its specialized agencies, nongovernmental organizations, private and voluntary organizations, and foreign governments, together with an examination of the successes and failures experienced by the United States in working with such entities.

“(E) A study of the United States interagency system.

“(F) Foreign language training.

“(G) Training and simulation exercises for joint civilian-military emergency response operations.”.

SEC. 9. SERVICE RELATED TO STABILIZATION AND RECONSTRUCTION.

(a) PROMOTION PURPOSES.—Service in stabilization and reconstruction operations overseas, membership in the Response Readiness Corps under section 59(b) of the State Department Basic Authorities Act of 1956 (as added by section 7), and education and training in the stabilization and reconstruction curriculum established under section 701(g) of the Foreign Service Act of 1980 (as added by section 8) should be considered among the favorable factors for the promotion of employees of Executive agencies.

(b) PERSONNEL TRAINING AND PROMOTION.—The Secretary and the Administrator should take steps to ensure that, not later than 3 years after the date of the enactment of this Act, at least 10 percent of the employees of the Department and the United States Agency for International Development in the United States are members of the Response Readiness Corps or are trained in the activities of, or identified for potential deployment in support of, the Response Readiness Corps. The Secretary should provide such training to Ambassadors and Deputy Chiefs of Mission.

(c) OTHER INCENTIVES AND BENEFITS.—The Secretary and the Administrator may establish and administer a system of awards and other incentives and benefits to confer appropriate recognition on and reward any individual who is assigned, detailed, or deployed to carry out stabilization or reconstruction activities in accordance with this Act.

SEC. 10. AUTHORITIES RELATED TO PERSONNEL.

(a) CONTRACTING AUTHORITY.—The Secretary, or the head of another Executive agency authorized by the Secretary, may, upon a determination by the President regarding a stabilization and reconstruction crisis under section 618 of the Foreign Assistance Act of 1961, procure the services of individuals or organizations by contract to carry out the purposes of this Act. Individuals so performing such services shall not by virtue of performing such services be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management (except that the Secretary or other authorized Executive agency head may determine the applicability to such individuals of any law administered by the Secretary or other authorized Executive agency head concerning the performance of such services by such individuals).

(b) EXPERTS AND CONSULTANTS.—Upon a determination by the President regarding a stabilization and reconstruction crisis under section 618 of the Foreign Assistance Act of 1961, the Secretary and Administrator may, to the extent necessary to obtain services without delay, employ experts and consultants under section 3109 of title 5, United States Code, without requiring compliance with any otherwise applicable requirements for that employment as the Secretary or Administrator may determine, except that such employment shall be terminated after 60 days if by that time the applicable requirements are not complied with.

(c) AUTHORITY TO ACCEPT AND ASSIGN DETAILS.—The Secretary and the Administrator are authorized to accept details or assignments of employees of Executive agencies, members of the uniformed services, and employees of State or local governments on a reimbursable or nonreimbursable basis in order to meet the purposes of this Act. The assignment of an employee of a State or local government under this subsection shall be consistent with subchapter VI of chapter 33 of title 5, United States Code.

(d) DUAL COMPENSATION WAIVER.—

(1) ANNUITANTS UNDER CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Notwithstanding sections 8344(i) and 8468(f) of title 5, United States Code, the Secretary and the Administrator may waive the application of the provisions of sections 8344 (a) through (h) and 8468 (a) through (e) of title 5, United States Code, with respect to annuitants under the Civil Service Retirement System or the Federal Employees Retirement System who are assigned, detailed, or deployed to carry out stabilization and reconstruction activities in accordance with this Act during the period of their reemployment.

(2) ANNUITANTS UNDER FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM AND FOREIGN SERVICE PENSION SYSTEM.—The Secretary may waive the application of subsections (a) through (d) of section 824 of the Foreign Service Act (22 U.S.C. 4064), for annuitants under the Foreign Service Retirement and Disability System or the Foreign Service Pension System who are reemployed on a temporary basis in order to be assigned, detailed, or deployed to carry out stabilization and reconstruction activities in accordance with this Act.

(e) EXTENSION OF CERTAIN FOREIGN SERVICE BENEFITS.—The Secretary may extend to any individuals assigned, detailed, or deployed to carry out stabilization and reconstruction activities in accordance with this Act the benefits or privileges set forth in sections 412, 413, 704, and 901 of the Foreign Service Act of 1980 (22 U.S.C. 972, 22 U.S.C. 3973, 22 U.S.C. 4024, and 22 U.S.C. 4081) to the same extent and manner that such benefits and privileges are extended to members of the Foreign Service.

(f) COMPENSATORY TIME.—Notwithstanding any other provision of law, the Secretary and the Administrator may, subject to the consent of an individual who is assigned, detailed, or deployed to carry out stabilization and reconstruction activities in accordance with this Act, grant such individual compensatory time off for an equal amount of time spent in regularly or irregularly scheduled overtime work. Credit for compensatory time off earned shall not form the basis for any additional compensation. Any such compensatory time not used within 26 pay periods shall be forfeited.

(g) INCREASE IN PREMIUM PAY CAP.—The Secretary is authorized to compensate an employee detailed, assigned, or deployed to carry out stabilization and reconstruction activities in accordance with this Act without regard to the limitations on premium pay set forth in section 5547 of title 5, United States Code, to the extent that the aggregate of the basic pay and premium pay of such employee for a year does not exceed the annual rate payable for level II of the Executive Schedule.

(h) ACCEPTANCE OF VOLUNTEER SERVICES.—

(1) IN GENERAL.—The Secretary, or the head of an Executive agency authorized by the Secretary, may, upon a determination by the President regarding a stabilization and reconstruction crisis under section 618 of the Foreign Assistance Act of 1961, accept volunteer services to carry out stabilization and reconstruction activities under this Act and section 59 of the State Department Basic Authorities Act of 1956 without regard to section 1342 of title 31, United States Code.

(2) TYPES OF VOLUNTEERS.—Donors of voluntary services accepted for purposes of this section may include—

(A) advisors;

(B) experts;

(C) consultants; and

(D) persons performing services in any other capacity determined appropriate by the Secretary.

(3) SUPERVISION.—The Secretary, or the head of an Executive agency authorized by the Secretary, shall—

(A) ensure that each person performing voluntary services accepted under this section is notified of the scope of the voluntary services accepted;

(B) supervise the volunteer to the same extent as employees receiving compensation for similar services; and

(C) ensure that the volunteer has appropriate credentials or is otherwise qualified to perform in each capacity for which the volunteer's services are accepted.

(4) APPLICABILITY OF PROVISIONS RELATING TO FEDERAL GOVERNMENT EMPLOYEES.—A person providing volunteer services accepted under this section shall not be considered an employee of the Federal Government in the performance of those services, except for the purposes of the following provisions of law:

(A) Chapter 81 of title 5, United States Code, relating to compensation for work-related injuries.

(B) Chapter 171 of title 28, United States Code, relating to tort claims.

(C) Chapter 11 of title 18, United States Code, relating to conflicts of interest.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $80.000.000 for personnel, education and training, equipment, and travel costs for purposes of carrying out this Act and the amendments made by this Act.

(b) OFFICE OF INTERNATIONAL STABILIZATION AND RECONSTRUCTION.—Of the amounts authorized to be appropriated in subsection (a), $8,000,000 is authorized to be made available to pay the salaries, overhead, travel, per diem, and related costs associated with establishing and operating the Office of International Stabilization described in section 59 of the State Department Basic Authorities Act of 1956 (as added by sections 6 and 7).

Mr. BIDEN. Mr. President, I rise today in support of the Stabilization and Reconstruction Civilian Management Act of 2004, a bill that will increase the ability of our civilian agencies to effectively respond to complex emergencies and stabilize countries in the wake of war or crisis.

I commend and express my gratitude to Chairman LUGAR for his leadership on this issue. Since December of last year, the chairman and I have been engaged in discussions with experts from in and outside government on whether the United States is adequately organized and equipped, and its personnel trained, to deal with post-conflict reconstruction. Our premise was this: in the last decade, the United States has taken on post-conflict stabilization missions in countries such as Bosnia, East Timor, Haiti, Somalia, and now Afghanistan and Iraq. In the decade to come, whether we like it or not, nation building will remain vital to our national security.

We have learned a lot from our efforts. And we have made a lot of mistakes in the process. One lesson that I think is clear is that we have not done a very good job of turning our experience into tools for the future. So the chairman and I put together a group of outside advisers who had held senior positions in the last two administrations; we also invited officials from this administration to give their ideas. The bill we are introducing today is the product of those consultations. I wish to thank all of the participants of the group for their invaluable input to this bipartisan initiative.

Addressing the needs present in post-conflict reconstruction—and in particular, in countries that are on the verge of becoming failed states—is one of the greatest challenges we face today. It matters to the people living in those nations, and it matters to the American people. A bipartisan commission organized by the Center for Strategic and International Studies and the Association of the U.S. Army found, to no one's surprise, that "failed states matter—for national security as well as for humanitarian reasons. If left to their own devices, such states can become sanctuaries for terrorist networks, organized crime and drug traffickers, as well as pose grave humanitarian challenges and threats to regional stability."

We should not have to reinvent the wheel every time we are faced with a stabilization crisis—it's inefficient and ineffective. Rather than address crises on an ad hoc basis—cobbling together plans, procedures, and personnel—as we have been doing, we need to be forward-thinking, comprehensive, and strategic.

The thrust of this legislation is to do precisely that. The bill authorizes the creation of an office within the State Department that will be the focal point for creating plans and procedures to respond to crises, and it establishes a corps of active duty and reserve personnel who will be able to deploy rapidly when and where critical needs arise.

Mr. President, this bill is not a cure-all. But I believe it is a good start to addressing a critical need: that of strengthening our civilian capacity to handle complex emergencies overseas. Again, I thank Chairman LUGAR and the members of our policy advisory group for their work on this issue.

I yield the floor.

By Mr. NICKLES (for himself, Ms. LANDRIEU, and Mr. INHOFE):

S. 2128. A bill to define the term "natural born Citizen" as used in the Constitution of the United States to establish eligibility for the Office of President; to the Committee on the Judiciary.

Mr. NICKLES. Mr. President, as we take time to celebrate President's Day and remember the contributions of two of our greatest leaders George Washington and Abraham Lincoln, I rise along with my colleagues Senator LANDRIEU and Senator INHOFE to introduce legislation that will guarantee children born to and adopted by American citizens the opportunity to become this country's next great president. The purpose of this bill is to define the term "natural born Citizen" as used in Article II of the Constitution to include any person born in the United States, any person born outside the United States to citizen parents, and any foreign-born child adopted by citizen parents.

For many decades legal scholars have debated the meaning of the term "natural born Citizen." There are many law review articles that examine the issue from every angle and come to several different conclusions. Some scholars, such as Pinkney G. McElwee in his article entitled Natural Born Citizen and Isidor Blum's article published in the New York Law School Journal, conclude that the term "natural born" is synonymous with "native born." Others, such as Charles Gordon in the Maryland Law Review and Warren Freedman in the Cornell Law Quarterly, decide that the definition of "natural born" includes all people who are citizens at birth. And these scholars disagree as to who is a citizen at birth.

The issue came to the public's attention when George Romney was seeking the Republican nomination for President in 1968. He was born of American missionary parents in Mexico. Some questioned his eligibility to be President under the Constitutional requirement that a President be a "natural born citizen." The issue was never decided since Mr. Romney did not become the Republican nominee. Although at least two Federal court decisions have suggested what the term "natural born citizen" means, the issue has never been squarely resolved by a court.

Today the question remains unanswered. This bill presents us with an historic opportunity. In this bill, we have the opportunity to end the uncertainty surrounding the qualifications for the presidency, and provide a fair and equal chance to children of American citizens to pursue their dreams.

There is obviously a need for clarification. In the absence of a judicial interpretation, Congress can express a legislative interpretation of Constitutional terms. We should not wait for an election to be challenged and the courts to decide what "natural born" means. This bill answers the need for clarification and gives certainty to our citizens whose children may be born abroad such as armed service members, foreign service members, expatriate families, and certainty to families that have adopted foreign born children, that their children, too, are eligible to seek the office of President of the United States.

Part of the American dream is that any child of an American can grow up to be anything he or she wants to be including President of the United States. That it does not matter what your last name is, or how much property you own, or how wealthy you are. That the son or daughter of the humblest upbringing could one day lead this great country. This is why America is truly the land of opportunity. It should not matter if you are born to American parents in a foreign country or adopted by American parents from a foreign country. In either case, you are a child of America.

This bill makes clear that a child born to American citizens abroad is eligible to hold the office of the presidency. The term "natural born" was used by the framers of the Constitution to reinforce their wish that the president would feel loyalty and allegiance to the United States. That the president would have a "native feeling." Children born to American citizens abroad, especially those born to members of the American armed forces and foreign service, certainly have that "native feeling." They are as patriotic as any American. Statutorily, they are citizens from birth, raised by Americans with American values. And they should have the same opportunities as children born on American soil. They should not be denied the chance to seek the highest office in our land because they happened to be born while their parents were stationed or working abroad.

The Constitution also requires that the president have resided in the United States for fourteen years. This provision shows us that the framers believed that the president need not spend his whole life in the United States. It is possible for a person to reside in another country for a time and still be eligible to be President of the United States. So it follows that an American child born abroad should be just as eligible to be president just as any child born in the United States that happens to reside abroad for a time. This bill makes it clear that such a child is eligible to be president.

This bill also makes clear that foreign born children adopted by American families will have the same opportunities as biological children of American citizens. All of the same arguments apply for foreign adopted children that apply for children born biologically to citizen parents abroad. These children are no less loyal to the United States. They are raised by Americans in America. They are not any less of a citizen than any other American. And they should be no less eligible to be president than any other American child.

Furthermore, adoption law says that once a child is fully and finally adopted, they are entitled to the same rights, duties and responsibilities as biological children. They are to be treated as "natural issue" of their adoptive parents. All blood ties are severed from their biological families. As such, foreign adopted children living in America are treated as if born to their adoptive American parents. But there is one remaining difference. Without this bill, they will be unable to pursue the opportunity to run for President. Removal of this inequality is the last step needed to truly provide equality to the foreign adopted children of American citizens.

In 1990, Americans adopted more than 7,000 children from abroad. By 2002, that number grew to more than 20,000 children. These children are members of American families, and should be treated as such. They should be allowed to have the same dreams as any other American child, including the dream that they, too, could grow up to be President of the United States. This bill makes sure they can.

Foreign adopted children and children born to American citizens abroad are as invested in the well-being of this country as the rest of us. These children grow up with the benefits of being an American citizen, and they contribute back to this country. They grow up to work here, pay their taxes here, and raise their children here. These children could grow up to be America's next great writers, actors, scientists, lawyers or doctors. They could be ministers or mill workers, farmers or Senators. They should also be allowed to grow up to be the President.

This bill ensures that children born to or adopted by American parents have claim to the full meaning of the American dream. That not only can they have the freedom to speak, the freedom to worship in any style they wish, the freedom to own a home and pursue happiness, but that they can also have the freedom to choose to run for president.

Over my years as a Senator, my office has received letters and inquiries from many foreign adopted children and their families seeking a change in the law to allow them to pursue the office of President of the United States. I ask my colleagues today to join with us in support of this bill to make America truly the land of opportunity for all its citizens' children whether born here, born abroad or adopted abroad.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Born Citizen Act".

SEC. 2. DEFINITION OF "NATURAL BORN CITIZEN".

(a) IN GENERAL.—Congress finds and declares that the term "natural born Citizen" in Article II, Section 1, Clause 5 of the Constitution of the United States means—

(1) any person born in the United States and subject to the jurisdiction thereof; and

(2) any person born outside the United States—

(A) who derives citizenship at birth from a United States citizen parent or parents pursuant to an Act of Congress; or

(B) who is adopted by 18 years of age by a United States citizen parent or parents who are otherwise eligible to transmit citizenship to a biological child pursuant to an Act of Congress.

(b) UNITED STATES.—In this section, the term "United States", when used in a geographic sense, means the several States of the United States and the District of Columbia.

Mr. INHOFE. Mr. President, I rise today to join my colleagues, Senator NICKLES and LANDRIEU, in introducing this bill, which will profoundly impact generations to come. It will clarify who is eligible to become President of the United States of America. The term "natural born citizen" as used in the Constitution, would be defined as any person born in the United States, any person born outside the United States to citizen parents, and any foreign-born child adopted by citizen parents.

In the absence of a judicial interpretation of constitutional language, Congress can express a legislative interpretation of constitutional terms. In the Naturalization Act of 1790, Congress used this ability to define "natural born" to include children born abroad to citizen parents. Although this language was not kept in the naturalization laws, the ability of Congress to define this term was not challenged.

This bill is intended to further describe the term "natural born citizen" as it relates to Presidential qualification. The Framers used this phrase to support the criteria that the President be loyal and faithful to the United States. Children born to military, or

State Department parents living abroad have exceeding loyalty to the United States. They should not be punished for their parents' willingness to serve their country abroad.

Furthermore, internationally adopted children should not bear this penalty either. In recent years, the number of children adopted by Americans from overseas has grown to more than 20,000. They are considered "natural issue" of their adoptive parents and share a similar loyalty to the United States. These children should have the same rights, duties, responsibilities, and privileges as biological children. They should be able to pursue their dreams.

About two and a half years ago, my daughter adopted a little girl from Ethiopia. While my granddaughter shares most freedoms granted by the Constitution with her biologically born brothers, including the freedom of speech, the freedom to worship, and the freedom to pursue happiness, she does not have the freedom to pursue any job she wants. Without this interpretation she does not have the freedom to run for President of the United States.

I urge my colleagues to join in support of this bill to allow all American citizens, no matter where they are born, an equal opportunity to pursue their dreams, including to run for President of the United States.

By Mrs. BOXER:

S. 2129. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety device in connection with the transfer of a handgun and to provide safety standards for child safety devices; to the Committee on the Judiciary.

Mrs. BOXER. Mr. President, we would all agree that we need to protect our children from violence. However, too many of our children continue to be injured or killed by guns. That is why I am introducing the Child Safety Device Act.

This is a very simple measure. Every handgun sold must come with a child safety device. This can be a lock using a key or combination, a device that locks electronically, a lock box, or technology that is built into the gun itself. With this safety measure in place, we can reduce the number of accidental gun deaths among our children.

More than 22 million children live in homes with guns. And more than 3.3 million of them live in homes where the guns are always or sometimes kept loaded and unlocked. The result is the accidental deaths of 182 young people each year—that's one every 48 hours.

We "childproof" our medicine bottles; we put gates up near stairs; we make sure that toys are not toxic. But we don't require that guns come with safety devices. We should.

And to ensure that those devices are effective, my bill requires that the Consumer Product Safety Commission establish standards for their design, manufacture, and performance. When parents use a child safety device, they should have confidence that it works as intended.

The Child Safety Device Act will improve the safety of our children—and it will help save lives.

By Mr. CAMPBELL (for himself, Ms. SNOWE, Mr. INOUYE, Mrs. HUTCHISON, Mr. LEVIN, Mr. MILLER, Mr. BIDEN, Mr. BREAUX, Mrs. BOXER, Mr. LUGAR, Mr. LAUTENBERG, Ms. COLLINS, Ms. STABENOW, Mr. BURNS, Mr. SMITH, Ms. MURKOWSKI, Mr. LIEBERMAN, Mr. KENNEDY, Mr. FRIST, Mr. BINGAMAN, Mr. SPECTER, Mr. FITZGERALD, Mrs. FEINSTEIN, Mr. ALLARD, Mr. ENSIGN, Mr. CRAPO, Mr. STEVENS, Mr. GRAHAM of South Carolina, Mr. DURBIN, Mr. BENNETT, Mr. SESSIONS, Mr. DAYTON, Mr. BOND, and Mr. JOHNSON):

S.J. Res. 28. A joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES 28

Whereas June 6, 2004, marks the 60th anniversary of D-Day, the first day of the Allied landing at Normandy during World War II by American, British, and Canadian troops;

Whereas the D-Day landing, known as Operation Overlord, was the most extensive amphibious operation ever to occur, involving on the first day of the operation 5,000 naval vessels, more than 11,000 sorties by Allied aircraft, and 153,000 members of the Allied Expeditionary Force;

Whereas the bravery and sacrifices of the Allied troops at 5 separate Normandy beaches and numerous paratrooper and glider landing zones began what Allied Supreme Commander Dwight D. Eisenhower called a "Crusade in Europe" to end Nazi tyranny and restore freedom and human dignity to millions of people;

Whereas that great assault by sea and air marked the beginning of the end of Hitler's ambition for world domination;

Whereas American troops suffered over 6,500 casualties on D-Day; and

Whereas the people of the United States should honor the valor and sacrifices of their fellow countrymen, both living and dead, who fought that day for liberty and the cause of freedom in Europe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) recognizes the 60th anniversary of the Allied landing at Normandy during World War II; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the anniversary with appropriate ceremonies and programs to honor the sacrifices of their fellow countrymen to liberate Europe.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 91—DESIGNATING THE MONTH OF APRIL 2005 AS "AMERICAN RELIGIOUS HISTORY MONTH"

Mr. BROWNBACK (for himself and Mr. INHOFE) submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. CON. RES. 91

Whereas religion has made a unique contribution in shaping the United States as a distinctive and blessed Nation and people;

Whereas deeply held religious convictions led to the early settlement of our nation;

Whereas religious teachings from the Bible inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution of the United States;

Whereas the history of our Nation clearly illustrates the value of voluntarily applying religious teaching in the lives of individuals, families, and society;

Whereas the profoundly held religious belief that all people are created in the image of God and are therefore equal in the eyes of God ultimately led to the abolition of the deeply entrenched institution of slavery;

Whereas many of our great national leaders acknowledged that religion is the basis of national morality, as evidenced by President Washington who said that "reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle";

Whereas the Nation now faces great challenges that will test this Nation as it has never been tested before; and

Whereas renewing our knowledge of a faith in the God of our Founding Fathers can strengthen us as a Nation and a people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates the month of April 2005 as "American Religious History Month" in recognition of both the formative influence that religion has been on our Nation, and our national need to study and apply the religious teachings embraced by our Founding Fathers; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.

SENATE CONCURRENT RESOLUTION 92—CONGRATULATING AND SALUTING FOCUS: HOPE ON THE OCCASION OF ITS 35TH ANNIVERSARY AND FOR ITS REMARKABLE COMMITMENT AND CONTRIBUTIONS TO DETROIT, THE STATE OF MICHIGAN, AND FOR THE UNITED STATES

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 92

Whereas Focus: HOPE began as a civil and human rights organization in 1968 in the wake of the devastating Detroit riots, and was co-founded by the late Father William T. Cunningham, a Roman Catholic priest, and Eleanor M. Josaitis, a suburban housewife, who were inspired to establish Focus: HOPE by the work of Dr. Martin Luther King Jr.;

Whereas Focus: HOPE is committed to bringing together people of all races, faiths, and economic backgrounds to overcome injustice and build racial harmony, and it has grown to one of the largest nonprofit organizations in Michigan;

Whereas the Focus: HOPE mission statement states: "Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice. And to build a metropolitan community where all people may live in freedom, harmony, trust and affection. Black and white, yellow, brown and red from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this covenant.";

Whereas one of Focus: HOPE's early efforts was to support African American and female employees in a seminal class action suit against AAA, resulting in one of the finest affirmative action commitments made by any corporation up to that time;

Whereas Focus: HOPE helped to conceive of and develop the Department of Agriculture's Commodity Supplemental Food Program which has been replicated in 32 states, and through this program Focus: HOPE helps to feed 43,000 people per month throughout Southeast Michigan;

Whereas Focus: HOPE has revitalized several city blocks in central Detroit by redeveloping obsolete industrial buildings, beautifying and landscaping Oakman Boulevard, creating pocket parks, and rehabilitating homes in the surrounding areas;

Whereas Focus: HOPE's Machinist Training Institute has been training individuals from Detroit and beyond for careers in advanced manufacturing and precision machining since 1981, and has sent forth nearly 2,500 certified graduates, providing an opportunity for primarily under-represented minority youth, women, and others to gain access to the financial mainstream and learn in-demand skills;

Whereas Focus: HOPE, with assistance from Michigan, the Department of Housing and Urban Development, and other generous private and public partners, has within the last two years invested over $10 million to complete the renovation of the industrial building housing its Machinist Training Institute;

Whereas Focus: HOPE has recognized that manufacturing and information technologies are key to the economic growth and security of Michigan and the United States, and is committed to designing programs that would contribute to the participation of under-represented urban individuals in these critical sectors;

Whereas, in 1982, Focus: HOPE began a for-profit subsidiary that was initiated for community economic development purposes and is now designated with Federal HUBZone status;

Whereas Focus: HOPE created two pioneering programs—FAST TRACK and First Step—designed to help individuals improve their reading and math competencies by a minimum of two grade levels in 4–7 weeks;

Whereas these programs have graduated over 7,000 individuals since their inception, a new offsite training facility in Detroit's Empowerment Zone in southwest Detroit has been established to reach out to individuals in other parts of the city, and the success of the programs has inspired Michigan (in its State-wide FAST BREAK program) and other States to replicate the efforts of Focus: HOPE;

Whereas, in 1987, Focus: HOPE reclaimed and renovated an abandoned building and opened it as a Center for Children, which has now served over 5,000 children of colleagues, students, and neighbors with quality child care, including latchkey, early childhood education, and other educational services;

Whereas Focus: HOPE, through an unprecedented co-operative agreement between the Departments of Defense, Commerce, Education, and Labor, established a National demonstration project—the Center for Advanced Technologies—in which candidates earn associates and bachelors degrees in either manufacturing engineering or technology, and engage in hands-on manufacturing within-real world conditions, producing parts for DaimlerChrysler, Detroit Diesel, Ford Motor Company, General Motors Corporation, the Department of Defense, and others;

Whereas Focus: HOPE has caused over $22 million to be invested in renovating a previously obsolete building to house the Center for Advanced Technologies, transforming the building into a model facility for 21st century advanced manufacturing, education, and research;

Whereas Focus: HOPE has made outstanding contributions toward increasing diversity within the traditional homogeneous science, math, engineering, and technology fields, and 95 percent of currently enrolled degree candidates are African American, representing perhaps the United States' largest producer of bachelor-degreed minority graduates in manufacturing engineering;

Whereas Focus: HOPE's unique research and development partnership with the Department of Defense has resulted in a nationally recognized demonstration project, the Mobile Parts Hospital, whose Rapid Manufacturing System has recently been deployed to Kuwait in support of the Armed Forces' current operations in Afghanistan and Iraq;

Whereas Focus: HOPE began a community arts program in 1995, presenting multicultural arts programming and gallery exhibitions designed to educate and encourage area residents, while fostering integration in a culturally diverse metropolitan community, and over 43,000 people have viewed sponsored exhibits or participated in this program;

Whereas Focus: HOPE established an Information Technologies Center in 1999, providing Detroit students with industry-certified training programs in network administration, network installation, and desktop and server administration, and has graduated nearly 475 students to date, and has initiated, in collaboration with industry and academia, the design of a new bachelors degree program to educate information management systems engineers;

Whereas Focus: HOPE's initiatives and programs have been nationally recognized for excellence and leadership by such organizations as the Government Accounting Office, the Department of Labor, the International Standards Organization, the National Science Foundation, the Cisco Networking Academy Program, Fortune Magazine, Forbes Magazine, the Aspen Institute, and many others, and former Presidents George H. W. Bush and Bill Clinton have visited Focus: HOPE's campus;

Whereas Focus: HOPE is currently led by Eleanor M. Josaitis, its co-founder and chief executive officer, and she has received honorary degrees from 11 outstanding universities and colleges, was named one of the 100 Most Influential Women in 2002 by Crain's Detroit Business, has been inducted into the Michigan Women's Hall of Fame, has received the Detroit NAACP Presidential Award, the Arab American Institute Foundation's Kahlil Gibran Spirit of Humanity Award, as well as many other awards;

Whereas through the generous partnerships and support of individuals from all walks of life, Federal, State, and local government, and foundations and corporations across the United States, the vision of Focus: HOPE will continue to grow and inspire;

Whereas Focus: HOPE has been blessed with an active board of directors and advisory board from the senior most levels of corporate and public America, and has benefited from an annual average of 25,000 volunteers and countless colleagues;

Whereas Focus: HOPE has been a tremendous force for good in the City of Detroit, the State of Michigan, and the United States for the past 35 years;

Whereas Focus: HOPE continues to strive to eliminate racism, poverty, and injustice through the use of passion, persistence, and partnerships, and continues to seek improvement in its quality of service and program operations; and

Whereas Focus: HOPE and its colleagues will continue to identify ways in which it can lead Detroit, the State of Michigan, and the United States into the future with creative urban leadership initiatives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) congratulates and salutes Focus: HOPE for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States; and

(2) directs the Secretary of the Senate to make available enrolled copies of this resolution to Focus: HOPE and Ms. Eleanor M. Josaitis for appropriate display.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2617. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; which was ordered to lie on the table.

SA 2618. Mr. CAMPBELL (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1805, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2617. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—UNEMPLOYMENT COMPENSATION

SEC. ___01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) In General.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108–26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking "December 31, 2003" and inserting "June 30, 2004";

(2) in subsection (b)(1), by striking "December 31, 2003" and inserting "June 30, 2004";

(3) in subsection (b)(2)—

(A) in the heading, by striking "DECEMBER 31, 2003" and inserting "JUNE 30, 2004"; and

(B) by striking "December 31, 2003" and inserting "June 30, 2004"; and

(4) in subsection (b)(3), by striking "March 31, 2004" and inserting "September 30, 2004".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. ___02. ADDITIONAL REVISION TO CURRENT TEUC–X TRIGGER.

Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

"(B) such a period would then be in effect for such State under such Act if—

"(i) section 203(d) of such Act were applied as if it had been amended by striking '5' each place it appears and inserting '4'; and

"(ii) with respect to weeks of unemployment beginning on or after the date of enactment of this clause—

"(I) paragraph (1)(A) of such section 203(d) did not apply; and

"(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply.".

SEC. ___03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on June 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

SA 2618. Mr. CAMPBELL (for himself and Mr. Leahy) submitted an amendment intended to be proposed by him to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 11, after line 19, add the following:

SEC. 5. LAW ENFORCEMENT OFFICERS SAFETY ACT.

(a) Short Title.—This section may be cited as the "Law Enforcement Officers Safety Act of 2004".

(b) Exemption of Qualified Law Enforcement Officers From State Laws Prohibiting the Carrying of Concealed Firearms.—

(1) In general.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

"§ 926B. Carrying of concealed firearms by qualified law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) is authorized by the agency to carry a firearm;

"(3) is not the subject of any disciplinary action by the agency;

"(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and

"(5) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer.

"(e) Defined Term.—As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of title 26);

"(2) any firearm silencer (as defined in section 921); and

"(3) any destructive device (as defined in section 921).".

(2) Clerical amendment.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified law enforcement officers.".

(c) Exemption of Qualified Retired Law Enforcement Officers From State Laws Prohibiting the Carrying of Concealed Firearms.—

(1) In general.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926B, as added by subsection (b), the following:

"§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified retired law enforcement officer' means an individual who—

"(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

"(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

"(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

"(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

"(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms; and

"(6) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.

"(e) Defined Term.—As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of title 26);

"(2) any firearm silencer (as defined in section 921); and

"(3) a destructive device (as defined in section 921).".

(2) Clerical amendment.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926B the following:

"926C. Carrying of concealed firearms by qualified retired law enforcement officers.".

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, March 3, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1420, a bill to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510-6150.

For further information, please contact Dick Bouts at (202) 224-7545.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 25, 2004, at 10 a.m. to conduct a hearing on "Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 25, 2004, at 2:30 p.m. to conduct a hearing on "Proposals for Improving the Regulatory Regime of the Housing Government Sponsored Enterprises."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 25, 2004, at 9:30 a.m. on Economic Implications of Seafood Processor Quotas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 25, 2004, at 9:30 a.m. to hold a hearing on The Japanese Tax Treaty and the SRI Lanka tax Protocol.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 25, 2004, at 3:30 p.m. to hold a hearing on USAID Contracting Policies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, February 25, 2004, at 9:30 a.m., in room 485 of the Russell Senate Office Building to conduct a hearing on the President's Fiscal Year 2005 Budget Request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, February 25, at 10 a.m., on "Judicial Nominations," in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Roger T. Benitez, to the U.S. District Court for the Southern District of California.

Panel III: Representatives from the American Bar Association.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to meet to conduct a hearing in room 628 of the Dirksen Senate Building, Wednesday, February 25, from 10 a.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORK FORCE AND THE DISTRICT OF COLUMBIA

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, be authorized to meet on Wednesday, February 25, 2004 at 10 a.m., for a hearing entitled "The Key to Homeland Security: The New Personnel System."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on February 25, 2004, at 9:30 a.m., in open session to receive testimony on policies and programs for preventing and responding to incidents of sexual assault in the armed services.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on February 25, 2004, at 2:30 p.m., in open session to receive testimony on the Department of Energy's Office of Environmental Management, Office of Future Liabilities, and the Office of Legacy Management, in review of the Defense authorization request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that privileges of the floor be granted to Lisa McGrath and Douglas Lucke during consideration of S. 1805, the Protection of Lawful Commerce in Arms Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent for Adam Aston from my office be granted privileges of the floor during the course of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Adam Rosenberg, a fellow on the staff of the Energy and Natural Resources Committee, be given privileges of the floor today, February 25.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(B), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Alison Fox:									
Brazil	Dollar		1,462.00						1,462.00
Mark Halverson:									
Brazil	Dollar		1,462.00						1,462.00
Senator Tom Harkin:									
Brazil	Dollar		1,462.00						1,462.00
Delegation Expenses:									
Brazil	Dollar				5,057.00		16,348.00		21,405.00
Total			4,386.00		5,057.00		16,348.00		25,791.00

THAD COCHRAN, Chairman,
Committee on Agriculture, Nutrition and Forestry, Jan. 20, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, AMENDED FROM 3RD QUARTER, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jennifer Chartrand:									
Great Britain	Dollar		1,050.00						1,050.00
Italy	Dollar		1,100.00						1,100.00
United States	Dollar				4,560.00				4,560.00
Total			2,150.00		4,560.00				6,710.00

TED STEVENS, Chairman,
Committee on Appropriations, Dec. 16, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Howard L. Walgren:									
United States	Dollar				6,339.37				6,339.37
Hong Kong	Dollar		822.00						822.00
Thailand	Baht		456.00						456.00
Singapore	Dollar		512.00						512.00
Senator Ted Stevens:									
China	Yuan		658.00						658.00
Thailand	Baht		461.10						461.10
Hong Kong	Dollar		801.60						801.60
Senator Daniel K. Inouye:									
China	Yuan		658.00						658.00
Thailand	Baht		461.10						461.10
Hong Kong	Dollar		801.60						801.60
Jim Morhard:									
China	Yuan		658.00						658.00
Thailand	Baht		461.10						461.10
Hong Kong	Dollar		801.60						801.60
Sid Ashworth:									
China	Yuan		658.00						658.00
Thailand	Baht		461.10						461.10
Hong Kong	Dollar		801.60						801.60
Jennifer Chartrand:									
China	Yuan		658.00						658.00
Thailand	Baht		461.10						461.10
Hong Kong	Dollar		801.60						801.60
Charlie Houy:									
China	Yuan		658.00						658.00
Thailand	Baht		461.10						461.10
Hong Kong	Dollar		801.60						801.60
Total			13,314.20		6,339.37				19,653.57

TED STEVENS, Chairman,
Committee on Appropriations, Dec. 16, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby:									
Japan	Yen		716.00						716.00
China	Yuan		867.00						867.00
Hong Kong	Dollar		1,233.00						1,233.00
Kathleen L. Casey:									
Japan	Yen		666.00						666.00
China	Yuan		817.00						817.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hong Kong	Dollar		1,178.00						1,178.00
Total			5,477.00						5,477.00

RICHARD SHELBY, Chairman,
Committee on Banking, Housing, and Urban Affairs, Jan. 22, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BUDGET FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Don Nickles:									
Zambia	Dollar		460.00						460.00
Rwanda	Dollar		201.00						201.00
Kenya	Dollar		295.00						295.00
Uganda	Dollar		469.00						469.00
United States	Dollar				5,397.69				5,397.69
Senator Jeff Sessions:									
Italy	Euro		839.39						839.39
Heather Sawyer:									
Italy	Euro		907.15						907.15
Total			3,171.54		5,397.69				8,569.23

DON NICKLES, Chairman,
Senate Budget Committee, Jan. 27, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATIONFOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ernest F. Hollings:									
Japan	Yen		716.00						716.00
China	Yuan		867.00						867.00
Hong Kong	Dollar		1,233.00						1,233.00
Kevin D. Kayes:									
Japan	Yen		716.00						716.00
China	Yuan		867.00						867.00
Hong Kong	Dollar		1,233.00						1,233.00
Robert M. Freeman:									
United States	Dollar				656.49				656.49
United Kingdom	Pound		4,460.00						4,460.00
Floyd Des Champs:									
United States	Dollar				680.95				680.95
Italy	Euro		1,342.00						1,342.00
John Richards:									
United States	Dollar				713.13				713.13
Italy	Euro		929.00						929.00
Kristin Elder:									
United States	Dollar				654.44				654.44
Italy	Euro		694.00						694.00
Mimi Braniff:									
United States	Dollar				654.44				654.44
Italy	Euro		704.07						704.07
Margaret Spring:									
United States	Dollar				725.13				725.13
Italy	Euro		716.00						716.00
Cindy Bethell:									
United States	Dollar				714.23				714.23
Italy	Euro		1,253.00						1,253.00
Total			15,730.07		4,798.81				20,528.88

JOHN McCAIN, Chairman,
Committee on Commerce, Science, and Transportation, Jan. 23, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Larry Craig:									
Italy	Euro		1,354.29		376.90				1,731.19
Will Hart:									
Italy	Euro		1,425.20		183.91				1,609.11
Kellie A. Donnelly:									
Italy	Euro		1,018.74		4,601.90				5,620.64
Marianne Funk:									
Italy	Euro		1,047.74		4,601.90				5,649.64

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jonathan Black:									
Italy	Euro		1,016.00		5,725.40				6,741.40
Total			5,861.97		15,490.01				21,351.98

PETE DOMENICI, Chairman,
Committee on Energy and Natural Resources, Feb. 11, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95 384 22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Chuck Hagel:									
Germany	Euro		724.00						724.00
Poland	Zloty		710.00						710.00
United States	Dollar				6,781.12				6,781.12
Tunisia	Dinar		206.00						206.00
Algeria	Dinar		252.00						252.00
Morocco	Dirham		504.00						504.00
United States	Dollar				7,887.26				7,887.26
Senator Joseph Biden:									
United Kingdom	Pound		421.00						421.00
France	Euro		828.00				202.70		1,030.70
Belgium	Euro		710.00						710.00
United States	Dollar				6,377.81				6,377.81
Tony Blinken:									
United Kingdom	Pound		421.00						421.00
France	Euro		828.00				202.70		1,030.70
Belgium	Euro		710.00						710.00
United States	Dollar				6,845.65				6,845.65
Heather Flynn:									
South Africa	Rand		753.00						753.00
Swaziland	Lilangeni		1,300.00						1,300.00
United States	Dollar				6,976.00				6,976.00
Jessica Fugate:									
Serbia and Montenagro	Dinar		300.00						300.00
Bosnia and Herzegovina	Mark		240.00						240.00
Croatia	Kuna		224.00		162.44				386.44
Slovenia	Tolar		350.00						350.00
Kosovo	Euro		200.00						200.00
United States	Dollar				5,198.44				5,198.44
Michael Haltzel:									
Germany	Euro		1,500.00						1,500.00
United States	Dollar				6,490.65				6,490.65
United Kingdom	Pound		421.00				24.00		445.00
France	Euro		828.00				202.70		1,030.70
Belgium	Euro		710.00						710.00
United States	Dollar				6,305.81				6,305.81
Frank Jannuzi:									
Philippines	Peso		894.00						894.00
Malaysia	Ringit		465.00						465.00
United States	Dollar				4,771.24				4,771.24
Thomas C. Moore:									
United Kingdom	Pound		900.00						900.00
United States	Dollar				5,865.30				5,865.30
Kenneth Myers III:									
France	Euro		550.00						550.00
United States	Dollar				6,448.08				6,448.08
Andrew Parasiliti:									
Germany	Euro		724.00						724.00
Poland	Zloty		710.00						710.00
United States	Dollar				5,443.12				5,443.12
Tunisia	Dinar		206.00						206.00
Algeria	Dinar		252.00						252.00
Morocco	Dirham		504.00						504.00
United States	Dollar				3,820.86				3,820.86
Switzerland	Franc		686.00				222.50		908.50
Belgium	Euro		610.00						610.00
United States	Dollar				3,550.40				3,550.40
Dallas Scholes:									
Italy	Euro		716.00						716.00
United States	Dollar				5,028.41				5,028.41
Puneet Talwar:									
Switzerland	Franc		662.67				222.50		885.17
United States	Dollar				5,759.82				5,759.82
Total			21,019.67		93,712.41		1,077.10		115,809.18

RICHARD G. LUGAR, Chairman,
Committee on Foreign Relations, Jan. 20, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384 22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Timothy Profeta:									
United States	Dollar				715.95				715.95

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Italy	Euro		1,253.00						1,253.00
Senator Susan M. Collins:									
Israel	New Skekel		797.00						797.00
Jordan	Dinar		152.50						152.50
Morocco	Dirham		102.50						102.50
Total			2,305.00		715.95				3,020.95

SUSAN COLLINS, Chairman,
Committee on Governmental Affairs, Jan. 21, 2004.

CONSOLIDATED REPORT OF EXPEND!TURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jon Kyl:									
Israel	Dollar		756.00						756.00
Morocco	Dollar		255.00		0.00		0.00		255.00
Chnstine Clarke:									
Israel	Dollar		756.00		0.00		759.00		1,515.00
Morocco	Dollar		255.00		0.00		0.00		255.00
Total			2,022.00				759.00		2,781.00

ORRIN HATCH, Chairman,
Committee on the Judiciary, Jan. 30, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, AMENDED FROM THE 1ST QUARTER, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JAN. 1 TO MAR. 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mike DeWine							4,105.76		4,105.76
Senator Richard Durbin			20.00				4,105.76		4,125.76
William Duhnke			643.50						643.50
Christopher Mellon			1,965.00						1,965.00
					7,479.56				7,479.56
Total			2,628.50		7,479.56		8,211.52		18,319.58

PAT ROBERTS, Chairman,
Committee on Intelligence, Jan. 16, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCEFOR TRAVEL FROM APR. 1 TO JUN. 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John D. Rockefeller:			1,087.00						1,087.00
Christopher Mellon:			1,087.00						1,087.00
Senator Saxby Chambliss:			236.00						236.00
Jay Jakub:			558.00						558.00
	Dollar				7,479.56				7,479.56
Total			2,968.00		7,479.56				10,447.56

PAT ROBERTS, Chairman,
Committee on Intelligence, Jan. 16, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kenneth G. Johnson:			1,376.45						1,376.45
	Dollar				6,244.28				6,244.28
Brandon Milhorn:			1,376.45						1,376.45
	Dollar				6,244.28				6,244.28
Lindsey Fair:			1,376.45						1,376.45
	Dollar				6,244.28				6,244.28
Nancy St. Louis:			1,376.45						1,376.45
	Dollar				6,244.28				6,244.28
Randall Bookout:			1,704.00						1,704.00
	Dollar				7,844.29				7,844.29

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Richard Douglas:			1,704.00						1,704.00
	Dollar				7,844.29				7,844.29
Total			8,913.80		40,665.70				49,579.50

PAT ROBERTS, Chairman
Committee on Intelligence, Jan. 16, 2004

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CODEL DODD FOR TRAVEL FROM NOV. 29 TO DEC. 6, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher Dodd:									
Jordan	Dinar		238.00						238.00
Kuwait	Dollar		402.00						402.00
Israel	Dollar		1,086.00						1,086.00
Senator Jon S. Corzine:									
Jordan	Dinar		108.30						108.30
Kuwait	Dollar		300.00						300.00
Israel	Dollar		726.00						726.00
Evan Gottesman:									
Jordan	Dinar		108.30						108.30
Kuwait	Dollar		280.00						280.00
Israel	Dollar		727.00						727.00
Janice O'Connell:									
Jordan	Dinar		238.00						238.00
Kuwait	Dollar		402.00						402.00
Israel	Dollar		1,086.00						1,086.00
Jonathan Pearl:									
Jordan	Dinar		238.00						238.00
Kuwait	Dollar		402.00						402.00
Israel	Dollar		1,086.00						1,086.00
Delegation Expenses:[1]									
Jordan	Dinar						2,831.51		2,831.51
Afghanistan	Dollar						176.00		176.00
Pakistan	Dollar						2,134.08		2,134.08
Uzbekistan	Dollar						322.68		322.68
Kuwait	Dollar						273.90		273.90
Israel	Dollar						11,133.88		11,133.88
Total:			7,427.60				16,872.05		24,299.65

[1] Delegation expenses include payments and reimbursements to the Department of State under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

TOM DASCHLE,
Democratic Leader, Feb. 11, 2004

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), MAJORITY LEADER, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Larry Craig:									
United States	Dollar				5,026.79				5,026.79
Italy	Euro		537.00						537.00
William Hart:									
United States	Dollar				5,026.79				5,026.79
Italy	Euro		537.00						537.00
Total			1,074.00		10,053.58				11,127.58

BILL FRIST,
Majority Leader, Feb. 2, 2004

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–398, as amended by Public Law 108–7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106–398, and upon the recommendation of the majority leader, in consultation with the chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, appoints the following individual to the United States-China Economic Security Review Commission: Gary J. Schmitt of Washington, D.C., vice Michael A. Ledeen of Maryland.

The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108–173, appoints the following individual to serve as a member of the Commission on Systemic Interoperability: Herbert Pardes, M.D. of New York.

PERMITTING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY TO AWARD A CONGRESSIONAL GOLD MEDAL

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 357, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant journal clerk read as follows:

A concurrent resolution (H. Con. Res. 357) permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 357) was agreed to.

CONGRATULATING FOCUS: HOPE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 92 submitted earlier today by Senator LEVIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant journal clerk read as follows:

A concurrent resolution (S. Con. Res. 92) congratulating and saluting Focus: HOPE on the occasion of its 35th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEVIN. Mr. President, I rise today with great pleasure to speak in commemoration of the 35th anniversary of Focus: HOPE and to support this concurrent resolution commemorating its many achievements. Focus: HOPE has served as an invaluable, multifaced resource for the people of Detroit and Michigan and is a model of success for the entire Nation. From its inception, Focus: HOPE has been committed to taking "intelligent and practical action to overcome racism, poverty, and injustice." For three and a half decades, Focus: HOPE has worked toward that goal.

In 1968, Father William T. Cunningham, a Roman Catholic priest, and Eleanor Josaitis, a housewife, joined to form Focus: HOPE as a positive reaction to the devastating Detroit riots the previous year. While having few material resources at their disposal, Father Cunningham and Ms. Josaitis possessed a singular and indefatigable desire to help residents of Detroit take control of their lives. Their faith has been matched by a love for all of humanity, irrespective of religion or race. That love has helped Focus: HOPE flourish as it seeks to assist many in metro-Detroit.

Focus: HOPE has been involved with myriad activities that address both the immediate and long-term needs of our people. In the 1970s, Focus: HOPE began several innovative programs to provide nutritious food to young children, their mothers and senior citizens. Through its USDA Commodity Supplemental Food Program, the largest of its kind, monthly supplemental food is provided to 43,000 low-income pregnant and postpartum mothers, infants, preschool children and seniors throughout Southeast Michigan. The Commodity Supplemental Food Program can now be found in 32 States.

While caring for the basic needs of individuals, Focus: HOPE also seeks to lift the dreams and spirits of all who study, work at, or visit its 40-acre Detroit campus. Father Cunningham was a firm believer in the ability of education and technology to inspire people and bring out the best in them. By helping people to harness their dreams and imagine what is possible, he sought to develop a series of training and educational programs that challenged students to fulfill their dreams while learning marketable career skills.

To achieve this end, Focus: HOPE developed a four-part educational and training system that requires that students meet rigorous competency standards before they are able to proceed to the next academic program. The first two parts, fast track and the Machinist Training Institute, opened in the 1980s during a time of radical evolution for Focus: HOPE. Fast rack, is a computer assisted course which improves the reading and math skills of high school graduates or GED holders to prepare them for advanced study in the Machinist Training Institute where individuals prepare for careers in advanced machining and precision manufacturing. Fast track ensures that all those who enter the MTI program have the skills needed to succeed in this program and industry. The MTI uses a unique combination of classroom instruction and hands-on manufacturing experience producing high quality products in industry.

By maintaining clear and rigorous standards, MTI is able to train individuals that industry wants to hire. Since its foundation, nearly 2,500 graduates have learned high-demand skills and gain access to the financial mainstream. One indication of the success of this program is that industry often seeks to hire the students ever before they have completed their training.

In 1993, Focus: HOPE expanded its educational programs by adding a third education and training program—the Center for Advanced Technologies, CAT. At the center, "candidates," as all students are called at Focus: HOPE, are able to continue their education by working toward an associate's or bachelor's degree in manufacturing engineering. Through a unique partnership with several universities, CAT students are awarded their degrees in a rigorous process that combines hands-on manufacturing experience and academic instruction within a leading edge technology environment while working and studying at Focus: HOPE. These candidates produce the highest quality and precision parts for the auto industry—a very demanding challenge. This innovative Focus: HOPE program has been cited as enrolling the largest number of African Americans studying manufacturing engineering in the Nation.

In 1999, Focus: HOPE was able to further diversify its training resources through the establishment of the Information Technologies Center, which provides industry-certified training in network administration, network installation, and desktop server administration enabling students to gain employment in the growing Information Technology sector of our economy.

These innovative and successful programs have caused Focus: HOPE to receive considerable national attention for its efforts. As a result of its many successes, Focus: HOPE has been visited by many national, State and local officials who wanted to examine this remarkable place in person. Presidents George H.W. Bush and Bill Clinton have visited Focus: HOPE as well as Energy Secretary Spence Abraham, Army Secretary Thomas White, Commerce Secretary Ron Brown, Secretary of Agriculture Dan Glickman, Secretary of Labor Robert Reich, the Honorable Colin Powell when he served as Joint Chiefs of Staff, and many others. These quests quickly learned as I have on many visits there, that the achievements of Focus: HOPE can hardly be described in just a few minutes or digested in even several visits.

Focus: HOPE has provided practical and compassionate assistance to people of all ages, from young children who receive quality child care at their Center for Children, to young adults who receive vital training through hands-on manufacturing projects, seniors who are fed by the Commodity Supplemental Food Program as well as those who are still young at heart who continue to persevere in the never-ending fight against racism, poverty, and injustice.

I have been privileged to witness and support Focus: HOPE's extraordinary achievements throughout the years. Like thousands of others, I have also been inspired by its positive energy and tireless commitment to providing opportunity for all people. For 35 years, Focus: HOPE has repeatedly amazed me with its spirit, grace, and vision.

Although Focus: HOPE lost a great mentor in 1997 with the passing of Father William Cunningham, Eleanor Josaitis continues to inspire and lead Focus: HOPE as its co-founder and chief executive officer. Today, I am pleased to offer my congratulations to Ms. Josaitis and her colleagues on the 35th anniversary of Focus: HOPE. I am sure that my colleagues in the Senate and the House of Representatives will join Senator STABENOW and me in commemorating this invaluable resource by supporting the passage of this concurrent resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 92) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 92

Whereas Focus: HOPE began as a civil and human rights organization in 1968 in the wake of the devastating Detroit riots, and was co-founded by the late Father William T. Cunningham, a Roman Catholic priest, and Eleanor M. Josaitis, a suburban housewife, who were inspired to establish Focus: HOPE by the work of Dr. Martin Luther King Jr.;

Whereas Focus: HOPE is committed to bringing together people of all races, faiths, and economic backgrounds to overcome injustice and build racial harmony, and it has grown to one of the largest nonprofit organizations in Michigan.

Whereas the Focus: HOPE mission statement states: "Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice. And to build a metropolitan community where all people may live in freedom, harmony, trust and affection. Black and white, yellow, brown and red from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this covenant.";

Whereas one of Focus: HOPE's early efforts was to support African American and female employees in a seminal class action suit against AAA, resulting in one of the finest affirmative action commitments made by any corporation up to that time;

Whereas Focus: HOPE helped to conceive of and develop the Department of Agriculture's Commodity Supplemental Food Program which has been replicated in 32 states, and through this program Focus: HOPE helps to feed 43,000 people per month throughout Southeast Michigan;

Whereas Focus: HOPE has revitalized several city blocks in central Detroit by redeveloping obsolete industrial buildings, beautifying and landscaping Oakman Boulevard, creating pocket parks, and rehabilitating homes in the surrounding areas;

Whereas Focus: HOPE's Machinist Training Institute has been training individuals from Detroit and beyond for careers in advanced manufacturing and precision machining since 1981, and has sent forth nearly 2,500 certified graduates, providing an opportunity for primarily under-represented minority youth, women, and others to gain access to the financial mainstream and learn in-demand skills;

Whereas Focus: HOPE, with assistance from Michigan, the Department of Housing and Urban Development, and other generous private and public partners, has within the last two years invested over $10 million to complete the renovation of the industrial building housing its Machinist Training Institute;

Whereas Focus: HOPE has recognized that manufacturing and information technologies are key to the economic growth and security of Michigan and the United States, and is committed to designing programs that would contribute to the participation of under-represented urban individuals in these critical sectors;

Whereas, in 1982, Focus: HOPE began a for-profit subsidiary that was initiated for community economic development purposes and is now designated with Federal HUBZone status;

Whereas Focus: HOPE created two pioneering programs—FAST TRACK and First Step—designed to help individuals improve their reading and math competencies by a minimum of two grade levels in 4–7 weeks;

Whereas these programs have graduated over 7,000 individuals since their inception, a new offsite training facility in Detroit's Empowerment Zone in southwest Detroit has been established to reach out to individuals in other parts of the city, and the success of the programs has inspired Michigan (in its State-wide FAST BREAK program) and other States to replicate the efforts of Focus: HOPE;

Whereas, in 1987, Focus: HOPE reclaimed and renovated an abandoned building and opened it as a Center for Children, which has now served over 5,000 children of colleagues, students, and neighbors with quality child care, including latchkey, early childhood education, and other educational services;

Whereas Focus: HOPE, through an unprecedented co-operative agreement between the Departments of Defense, Commerce, Education, and Labor, established a National demonstration project—the Center for Advanced Technologies—in which candidates earn associates and bachelors degrees in either manufacturing engineering or technology, and engage in hands-on manufacturing with-in-real world conditions, producing parts for DaimlerChrysler, Detroit Diesel, Ford Motor Company, General Motors Corporation, the Department of Defense, and others;

Whereas Focus: HOPE has caused over $22 million to be invested in renovating a previously obsolete building to house the Center for Advanced Technologies, transforming the building into a model facility for 21st century advanced manufacturing, education, and research;

Whereas Focus: HOPE has made outstanding contributions toward increasing diversity within the traditional homogeneous science, math, engineering, and technology fields, and 95 percent of currently enrolled degree candidates are African American, representing perhaps the United States' largest producer of bachelor-degreed minority graduates in manufacturing engineering;

Whereas Focus: HOPE's unique research and development partnership with the Department of Defense has resulted in a nationally recognized demonstration project, the Mobile Parts Hospital, whose Rapid Manufacturing System has recently been deployed to Kuwait in support of the Armed Forces' current operations in Afghanistan and Iraq;

Whereas Focus: HOPE began a community arts program in 1995, presenting multicultural arts programming and gallery exhibitions designed to educate and encourage area residents, while fostering integration in a culturally diverse metropolitan community, and over 43,000 people have viewed sponsored exhibits or participated in this program;

Whereas Focus: HOPE established an Information Technologies Center in 1999, providing Detroit students with industry-certified training programs in network administration, network installation, and desktop and server administration, and has graduated nearly 475 students to date, and has initiated, in collaboration with industry and academia, the design of a new bachelors degree program to educate information management systems engineers;

Whereas Focus: HOPE's initiatives and programs have been nationally recognized for excellence and leadership by such organizations as the Government Accounting Office, the Department of Labor, the International Standards Organization, the National Science Foundation, the Cisco Networking Academy Program, Fortune Magazine, Forbes Magazine, the Aspen Institute, and many others, and former Presidents George H.W. Bush and Bill Clinton have visited Focus: HOPE's campus;

Whereas Focus: HOPE is currently led by Eleanor M. Josaitis, its co-founder and chief executive officer, and she has received honorary degrees from 11 outstanding universities and colleges, was named one of the 100 Most Influential Women in 2002 by Crain's Detroit Business, has been inducted into the Michigan Women's Hall of Fame, has received the Detroit NAACP Presidential Award, the Arab American Institute Foundation's Kahlil Gibran Spirit of Humanity Award, as well as many other awards;

Whereas through the generous partnerships and support of individuals from all walks of life, Federal, State, and local government, and foundations and corporations across the United States, the vision of Focus: HOPE will continue to grow and inspire;

Whereas Focus: HOPE has been blessed with an active board of directors and advisory board from the senior most levels of corporate and public America, and has benefited from an annual average of 25,000 volunteers and countless colleagues;

Whereas Focus: HOPE has been a tremendous force for good in the City of Detroit, the State of Michigan, and the United States for the past 35 years;

Whereas Focus: HOPE continues to strive to eliminate racism, poverty, and injustice through the use of passion, persistence, and partnerships, and continues to seek improvement in its quality of service and program operations; and

Whereas Focus: HOPE and its colleagues will continue to identify ways in which it can lead Detroit, the State of Michigan, and the United States into the future with creative urban leadership initiatives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) congratulates and salutes Focus: HOPE for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States; and

(2) directs the Secretary of the Senate to make available enrolled copies of this resolution to Focus: HOPE and Ms. Eleanor M. Josaitis for appropriate display.

MEASURE PLACED ON THE CALENDAR—H.R. 3783

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk due its second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The assistant journal clerk read as follows:

A bill (H.R. 3783) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Mr. McCONNELL. I object to further proceedings.

The PRESIDING OFFICER. The bill will be placed on the Calendar.

ORDERS FOR THURSDAY, FEBRUARY 26, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, February 26. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1805, the gun liability bill, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow the Senate will resume consideration of S. 1805, the gun liability bill. The consent agreement worked out by the managers just a few moments ago means that we will make significant progress on many somewhat contentious issues tomorrow. Senators should anticipate rollcall votes throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:09 p.m., adjourned until Thursday, February 26, 2004, at 9:30 a.m.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO HAROLD BROUGHTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is truly a privilege to take this opportunity to pay tribute to Harold Broughton and thank him for his service to the agricultural industry. His incredible accomplishment of being awarded the 2003 Lifetime Membership Award at the Western Colorado Horticultural Society is a testament not only to his extraordinary natural abilities, but also his incredible work ethic and indomitable human spirit.

This well deserved honor is the manifestation of a life-long passion, and could not have been bestowed upon a more deserving individual. As a fourth generation farmer, Harold Broughton has spent his career managing the fruit orchards for families and organizations throughout Colorado. He was able to start his own company in 1966 which would later be named Harold Broughton Orchards, LLC which electronically sizes, custom packs, brokers and ships fruit throughout the nation under the Tom-Tom label.

Mr. Speaker, it is quite clear that Harold Broughton is a person of unparalleled dedication and commitment to his life-long pursuit of horticulture and shipping fruit nationwide. It is not only his incredible devotion, but also his unrelenting passion for the fruit industry in Colorado that I wish to bring before this body of Congress. It is my distinct pleasure to honor Harold here today, and wish him all the best in his future endeavors.

IN HONOR AND RECOGNITION OF DR. HELEN S. FAISON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Dr. Helen S. Faison, for her significant and groundbreaking professional accomplishments in the field of education, and for serving as a mentor, role model and inspiration for countless women and men in the City of Pittsburgh, PA, and far beyond.

Dr. Faison's unwavering integrity, strong work ethic, trailblazing spirit and energetic quest for knowledge led her to become one of the first African-American teachers in the Pittsburgh School District. After many decades of inspirational instruction, Dr. Faison became the first female, and the first African-American to be named high school principal within the City of Pittsburgh.

Dr. Faison was later appointed as deputy superintendent of the Pittsburgh School District. This was the highest administrative position ever held by a woman in the district. Presently, Dr. Faison is the Director of the Pittsburgh Teachers Institute, and Education Department Chair and distinguished visiting professor at Chatham College. Beyond her monumental scholastic and professional contributions, awards and accolades, Dr. Faison has served as a beacon of inspiration, hope and living testament to countless students and colleagues—teaching by example that dreams can become reality.

Mr. Speaker and Colleagues, please join me in honor and recognition of Dr. Helen Faison, as she has been honored on February 5, 2004, by the 14th Annual Strong Men & Women: Excellence in Leadership series, sponsored by Dominion East Ohio. Dr. Faison's groundbreaking professional excellence and accomplishment as an outstanding teacher and educational leader has inspired, guided and enhanced the minds and hearts of countless young students through the years. Her continued commitment to education serves as a beacon of hope and light for people of all races so they may visualize and realize their dreams, and her journey continues to inspire us all.

HONORING THE MEMORY OF MR. GEORGE ROBINSON "ROBIN" SWIFT, JR.

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BONNER. Mr. Speaker, Escambia County and indeed the entire state of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Mr. George Robinson "Robin" Swift, Jr., was a devoted family man and dedicated public servant throughout his entire life.

His desire to provide the best opportunities possible for his fellow Alabamians led him to become involved in state politics on both the local and statewide levels, culminating with a hard-fought campaign for governor in 1994. Prior to his run for elective office, Robin Swift participated on the campaign of former Governor Guy Hunt and served with distinction as the governor's finance director. It would be safe to say that the state of Alabama has never had a finer, more dedicated or more capable finance director than Robin Swift.

During his tenure as finance director, Robin was extremely diligent with the taxpayer's money and set the highest standard for all public servants. One of his former colleagues in the Alabama Finance Office, Lee Miller, paid tribute to Mr. Swift's tremendous success when he said, "He led by example, and was the best steward of the public trust I ever encountered at any level of government."

Mr. Speaker, while Robin Swift was an exemplary model of public service, his true love was America's free enterprise system where, as a small business owner in Atmore, he was extremely familiar with the challenges and goals of running a successful business. That business, Swift Lumber Company, provides employment opportunities today to many dozens of hardworking men and women throughout South Alabama. While serving as president of Swift Lumber Company, Robin Swift and his family have provided a local anchor that remains an important part of the area economy to this day.

Additionally, Mr. Swift was a proud veteran of the United States Army and served with distinction for two years during the Korean War.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated public servant and long-time advocate for the citizens of Escambia County and the state of Alabama. Mr. Swift will be deeply missed by his family—his wife, Lucille King Swift, his daughter, Lisa Swift Marks, his son, G. Robin Swift, III, and his six grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

PAYING TRIBUTE TO DAVID EPPICH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is truly a privilege to take this opportunity to pay tribute to David Eppich, a man who for over twenty-five years has led a distinguished career in education and public service in Durango, Colorado. His incredible devotion to his community and involvement in youth programs was recently recognized by the Durango Chamber of Commerce, named David Eppich its Citizen of the Year.

This is an incredible honor for a Durango resident, and could not have been bestowed upon a more well deserving individual. For over a quarter of a century, David has worked with Fort Lewis College and emerged as a community leader actively involved in the youth programs in the Durango region. Humbled by the award, David believes there are many more well deserving individuals, and continues to encourage others to volunteer their time and resources to organizations in the Durango area.

Mr. Speaker, it is quite clear that David Eppich is a person who possesses unparalleled dedication and commitment to his life long pursuit of public service. It is not only his incredible devotion, but also his passion for contributing to the youth programs in the Durango community that I wish to bring before this body of Congress. It is my distinct pleasure to honor David here today, and wish him all the best in his future endeavors.

HONORING EVELYN BLAHA SZCZECH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor of my dear friend, Evelyn Blaha Szczech of Newburgh Heights, Ohio, as she gathers with family and friends to celebrate her birthday on February 7—eighty years young, and as lively as ever.

With family central to her life, Mrs. Szczech and her late husband, Clarence T. Szczech, raised four children: Clarence, Roseanne, Robert and Brian. She is blessed with ten grandchildren and two great-grandchildren.

Beyond caring for her family, Mrs. Szczech has been an involved member of the community, and continues to dedicate her time and talents to many civic endeavors. For nearly five decades, Mrs. Szczech has been an intregal part of our democratic system—working to support candidates, educate voters, and promote voter registration. She has been an active member of the Democratic Party of Newburgh Heights since 1959, and has held all positions within the Party throughout the years, from entertainment committee member, to treasurer, to president.

With a quick and agile mind, and an equally energized spirit, Mrs. Szczech continues to volunteer her time and talents in service to her community. She continues her involvement in the Democratic Party of Newburgh Heights, and serving on the Cuyahoga County Board of Elections—as she has for the past fifty years. She also continues to serve as a member of the Executive Committee of the Cuyahoga County Democratic Party and is President of the Golden Agers of Newburgh Heights.

Mr. Speaker and colleagues, please join me in honor of Evelyn Blaha Szczech, in joyous celebration of her 80th birthday. Mrs. Szczech continues to be an inspiration to everyone in her life—especially to her family and friends. Her loyalty, friendship, convictions, boundless energy, joy, and good works are invaluable gifts to all of us who know her well, and her dedication and work has uplifted the Village of Newburgh Heights, and our entire community. We wish her continued health and happiness today, and all days to come.

CONGRATULATING THE HONORABLE JACK TILLMAN ON HIS ELECTION AS PRESIDENT OF THE ALABAMA SHERIFFS ASSOCIATION

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor the Honorable Jack Tillman, Sheriff for Mobile County, Alabama, on the occasion of his being elected as president of the Alabama Sheriffs Association (ASA).

The ASA was designed to provide a professional network and link for the sheriffs in Alabama's 67 counties. Along with providing this link for law enforcement officials throughout the State, the Sheriffs Association also serves as an important legislative tool on the State and Federal levels and advocates on behalf of its membership and their families. Since 1990, the ASA has also been actively involved with the "Jail Assistance Project," a program created to provide sheriffs, chiefs of police, and representatives of local governments with the tools to plan and staff new jail facilities, provide expert advice and assistance in evaluating correctional equipment, and develop training on various correctional issues.

Jack Tillman is very qualified to serve as the president of this organization and has an extensive background in the law enforcement field. On January 15, 2003, he was sworn in to begin his third term as Mobile County Sheriff. Prior to that, he served in the Mobile County Public School System as a Resource Officer. During his tenure with the school system, he successfully conducted numerous criminal investigations requiring collaboration with representatives from law enforcement agencies at the local, State, and Federal levels.

Sheriff Tillman's concern for and involvement in his community also extends outside the professional boundaries of the sheriff's office. He serves on numerous boards for civic and church groups and organizations dedicated to the young people of Mobile County.

Along with his wife, Deborah, their children Brian and Lindsay, and his many friends and colleagues, I wish to extend to Sheriff Jack Tillman my warmest congratulations on his election as president of the Alabama Sheriffs Association.

PAYING TRIBUTE TO FRAN WEAVER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to a remarkable woman from my district. Fran Weaver of Pueblo, Colorado passed away recently at the age of seventy-nine. Fran was a successful author and friend to many, and I would like to recognize her tremendous contributions to the Pueblo community before this body of Congress and this nation.

Fran was renowned for her devotion to education, and after raising her children, decided to return to college where she earned a degree in journalism. She delighted in writing her weekly column, "Midlife Musings," for The Pueblo Chieftain, as well as lecturing on national television and Crystal Cruises. She felt that old age should not be a reason to slow down, and, according to her former newspaper, "urged them to open themselves up to new experiences." As I reflect on Fran's accomplishments, it is evident that she heeded her own advice.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life of Fran Weaver. Fran's love of the written word and zest for life is truly an inspiration for us all. The Pueblo community and the State of Colorado will truly miss her, and my thoughts go out to Fran's loved ones during this difficult time of bereavement.

IN HONOR AND REMEMBRANCE OF DONALD BOGART

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mr. Donald Bogart—devoted family man, accomplished scientist, social justice activist and humanitarian.

Mr. Bogart grew up in a small apartment in Brooklyn, NY. He earned a degree in mechanical engineering from Cooper Union for the Advancement of Science and Arts. Immediately following graduation, Bogart, a brilliant scholar, was recruited by the National Advisory Committee for Aeronautics—NASA's forerunner. In 1943, Bogart moved to Cleveland to begin his accomplished career in nuclear physics at NASA—a career that spanned nearly 40 years. From 1958 to 1974, Mr. Bogart served as director of the nuclear physics branch at NASA Lewis Research Center, where he led a team of scientists to develop a nuclear rocket for a proposed manned space flight to Mars. Mr. Bogart moved into the area of solar energy and technology, making great strides in the field. Later, as a representative of the State Department, Bogart brought his expertise in the area of solar energy to India and the Philippines.

Outshining his significant scientific achievement was his compassionate heart, strong convictions, and unyielding bravery as he consistently led local efforts on behalf of matters of human rights and civil rights, here at home and overseas. Mr. Bogart spoke publicly about the plight of Soviet Jews during the height of the cold war, and organized local groups to assist Jews to escape religious persecution in the former Soviet Union.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mr. Donald Bogart—an exceptional man, scientist, and leader whose life reflected accomplishment, caring and joy. I offer my deepest condolences to his devoted wife, Marilyn, beloved children, Carol, Valerie, and Wendy, devoted grandchildren, Sam, Alex and Andre, and extended family and friends. Donald Bogart's brilliant and flawless legacy—both personally and professionally, will be remembered forever by family, friends and colleagues.

HONORING THE MEMORY OF MR. KENDALL P. DEXTER

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BONNER. Mr. Speaker, Mobile County and indeed the entire State of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Mr. Kendall Parker Dexter was a devoted family man and dedicated community leader throughout his life.

Following his graduation from the University of Michigan, he joined International Paper Company in 1950 as a forester. After serving in various positions with the company in Mississippi, Mr. Dexter moved to Mobile, Alabama in 1955 and began work as a conservation forester in International Paper's Gulf Woodlands Region. From 1962 to 1974, he served as a member of the management development and public relations departments at the Southern Kraft Division headquarters. Beginning in 1974 and continuing until his retirement, he served as the division's manager of governmental relations.

Along with his employment at International Paper, Mr. Dexter also served in various capacities as an outside consultant to the timber and paper industries, the Mobile Bar Pilots, and to representatives in both the Alabama State Legislature and the United States Congress. He also served as president of the Paper Industry Management Association.

In the midst of his intense professional schedule, Mr. Dexter also found time to serve in many community organizations and on several boards of directors. He was actively involved with the Boy Scouts of America and was an important part of the effort to organize and develop Camp Maubila in Jackson, Alabama. Mr. Dexter was also an active member of the Kiwanis Club, a past member of the Mobile Area Chamber of Commerce, as well as a member of the board of directors of the Mobile Symphony and Civic Music Association.

Mr. Dexter was also a proud veteran of the United States Air Force and served with distinction during the Korean War as both a navigator and bombardier aboard a B–26 "Invader." For his service, he was awarded the Distinguished Flying Cross.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated community leader and friend to many throughout South Alabama. Mr. Dexter will be deeply missed by his family—his wife, Lila Webb Dexter; his children, John Kendall Dexter, David Parker Dexter, Elizabeth Dexter, and Katherine Dexter Allen; his stepchildren, Lila McDuffie Bailey, Virginia McDuffie Siniard, and Hunter McDuffie, III; and 14 grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

TRIBUTE TO THE MARCELLUS GIRLS VARSITY SOCCER TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. WALSH. Mr. Speaker, I rise today in tribute to the Marcellus girls varsity soccer team. The team had an outstanding season with a record of 23 wins, one tie, and one loss. They rose to become the section III class B champions, defeating Skaneateles, South Jefferson, and Ilion.

The team continued on to become the New York State class B regional champions defeating Chartham and Potsdam and became State champions defeating Alden by a score of 4 to 2 and Oneonta by a score of 1 to zero. The girls were all named Channel 9 Athletes of the Week on account of their many accomplishments.

In addition to their dedication to athletics, the team has also demonstrated outstanding academic achievement. All the girls on the team were selected as New York State Public High School Athletic Association Scholar Athletes.

The team includes Sami Boyle, Maureen Dooley, Jenna Farneti, Kelly Hanlon, Candy Hoffman, Jocie Jankowski, Alyssa MacLachlan, Meghan Mannion, Alyse O'Brien, Katie O'Laughlin, Sarah Potter, Jessie Reynolds, Amanda Stessen, Hannah Vaughn, Sarah Vulcano, Katie Walter, Amy Ware, Jennifer Young, Katie Young, and Katie Zimmerman. These girls are a source of pride to our community and should be commended for their hard work and dedication.

PAYING TRIBUTE TO FRANCES JONES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you to pay tribute to a remarkable woman from my district. Frances Jones of Pueblo, Colorado, passed away recently at the age of one hundred and eleven. Frances was dedicated to her family, and tried to live each day to its fullest. She will be missed by many and I would like to ask my colleagues to please join me in recognizing her amazing life before this body of Congress and this nation today.

Frances was born when Grover Cleveland was president, and went on to graduate from Central High School. She later helped found the Alpha Mu Delta Sorority, and married her best friend and soul mate John Jones. During World War II, Frances served as the chairwoman of the local Red Cross canteen. She also remained active in volunteering her time for the greater good of her community and worked with the Pueblo Kennel Club for forty years, taught piano, and mentored young cub scouts before retiring at the age of ninety-six. She is survived by a son, Tom, and his wife Lillian, three grandchildren and five great-grandchildren.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation and pay tribute to the life of Frances Jones. Frances' love of family and serving her community are truly a model of living life to its fullest. The Pueblo community, and the State of Colorado will truly miss her, and my thoughts go out to Frances' loved ones during this difficult time of bereavement.

IN HONOR AND REMEMBRANCE OF ROBERTO OCASIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Roberto Ocasio. His love for family, music and community has left an indelible mark upon our city, and his passing has created a significant void for all who knew and loved him well.

Mr. Ocasio was born in New York City and raised in Cleveland. By the tender age of ten, he was performing in public, already greatly inspired by Latin music and jazz. He mastered several instruments along the way, including guitar, piano, clarinet and saxophone. As a young man, he left Cleveland for New York City to further his musical education, then onto Boston, where he studied at Berklee College of Music, mastering composing and arranging.

Mr. Ocasio's Latin Jazz eight-piece band, Roberto Ocasio's Latin Jazz Project, entertained local and national audiences and won critical acclaim. For two consecutive years, Roberto Ocasio's Latin Jazz Project was awarded the Cleveland Free Times Music Award for "Best Jazz Band." More significantly than winning awards, Mr. Ocasio used his musical genius to reach out to the Hispanic community, offering instruction, song and hope by performing at schools, universities, churches and community events. Mr. Ocasio was honored as the "2001 Hispanic of the Year" by the offices of the United States Senate, in collaboration with Nuevos Horizontes Newspaper, for his exceptionally dedicated service to our Hispanic community.

Mr. Speaker and colleagues, please join me in honor and remembrance of Roberto Ocasio, who freely shared his gifts of music, warmth, wit and concern for others. His life was lived joyously and his gift of song and humanity has touched countless lives. I extend my deepest condolences to those who loved and knew him well—his wonderful family and many friends. Although he will be deeply missed, the lyrical song of Roberto Ocasio's spirited life will resound in the hearts of everyone he loved and inspired—today, and for generations to come.

CONGRATULATING THE HONORABLE ANN BEDSOLE ON RECEIPT OF THE ASSOCIATION OF FUNDRAISING PROFESSIONALS 2004 OUTSTANDING VOLUNTEER FUNDRAISER AWARD

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor the Honorable Ann Bedsole on the occasion of her being honored by the Association of Fundraising Professionals with the organization's 2004 Outstanding Volunteer Fundraiser Award.

Senator Ann Bedsole has been a distinguished member of the Mobile, Alabama, community and a tremendous advocate for all of south Alabama for over three decades. In 1978, she was elected to the Alabama House of Representatives and served in that capacity for one term. Four years later, in 1982, she became the first woman ever elected to the Alabama State Senate, and was a candidate for governor in 1994.

During her career in the Alabama State Legislature, Senator Bedsole was instrumental in the creation of the Alabama School of Math and Science in Mobile, Alabama. Working closely with fellow legislators and members of various agencies in state government, she was able to secure support for the institution and has provided a great deal of support since it opened in 1991. In the two decades since its inception, Senator Bedsole has served as both vice president and president of the ASMS Foundation Board of Directors.

Throughout her long fundraising and volunteer career, her crowning achievement was undoubtedly the City of Mobile's Tricentennial Celebration in 2002. This event, celebrating the 300 year history of Mobile, drew thousands of visitors to this historic center and brought tourists, dignitaries, and media representatives from all across the United States and around the world. The celebration's schedule of concerts, exhibitions, festivals, and sporting events were a tremendous success and required a great deal of financial support. Under her leadership and guidance as chairman of the festival, Senator Bedsole was able to solicit more than $5 million in private, local, state, and committee funds and in-kind services. Her efforts in organizing and leading this event led to a truly memorable celebration of the history and tradition of Mobile.

Along with her strong involvement in the community, Senator Bedsole is involved in many charitable organizations including serving on the boards of the Cybil Smith Charitable Trust and the J.L. Bedsole Foundation.

Senator Bedsole's efforts in the fields of volunteerism and fundraising have also led to significant recognition in previous years, and she has been honored as First Lady of Mobile in 1972 and Mobilian of the Year in 1993.

Mr. Speaker, there are few individuals more dedicated or more committed to helping their communities than Ann Bedsole, and I would like to offer my congratulations on both the Outstanding Volunteer Fundraiser award and for her many personal and professional achievements. I know her husband, Palmer Bedsole, and her many family and friends join with me in praising her accomplishments and extending thanks for her many efforts on behalf of Mobile and the state of Alabama.

TRIBUTE TO THE AQUINAS BOYS' VARSITY SOCCER TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. WALSH. Mr. Speaker, I rise today in tribute to the Aquinas boys' varsity soccer team. The team had an outstanding season with a record of 22 wins, no losses, and two ties. The team rose to become class B State champions, defeating Westhill by a score of four to zero. This was the second time the boys have captured this title in 4 years.

The entire Aquinas lineup was overflowing with speed and skill that the team's opponents could not match. Keith Manscuk, Chris Roland, Steve Fantuzzo, and Frank Iacovangelo all contributed to Aquinas' victory with one goal apiece. Westhill's coach, Ronald Ficken, hailed the team as not only the best in class B, but also the best team in the State in any class.

The team includes Latim Bitek, Connor Burgasser, Sean Connell, Anthony Dambra, Stephen Fantuzzo, Frank Iacovangelo, Adam Kelly, Daniel Kolb, Corey Lown, Keith Manscuk, James Marsala, Chris Nacca, Patrick Nicholas, Jaymes Nowicki, Dominic Pettinari, Joe Pettinari, Chris Roland, Mike Roorda, Brad Torchia, and Cory Wisecup. The team was coached by Joe LaPietra and Tad Valentino. These boys are a source of pride to our community and should be commended for their hard work and dedication.

PAYING TRIBUTE TO DAVID NOVAK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you to pay tribute to a remarkable man from my district. David Novak of Pueblo, Colorado passed away recently at the age of seventy-three. David will always be remembered as a devoted family man and educator of his community's youth, and I would like to ask my colleagues to please join me in recognizing his amazing life before this body of Congress and this nation today.

David began his career as a special education teacher in Pueblo, Colorado after graduating from Adams State College in 1952. He was an advocate for youth throughout his community, and instrumental in organizing youth baseball leagues. David's passion about youth baseball played an instrumental role in bringing the 1976 Babe Ruth Youth World Series to Pueblo, Colorado. Because of his dedication to the sport, he was inducted into the Greater Pueblo Sports Association Hall of Fame in 1980. He is survived by his wife and best friend, Laurel, their children, Michael, Patrick and Rebecca, eight grandchildren, and two brothers, Tony Novak and Joe Martell.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the inspiring life of David Novak. He was a beloved man who made a tremendous impact on his community through his many years of educational leadership and organizing youth baseball. David's love of family and public service is truly a model for us all. The Pueblo community and the State of Colorado will truly miss David, and my thoughts go out to his family during this difficult time of bereavement.

IN HONOR AND REMEMBRANCE OF WILLIAM C. NIEBERDING

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mr. William C. Nieberding—devoted family man, accomplished scientist, active community leader, and admired friend and mentor.

Mr. Nieberding graduated from John Carroll University with a Bachelor of Science degree in physics in 1957, and attained a Master of Science degree in physics one year later. In 1959, Mr. Nieberding began employment at NASA Glenn Research Center as a research engineer. He was promoted several times throughout his tenure at NASA, and at the time of his retirement in 1995, held the position of Deputy Chief of the Instrumentation and Control Technology Division. Mr. Nieberding's professional life reflects several significant accomplishments and innovations in the field of aeronautics, space propulsion and space research. He was awarded the NASA Exceptional Service Medal for his outstanding achievement in the development of advanced instrumentation used in aeronautic and space research programs. He was considered the leading national authority regarding this area of study, offering his expertise to aeronautic researchers from around the world. His name is one of a select few stored within a Mars rover that he helped to create.

Beyond his professional work, Mr. Nieberding was deeply dedicated to his community. He served on the Fairview Park Planning Commission, and was an active member of St. Angela Merici Catholic Church, where he served as President of the Parish Council for two years.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mr. William C. Nieberding, an exceptional man, scientist, and leader whose life reflected accomplishment, caring and joy. I offer my deepest condolences to his beloved wife, Mary Ellen, his beloved children, Timothy, Therese and the memory of Christine; his beloved grandchildren, Emily and Mitchell; and his entire extended family. Mr. Nieberding's brilliant and flawless legacy, both personally and professionally, will be remembered forever by family, friends and colleagues, and will shine for all time across the starry night.

HONORING THE MEMORY OF MR. BEN C. STIMPSON

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BONNER. Mr. Speaker, Mobile County and indeed the entire state of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Mr. Ben C. Stimpson was a devoted family man and dedicated business leader and conservationist throughout his life.

After attending the University of Alabama for a number of years, he left in 1945 to join the United States Army. At the conclusion of his enlistment, Mr. Stimpson returned home to join his brothers in the family timber business, Ben May's Gulf Lumber Company, in Mobile, Alabama. Over the next several years, he and his family built Ben May's into one of the largest sawmills in the State of Alabama, and Mr. Stimpson served as president of the company. Through his work in the timber industry, he had the opportunity to become affiliated with several professional organizations and served in various leadership capacities with these groups. These include serving as a director of the Alabama Forest Products Association, director of the Southern Forest Products Association, and chairman of the board of the Southern Pine Inspection Bureau. As a result of his professional success and industry involvement, Mr. Stimpson was inducted into the Alabama Business Hall of Fame in 2002 at the University of Alabama.

Along with his work in the timber industry, Mr. Stimpson was also actively involved in the conservation and preservation of the wildlife and natural resources of his native State. Between 1971 and 1984, he served as a member of the Conservation Advisory Board for the Alabama Department of Conservation and Natural Resources. He was also a member of the Alabama Wildlife Federation for many years and was both a member of the board of directors and past president of that organization. In 1964, he was recognized for his tremendous efforts in the field of conservation when he was awarded the Governor's Conservation Award by then-Governor George C. Wallace.

In the midst of his busy professional schedule, Mr. Stimpson also found time to serve in many community organizations and on several boards of directors. He was a member of the board of Mobile Infirmary for 25 years; he served for 20 years as a past chairman, president, and member of the St. Paul's Episcopal School board of trustees; and was a vestryman at St. Paul's Episcopal Church.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated community leader and friend to many throughout South Alabama. Mr. Stimpson will be deeply missed by his family—his wife, Nedra Greer Stimpson; his children, Nedra Stimpson Crosby, John L. Stimpson, Ben C. Stimpson, Jr., Mary Stimpson Turner, and Greer Stimpson Stephens; his brother, William Herbert Stimpson; and 16 grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

TRIBUTE TO RETIRING SYRACUSE UNIVERSITY LEADERS KENNETH AND MARY ANN SHAW

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. WALSH. Mr. Speaker, I rise today in tribute to Chancellor Kenneth A. Shaw, Ph.D., and Associate to the Chancellor, Mary Ann Shaw, M.S. Both Dr. and Mrs. Shaw are retiring administrators at Syracuse University and active members of the central New York community.

Kenneth A. Shaw has served as chancellor of Syracuse University with great honor since 1991. Prior to coming to Syracuse, Chancellor Shaw presided over the 26-campus University of Wisconsin system that serves more than 160,000 students. In addition, Dr. Shaw was chancellor of the Southern Illinois University system from 1979 to 1986, president of Southern Illinois University at Edwardsville from 1977 to 1979, and vice president and dean of Towson State University from 1969 to 1977.

Dr. Shaw is the recipient of honorary degrees from Southern Illinois University at Edwardsville in 2002; Purdue University, 1990; Illinois State University, 1987; Illinois College, 1986; and Towson State University, 1979. He was also awarded the NCAA's Silver Anniversary Award in 1986 and received the Advancement and Support of Education's District II Chief Executive Leadership Award.

Recently Chancellor Shaw was elected chairman of the Metropolitan Development Association, a regional development, planning, and research organization including a 12-county area in upstate New York. In retirement, Chancellor Shaw plans on taking a more active role with the association.

Mary Ann Shaw is the associate of the chancellor of Syracuse University and has held this position since 1991. At Syracuse University she works closely with the Office of Institutional Advancement and assists her husband, Chancellor Kenneth A. Shaw.

During her tenure as associate, Mrs. Shaw has helped found and direct the University's Center for Public and Community Service, which promotes public and community service as a fundamental part of the teaching and learning experience. Mrs. Shaw was an original founder of the Syracuse University Literacy Corps, a cadre of SU students who tutor young students in local schools. Mrs. Shaw is currently the chair of the steering committee for the development of the Central New York Children's Hospital and was instrumental in the development of United Way's Success By Six. Mrs. Shaw has also been active as a member and/or officer of the following community organizations: Lifetime Healthcare, Inc., BlueCross BlueShield of Central New York, Inc., the Salvation Army of the Syracuse Area, Syracuse Stage, Syracuse Symphony, and Central New York Community Foundation.

Chancellor Shaw has long been known among the Syracuse University student body for his accessibility and visibility not only in university activities, but in everyday student life. The chancellor has demonstrated his profound commitment to the education of students in many ways; none more significant than his connection and engagement with the Syracuse University student body.

Upon hearing of the chancellor's plans to retire, the Syracuse University student newspaper, the Daily Orange, published an editorial that praised his willingness to defend the newspaper's freedom of speech and his consistent availability to answer questions and talk with the student writers. The editorial wrote that Chancellor Shaw 'recognized the importance of an independent student voice amid a university of administrative voices.'

The Shaws' dedication to the constant advancement of the resources and ideas available to students is reflected in the university's many academic achievements. Chancellor and Mrs. Shaw will leave a lasting influence on the relationship between the Syracuse community and the university. The success attained by the Shaws is attributed largely in part to their genuine concern and interest in providing an atmosphere that fosters growth and discovery.

Both Chancellor and Mrs. Shaw have made a far-reaching impact on the students and faculty of Syracuse University as well as the surrounding community. Their leadership has elevated the educational curriculum and caliber of student attending and graduating from Syracuse University. Chancellor and Mrs. Shaw have set an educational precedent that solidifies Syracuse as a top collegiate program.

On behalf of the students, faculty and community members of Syracuse, I extend my sincere gratitude for the dedication and service Chancellor Shaw and Mrs. Shaw have offered to the community. We look forward to their continued involvement in local civic and business organizations in retirement.

PAYING TRIBUTE TO LOUISE GARCIA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is with a sad heart that I rise to pay tribute to the passing of a great woman from my district. Louise Garcia, a native of Durango, Colorado, recently passed away at the age of 85. Louise dedicated her life to improving public transportation and serving the Durango community. I am honored today to bring her contributions to the attention of this body of Congress and this nation today.

Louise will forever be remembered as a pioneer of the transportation system in Durango. She worked as both a dispatcher and a bookkeeper for the city bus and Opportunity Bus transportation systems. Louise dedicated her time, energy and even personal living space to the betterment of the city's bus system. Louise enjoyed the outdoors and often volunteered to take children camping with the local Community Action organization. Louise was also an active member of the Mother's Club and the choir at her local church.

Mr. Speaker, Louise Garcia was a dedicated woman that selflessly served her Durango community, and I am honored to pay tribute to such a generous public servant. Her lifetime of service is an incredible model for all Americans and my thoughts and prayers go out to her family during this difficult time of bereavement.

HONORING AND RECOGNIZING THE HONORABLE JUDGE PATRICIA ANN BLACKMON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Judge Patricia Ann Blackmon, for her significant and groundbreaking professional accomplishments, and for serving as an inspiration and role model for minority women in Cleveland, Ohio, and far beyond.

Her unwavering integrity and strong work ethics were gifts from her mother, who taught by example during her childhood in Mississippi. Blackmon was the first member of her family to attend college, graduating magna cum laude from Tougaloo College in Mississippi with a Bachelor's Degree in African American Studies, political science and history. Her quest for knowledge and personal growth led her away from her Mississippi home, north to Cleveland, to earn a law degree at Cleveland-Marshall College of Law. Throughout her noteworthy career as an attorney, Judge Blackmon has served as the chief prosecutor for the City of Cleveland, assistant director of Victims/Witness Program, and professor at Dyke College. Presently, Judge Blackmon holds the monumental title as the first African-American woman to preside over the Court of Appeals of Ohio. Judge Blackmon has served, and continues to serve, on many civic advisory boards. She currently serves as trustee for the Cleveland Bar Association, Lake Erie College, and the Black Women's Political Committee. For her outstanding contribution to the legal profession, Judge Blackmon has been awarded numerous personal and professional awards, including her induction into the Ohio Women's Hall of Fame, and the 1996 Alumni of the Year Award from Cleveland-Marshall College of Law.

Mr. Speaker and Colleagues, please join me in paying tribute to Judge Patricia Ann Blackmon, as she is being honored on February 5, 2004, by the 14th Annual Strong Men & Women: Excellence in Leadership series, sponsored by Dominion East Ohio. Judge Blackmon's professional excellence and accomplishment as a distinguished attorney and judge serves as a beacon of hope and light for people of all races so they may visualize and realize their dreams. And Judge Blackmon's journey from Mississippi to Ohio reflects tenacity, integrity, dreams and hope, and she continues to inspire us all.

HONORING BRIGADIER GENERAL BRADFORD C. BRIGHTMAN ON THE OCCASION OF HIS RETIREMENT

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BONNER. Mr. Speaker, today I rise to recognize one of the exemplary servicemen who has served the great State of Alabama and our country in ensuring freedom for the American people. Brigadier General Bradford C. Brightman has not only offered his knowledge and expertise to the Nation while serving, but he has taught the men and women who have served under him to do the same. Today I wish to recognize his numerous accomplishments and honor his distinguished career on the occasion of his retirement from the United States Army.

General Brightman served our country for 1 year as a combat engineer enlisted man and then was commissioned on May 16, 1969, after completing the United States Army Engineer Officer Candidate School. He served on active duty from May 1969 until July 1975, during which time he spent 19 months of combat aviation duty with the 1st Aviation Brigade in Vietnam. He also served as an Operations Officer and Flight Instructor at the United States Army Aviation School, Fort Rucker, Alabama, before leaving active duty in August 1975 and joining the Alabama National Guard.

As a member of the National Guard, General Brightman served his country in a number of aviation unit assignments and in staff positions with group and higher headquarters. These positions have also included assignments as the Deputy Commander of the 62nd Troop Command in Montgomery and Commander of the 226th Area Support Group in Mobile, Alabama.

General Brightman has received numerous awards during his service including the Bronze Star Medal, the Meritorious Service Medal, the Air Medal, the Army Reserve Components Achievements Medal, the National Defense Service Medal, the Vietnam Service Medal, and the Humanitarian Service Medal. He has also been awarded the Armed Forces Reserve Medal, the Army Service Ribbon, the Army Reserve Components Overseas Training Ribbon, the Republic of Vietnam Campaign Medal, the Republic of Vietnam Civil Action Unit Citation, Master Army Aviator Badge, Senior Army Aviator Badge, Veterans Service Medal of Alabama, Special Service Medal of Alabama, and the Faithful Service Medal of Alabama.

In addition to his successful military career, General Brightman has also achieved success in the academic arena, earning a degree in civil engineering from Auburn University in 1977 and his MBA from Troy State University in 1985. He attended three military educational facilities including Army Command and General Staff College, Associate Logistics Executive Development Course, and the Army War College. In 1992, General Brightman received the United States Civilian Achievement Award for his participation in the writing of the Panama Canal Treaty Implementation Plan. Currently, General Brightman works as a Senior Project Manager with a management and engineering services company in Mobile.

Mr. Speaker, Brigadier General Bradford C. Brightman has selflessly offered his life and services for his country. It is for this devotion that I would like to extend our most sincere thanks and gracious appreciation on the occasion of his retirement. While the United States Army National Guard will certainly miss the benefit of his leadership and experience, I know I join with his family and many friends and colleagues in wishing him continued success in the years ahead.

TRIBUTE TO THE TULLY BOYS VARSITY CROSS-COUNTRY TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. WALSH. Mr. Speaker, I rise today in tribute to the Tully boys varsity cross-country team. The team had an outstanding season, capturing the class D State title. Tully posted the meet's low score of 38 points, beating their closest opponent, Oakfield-Alabama by 42 points.

Seniors Lopez Lomong and Dominic Luka led their team to victory with a 1–2 finish. Other runners who placed for the State champion team were senior Bennett Hillenbrand in 20th place, freshman Tommy Miexell in 28th place, and Matt Kinne in 42nd place. These young men led their team to the second State championship in school history by a Tully athletic team.

The team includes Greg Hartnett, Tommy Miexell, Scott Vandermelon, Mike Heyman, Jeremiah Fraser, Casey Knapp, Brent Hartnett, Matt Kinne, Justin Rood, Travis Kushner, Kevin Easton, Dan Hatch, Rune Anderson, Lopez Lomong, Dominic Luka, Bennett Hillenbrand, Zac Long, and Pat Jordan. The team is coached by Jim Paccia. These young men are a source of pride to our community and should be commended for their hard work and dedication.

PAYING TRIBUTE TO WALTER PREDOVICH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you to pay tribute to a remarkable man from my district. Walter Predovich of Pueblo, Colorado recently passed away at the age of eighty-four. He will always be remembered as a devoted family man and highly respected attorney throughout the state. I would like to ask my colleagues to please join me in remembering his life before this body of Congress and this Nation today.

Walter began his career by answering his nation's call to duty in serving his country in the Navy. After an honorable discharge, he returned to Colorado to graduate from Colorado

College and later the University of Denver School of Law. He went on to practice law for more than half a century and retired as a senior partner in the law firm of Predovich, Ward and Banner. Walter was also passionate about the arts, and served on the board of directors of the Denver Center for the Performing Arts, where he had been president and chief operating officer for almost fifteen years. He is survived by his wife and best friend of fifty-seven years, Marjorie, their two sons, Walter and David, and two grandchildren.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the wonderful life of Walter Predovich. Walter was a beloved man who made a tremendous impact on his community through his many years of service in his profession and to the performing arts. Walter's love of family and community service is truly a model to us all. The Pueblo community and the State of Colorado will truly miss Walter, and my thoughts go out to his family during this difficult time of bereavement.

HONORING CLEVELAND READS—GREATER CLEVELAND'S LITERACY COALITION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Cleveland Reads, as they enter into their seventeenth year of offering the gift of literacy to thousands of Greater Clevelanders. For many children and adults, learning to read and write also brings a significant sense of accomplishment, self-esteem, and the promise and possibility of a renewed and brighter future.

Established in 1987, Cleveland Reads, a non-profit organization, has consistently worked to draw individuals, businesses and agencies into their volunteer literacy projects and campaign. Recently, Cleveland Reads was awarded a significant monetary grant from the United Parcel Service (UPS). The UPS award will enable the agency to enhance their existing volunteer outreach programs, and will also be used to create an effective tutoring model that will be initiated within our community's literacy coalition.

Cleveland Reads serves as the parent organization for over two hundred and twenty sites. Cleveland Reads recruits and trains tutors, researches leading methods in the literacy arena, and provides resources, guidance and support for literacy services throughout our region. Additionally, Cleveland Reads works to create local and national awareness regarding literacy issues within all levels of government and throughout the private sector.

Mr. Speaker and Colleagues, please join me in honor and recognition of Cleveland Reads. This vital agency has uplifted the lives of thousands of individuals, young and old—individuals who can now read and write, hope, dream and achieve. Cleveland Reads provides people with the tools to realize their goals by illuminating their horizon with promise and possibility shedding new light on their future—and bringing new hope to our community, and to our entire Nation.

INTRODUCTION OF ROCKY FLATS SPECIAL EXPOSURE COHORT ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. UDALL of Colorado. Mr. Speaker, I am today introducing a bill to make it more likely that red tape and missing documents will not frustrate Congress's attempt to provide compensation and care for some nuclear-weapons workers made sick by on-job exposure to radiation.

The bill is cosponsored by my colleague from Colorado, Mr. BEAUPREZ. I appreciate his support.

The bill would revise the part of the Energy Employees Occupational Injury Compensation Act ("the Act") that specifies which covered workers are part of what the law designates as the "Special Exposure Cohort."

The revision would extend this "special exposure cohort" status to Department of Energy employees, Department of Energy contractor employees, or atomic weapons employees—all terms defined by the current law—who have worked at the Rocky Flats site, in Colorado, for at least 250 days or will have worked there that long by January 1, 2006.

The result would be to help provide the Act's benefits to any of those workers who contracted a radiation-linked cancer specified in the Act after beginning employment at Rocky Flats.

As the law now stands, before a Rocky Flats worker suffering from a covered cancer can receive benefits, it must be established that the cancer is as likely as not to have resulted from on-the-job exposure to radiation.

That sounds like a reasonable requirement—and it would be appropriate for Rocky Flats if we had adequate documentation of radiation exposures for the years when it was producing nuclear-weapons components as well as for the more recent time when DOE and its contractors have been working to clean it up and prepare it for closure.

However, in fact there were serious shortcomings in the monitoring of Rocky Flats workers' radiation exposures and in the necessary recordkeeping—to say nothing of the slowness of the current administrative process for making the required determinations concerning links between exposure and employment.

This means there is a real risk that a significant number of Rocky Flats workers who should be able to benefit from the Act will not obtain its benefits in a timely manner or will be denied them entirely.

The bill would prevent this miscarriage of justice, by recognizing that Rocky Flats workers have been plagued by the same kinds of administrative problems that entangled workers at some other locations—administrative problems that were addressed through inclusion in the Act of the provisions related to the "Special Exposure Cohort."

My understating of the need for this bill by meeting with Rocky Flats workers and their representatives and by consulting experts. I have particularly benefited from the great experience and expertise of Dr. Robert Bistline. Dr. Bistline has served as Program Manager of the Energy Department's Oversight of Radiation Protection Program at the Rocky Flats field office and has few if any peers in terms of his understanding of the problems addressed by the bill.

In particular, the bill reflects these aspects of Rocky Flats history—

Many worker exposures were unmonitored over the lifetime of the plant. Even within the past month a former worker from the 1950's was monitored under the Former Radiation Worker Program and found to have a significant internal deposition that had been undetected and unrecorded for more than 50 years.

No lung counter for detecting and measuring plutonium and americium in the lungs existed at Rocky Flats until the late 1960's. Without this equipment the very insoluble oxide forms of plutonium cannot be detected and a large number of workers had inhalation exposures that went undetected and unmeasured.

Exposure to neutron radiation was not monitored until the late 1950's and most of those measurements through 1970 have been found to be in error. In some areas of the plant the neutron doses were as much as 2 to 10 times as great as the gamma doses received by workers but only gamma doses were recorded. The old neutron films are being reread but those doses have not yet been added to the workers' records or been used in NIOSH's dose reconstructions for Rocky Flats workers.

Radiation exposures for many workers were not measured or were missing, therefore, the records are incomplete or estimated doses were assigned. There are many inaccuracies in the exposure records that NIOSH is using to determine whether Rocky Flats workers qualify for compensation under the Act.

The model that has been used for dose reconstruction by NIOSH in determining whether Rocky Flats workers qualify for compensation under the Act is in error. The default values used for particle size and solubility of the internally deposited plutonium in workers are in error. Use of these erroneous values reduces the actual internal doses for claimants by as much as 3 to 10 times less than the Rocky Flats records and autopsy data indicate.

Some Rocky Flats workers, despite having worked with tons of plutonium and having known exposures leading to serious health effects, have been denied compensation under the Act as a result of potentially flawed calculations based on records that are incomplete or in error as well as the use of incorrect models.

Mr. Speaker, since early in my tenure in Congress I have worked to make good on promises of a fairer deal for the nuclear-weapons workers who helped America win the Cold War. That was why enactment and improvement of the compensation Act has been one of my top priorities. I saw this as a very important matter for our country—and especially for many Coloradans because our state is home to the Rocky Flats site, which for decades was a key part of the nuclear-weapons complex.

Now the site's military mission has ended, and the Rocky Flats workers are pressing to complete the job of cleaning it up and preparing it for closure. But while they are taking care of the site, we in Congress need to take care of them and the others who worked there in the past.

That was the purpose of the compensation act. I am very proud that I was able to help achieve its enactment, but I am also aware that it is not perfect. The bill being introduced today will not remedy all the shortcoming of the current law, but it will make it better.

For the benefit of our colleague, I am attaching an outline of the bill's provisions:

Section 1: Short Title, Findings, and Purpose

Subsection (a) provides a short title, "Rocky Flats Special Cohort Act."

Subsection (b) sets forth several findings regarding the need for the legislation.

Subsection (c) states the bill's purpose: "to revise the Energy Employees Occupational Illness Compensation Act so as to include certain past and present Rocky Flats workers as members of the special exposure cohort."

Section 2: Definition of Member of Special Exposure Cohort

Subsection (a) amends section 3621(14) of the Energy Employees Occupational Injury Compensation Act (EEOICPA). The effect of the amendment is to provide that a person employed by the Department of Energy or any of its contractors for an aggregate of at least 250 work days at Rocky Flats before January 1, 2006 would be a "member of the Special Exposure Cohort." Under EEOICPA, a member of the special exposure cohort suffering from one of the cancers specified in the Act is covered by the Act if the cancer was contracted after the person began employment at a covered facility.

Subsection (b) provides that someone employed by the Energy Department or any of its contractors for an aggregate of at least 250 work days at Rocky Flats before January 1, 2006 may apply for compensation or benefits under EEOICPA even if the person had previously been denied compensation or benefits under the Act. This is to make clear that the subsection (a)'s change in the law will apply to people who had applied previously.

PERSONAL EXPLANATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mrs. LOWEY. Mr. Speaker, during an absence yesterday, I regrettably missed rollcall votes 25 to 27. Had I been present, I would have voted in the following manner: rollcall No. 25, "yea"; rollcall No. 26, "yea"; rollcall No. 27, "yea".

PAYING TRIBUTE TO TODD LAWS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to a remarkable man from my district who has dedicated his life to improving the lives of the citizens of Taiwan. Todd Laws, of Delta County, Colorado, started his mission ten years ago by devoting his time and efforts to help improve the lives of Taiwanese youths. Todd's work serves as a valuable model of service to us all, and I would like to ask my colleagues to please join me in recognizing his achievements before this body of Congress and this nation today.

Todd recently returned from Taiwan after an intensive week of facilitating training for the Young Life leaders within the country, an organization that combines Christian beliefs with basic human values. While there, he taught basic skills such as balancing a checkbook, marketing oneself for jobs, and morality. Todd hopes to return to Taiwan in the near future, to continue this noble and worthy cause.

Mr. Speaker, it is my honor to rise and pay tribute to Todd Laws for reaching out to the youth of Taiwan. He has truly demonstrated a devotion to the teaching of morals and values to the world's youth, and I would like to thank him for his contributions to this noble endeavor before this body of Congress and this Nation today. Thanks for your service.

HONORING DORIS CHERRY

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. UDALL of Colorado. Mr. Speaker, I am pleased to have the opportunity to acknowledge Ms. Doris Cherry, who has recently been named "Employee of the Year" by Congressional Guest Services, for her 28 years of exemplary service at the Longworth Cafeteria.

Ms. Cherry is well known by members of my staff and other congressional offices for her extraordinary reputation of friendliness and warmth. While she is being recognized as the "Employee of the Year", I daresay that if a poll were taken of the many thousands of people who use the Longworth Cafeteria, she would easily win any competition where customer service, patience and genuine kindness were at stake.

At a time when civility in human relations is arguably at low ebb, people like Doris Cherry remind us that a simple smile can make an enormous difference in all of our lives. She treats her job as an art, and not just a profession.

Doris has the kind of personality that warms the heart. She is a person we can all learn from. Perhaps her last years in Longworth will be spent on the other side of the cash register? She would make a great candidate for office and would no doubt have many admirers on both sides of the aisle.

Mr. Speaker, I would like to submit the following article from Roll Call newspaper in the RECORD, as a fitting tribute to this very gifted woman.

CAFETERIA WORKER IS EMPLOYEE OF THE YEAR

(By Zach Miller)

For 28 years, Doris Cherry has been a regular sight in the Longworth Cafeteria. Working the checkout lines for the past 15 years, she is the friendly face at the end of a long line of hungry staffers. This year, Guest Services has named her Employee of the Year.

"I am very excited and very happy," Cherry said of the award, but in her now-trademark selfless attitude she added, "I am happy when my customers are happy. They come to the Food Court for a break. My job is to make them leave with a smile."

Born in Clinton, N.C., Cherry came to Washington, D.C., as a child. In 1976, she started work in the Longworth Cafeteria as a line server before becoming a grill cook and deli server. After a decade of making food, Doris moved to the checkout line registers, where she became the warm and kind fixture collecting money from House patrons and in return giving them a smile and a hello.

Cherry's manager, Eran Nuran, said she is a sweet person who genuinely cares about everyone she meets. "She is one of the most dependable team members here at Longworth. Customers will line up to 20 people at a time to get a chance to speak to Doris. Other registers will be open, but they think she is worth the wait," Nuran said.

Cherry once received a letter from a regular customer informing her he was leaving his job. In the letter the customer confessed that even though his office had free coffee every morning prepared for the staff, he would come to the cafeteria and pay for a cup just so he could say hello to her.

Cherry and her husband, Reginald, have four children and seven grandchildren.

RECOGNIZING MARIO DESANTIS FOR A LIFE OF SERVICE TO HIS COUNTRY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mrs. LOWEY. Mr. Speaker, I rise today to recognize and congratulate Yonkers, New York, resident Mario DeSantis on his retirement after 57 years of service on behalf of Americans in Westchester County and all over the country.

As a young clerk at the Internal Revenue Service (IRS), Mr. DeSantis helped organize the employees of what was then the Manhattan District of the IRS as members of the National Treasury Employees Union (NTEU). The NTEU is the largest independent non-postal Federal employees union in the country, representing about 150,000 workers in 29 different government agencies. NTEU Chapter 47, to which Mr. DeSantis belongs and which he helped found, now represents 1,600 IRS employees in New York City and Westchester County.

Mr. DeSantis quickly took a leadership role in NTEU Chapter 47. As he rose through the ranks of the IRS to become a revenue officer, Mr. DeSantis also rose through the ranks of NTEU Chapter 47 as a steward, assistant chief steward, and associate vice president. His enthusiastic and effective work in these roles led to his election as national vice president for District 5 at the 1985 NTEU national convention.

He has also served as the legislative coordinator for Chapter 47 for the past 20 years. In this post, Mr. DeSantis has led the chapter's legislative advocacy program on behalf of all Federal employees. He has lobbied for better pay and benefits, against schemes to contract out government work, and to protect overtime pay. He has been particularly successful at organizing voter registration efforts. Each year, these drives have registered hundreds of citizens across Westchester County to vote. Because of his success as legislative coordinator, he came to lead the New York State delegation to the NTEU legislative conferences.

Mr. DeSantis is also a talented jazz musician and a member of the American Federation of Musicians (AFM). He has performed both professionally and at Chapter 47 holiday parties. His work on behalf of members of both AFM and NTEU came together in Las Vegas in 1995 during the NTEU national convention. Mr. DeSantis organized convention delegates to help walk a picket line at Caesar's Palace in solidarity with picketing members of AFM.

This anecdote clearly demonstrates the devotion and enthusiasm that Mr. DeSantis has brought to his struggle in support of workers all over the United States, from Federal employees to professional musicians. We can all take inspiration from the way that he sees a problem in society, whether the high number of unregistered voters or a lack of adequate benefits for workers, and commits himself to help fix that problem.–

I thank Mr. DeSantis for almost 6 decades of public service and wish him the best in his retirement. The IRS, the members of NTEU and AFM, and the residents of Westchester County will all miss him. I am confident that, although he is retiring, the legacy Mr. DeSantis leaves behind will continue to motivate others to embrace service to their country with the commitment and energy that he did.

PAYING TRIBUTE TO RICHARD NICHOLS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is truly a privilege to take this opportunity to pay tribute to Richard Nichols, a citizen that has dedicated his life toward aiding others in medical distress. Richard has been an outstanding paramedic in Craig, Colorado and I would like to ask my colleagues to please join me in recognizing him before this body of Congress and this Nation today.

Richard began his service to his community ten years ago as an ambulance driver, and before long enrolled in an EMT basic course. Seeing the benefit of his increasing skill level, Richard earned his paramedic license through the University of Colorado at Yampa Valley Medical Center. Today he values each opportunity where his crew's skills are tested and the patient walks out of the hospital, healed. Richard is also instrumental in the classroom where he teaches an EMT basic course at the Community College of Northwest Colorado.

Mr. Speaker, it is quite clear that Richard Nichols is a person who possesses unparalleled dedication and commitment to not only each patient he treats, but also his students hoping to follow in his footsteps. It is his incredible talent and spirit of enthusiasm with which he has always conducted himself that I wish to bring before this body of Congress and this Nation today. Thanks for your continued service.

IN REMEMBRANCE OF JOHN WESLEY WINTERS, SR.

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. ETHERIDGE. Mr. Speaker, I rise today to remember a great North Carolinian, John Wesley Winters, Sr.

North Carolina and its capital city, Raleigh, lost one of its most outstanding citizens with the death of John Wesley Winters, Sr., on February 15. Mr. Winters was a builder, land developer, civil leader, and a pioneer in improving race relations in his city and State. He was a loyal Democrat and an innovative champion for human rights.

Mr. Winters worked as a milkman and airport skycap in his youth, saving his money with the goal of becoming a builder for southeast Raleigh's African American community. In 1957, he opened his home-building company and began building homes. Each year brought more houses. In the early 1960s he developed Biltmore Hills as a neighborhood of affordable homes for middle-class African American families. He named the streets of the subdivision for famous African Americans, including (Ralph) Bunche and (Ella) Fitzgerald Drives and (Roy) Campanella Lane. He later developed Madonna Acres, an upper-level development near St. Augustine's College, and Wintershaven, an apartment complex for senior citizens.

Elected to the Raleigh City Council in 1961, only a year after the Greensboro drug store sit-ins launched the civil rights movement in North Carolina, Mr. Winters was thrust into a key leadership role in Raleigh and Wake County. His was the voice on the city council raised to help the city respond to the civil rights revolution. Quiet-spoken, diplomatic, determined, he was a tower of strength for both whites and blacks as the city responded to the demands for equal rights. When Dr. Martin Luther King, Jr., visited Raleigh in 1961, it was Mr. Winters who was asked to pick him up at the airport and drive him to the speech. Former Governor James B. Hunt called Mr. Winters "the best bridge-builder between the races that has ever come along in North Carolina." Governor Hunt was later to appoint Mr. Winters to the North Carolina Utilities Commission.

In 1974, Mr. Winters and Mr. Fred Alexander of Charlotte were elected to the North Carolina State Senate. They were the first two African Americans elected to that body since Reconstruction. With quiet determination and hard work, Mr. Winters quickly became a leader in the State senate, forming life-long friendships with North Carolina's political leaders. He was a friend of Governors, Senators, Congressmen and Presidents. Governor Terry Sanford, whose term as Governor corresponded with the civil rights protests, was a personal friend and sought Mr. Winters' advice.

Mr. Winters is survived by his wife of 63 years Marie; by seven children, Frances, John, Jr., Donna, Naomi, Rebecca, Roland and Seannea; by a brother, Joseph Winters of Raleigh; by a sister, Delores Scotto of Port Charlotte, Florida; by eight grandchildren and two great-grandchildren.

His courage and his leadership will be missed in Raleigh, Wake County, and North Carolina. If God charges each of us that we leave the world a better place than we found it on our birth, John Winters succeeded admirably. He lived, as the Chinese proverb says, "in interesting times." We can only thank God that a kind Providence saw fit to place us on the same highway of life with John Winters and made him our friend.

IN MEMORY OF BISHOP AND MRS. R.E. RANGER

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Ms. GRANGER. Mr. Speaker, during Black History Month 2004, I rise today to recognize an outstanding and historic African American ministry and church in my district. It is my distinct pleasure to honor Bishop & Mrs. R.E. Ranger and historic Wayside Church of God In Christ, Inc. in Fort Worth, Texas.

Bishop R.E. Ranger served as the legendary Pastor of Wayside Church of God In Christ from January 16, 1930 until January 6, 1992—a period of 62 years of continuous ministry at the same Church location at 2100 Beckham Place, Fort Worth, Texas 76104—and is believed to have served one of the longest tenures as a Pastor of the same church—if not the longest—of any pastor in Fort Worth history and one of the longest continuous pastoral tenures in the State of Texas.

Bishop R.E. Ranger was born on Sunday, January 22, 1899 in the small, southern, rural area of Wilson Creek community, Allenhurst, Texas in Matagorda County and was a serious, disciplined student who became a voracious reader and independent learner who acknowledged the call of God to preach the gospel at age 17 in San Antonio, Texas and continued as a gospel preacher for over 75 years (Diamond Jubilee).

Bishop R.E. Ranger rose from very humble beginnings on his own via early self-education at the St. Mary's Baptist Church using Catholic books and materials and without customary parental support to become an outstanding radio and TV trailblazer and pioneer in Fort Worth, Texas, as well as the nation and with the aid and assistance of radio and TV stations owned by Amon Carter, Jr.—WBAP Radio and WBAP–TV—achieved a number of historic 'firsts' in the 1930's, 40's and 50's, including but not limited to: the Founding Bishop of the Church of God In Christ (Southeast) in Texas; a pioneering Pastor and Bishop in the Church of God In Christ in the State of Texas;

the first African American appointed a denominational Bishop in Fort Worth History; the first African American minister in America to receive 'national' radio air time; the first African American minister in the South to have a national radio ministry in the early 1930's; first African American minister south of the Mason/Dixon line to have weekly broadcasts short waved to many parts of the world—such as Australia, South America and England; and, became internationally known and his homilies were featured on television from such locales as Piccadilly Square in London and Honolulu, Hawaii; first African American minister in America to be seen in a "live" television worship service from a church auditorium; featured in June 1949 issue of Ebony Magazine as one of the "Outstanding Black Ministers on Radio"; and a survey revealed his WBAP radio audience to be about six (6) million at its peak.

Bishop R.E. Ranger was the historic minister of the Wayside Church of God In Christ. In 1944, he personally drew up the blueprints for the current Wayside Church after receiving a God-given vision of a new, brick church in the "shape of a cross" with a tower. With that vision, he tore down the former church facility—the "Little Wooden Church on the Hill"—with his own hands.

Bishop R.E. Ranger was a pioneer in the Church of God in Christ in the state of Texas and was appointed Presiding Bishop of the Church of God In Christ (Southeast) by the founder of the Church of God In Christ—Bishop C.H. Mason. He also became an influential state and national religious leader headquartered in Fort Worth, Texas.

Bishop R.E. Ranger willingly opened doors for activities for the good of the larger community and provided material and spiritual assistance to countless numbers of people in need. As a member of the NAACP and the Interdenominational Minesterial Alliance, he was actively involved in religious, civic, and educational activities and the struggle for human rights.

Mrs. Blanche Mae Ranger was born March 20, 1904 in Houston, Texas, and graduated from the City of Houston's Normal and Colored High School on June 1, 1922. She also received a teaching degree from the historic Tuskegee Normal & Industrial Institute on May 22, 1924, during the time of George Washington Carver. Blanche Mae Ranger served with Bishop Ranger at Wayside Church from January 16, 1930 until her passing on October 26, 1985.

Mrs. Blanche Mae Ranger was an exemplary Christian wife, a licensed missionary, musician and singer of the radio/TV ministry theme song—"The Old Ship of Zion", homemaker, mother of eleven (11) children, home economics teacher, poll tax collector and civic worker of Fort Worth, Texas. She reared and supported the education of a host of children and grandchildren who studied at and received numerous college and postgraduate degrees from institutions such as Huston Tillotson, Wiley College, Hastings Law School (UC), Lincoln University, University of Minnesota, Howard University, Howard University Law School, Lane College, University of Texas, Rutgers Law School, Morehouse College, Bowdoin College, Harvard Law School, University of Michigan Law School, University of Pennsylvania Law School, Oberlin College, MIT, Stanford, Boston University, Perdue University, Northwestern University, United States Air Force Academy, Loyola Marymont University, and University of Virginia.

I am very proud of the achievements of Bishop and Mrs. R.E. Ranger and historic Wayside Church. Thanks to their significant achievements, Bishop and Mrs. R.E. Ranger and Wayside Church were symbols of selfless service and achievement for African American citizens in our community and across this nation.

In recognition of its historic past, Wayside Church is currently in the process of receiving an official designation as a Cultural and Historical Landmark of the City of Fort Worth and is being considered for a Texas Historical Landmark designation and the National Register of Historic Places.

Wayside Church of God In Christ, Inc., congratulations on 92 years (1912–2004) of outstanding local, state, and national service!

TRIBUTE TO JOHN MRAULE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. McINNIS. Mr. Speaker, it is truly a privilege to take this opportunity to pay tribute to John Mraule, a man who for over twenty-five years has dedicated himself to developing women athletics while rising to the top ranks of Colorado high school basketball coaches. His recent induction into the Colorado High School Activities Association Hall of Fame is a testament to his incredible ability to develop outstanding women athletes as well as his unparalleled work ethic.

This incredible honor is the manifestation of a life-long passion, and could not have been bestowed upon a more deserving individual. John started the women's basketball program at Montrose High School before it was a sanctioned sport, and since has led his teams to eleven league titles, ten district championships, thirteen state tournaments, and the state championships in 1985 and 1991. As further proof of his coaching abilities, John has been named the Southwestern League Coach of the Year, and was named State Coach of the Year during his team's championship season in 1991.

Mr. Speaker, it is clear that John Mraule is a person of unparalleled dedication and commitment to women athletics who coaches his teams on a championship level. It is John's incredible talent, unrelenting passion for competition, and drive for perfection that I wish to bring to the attention of this body of Congress. John is a remarkable man who has taken the Montrose High School girl's basketball program to extraordinary heights. It is my distinct pleasure to honor him here today, and wish him the best of luck in all his future endeavors.

INTRODUCTION OF THE PROGRAM ASSESSMENT AND RESULTS ACT

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. PLATTS. Mr. Speaker, I rise today to introduce important legislation to improve the efficiency and effectiveness of our Federal government—the Program Assessment and Results Act, or PAR Act. As elected representatives of the people, we have a responsibility to use taxpayer dollars in the most effective way possible. As Congress formulates its budget each year, we must have the best information available to us on which to base our spending decisions.

The Government Performance and Results Act, or GPRA, has laid a solid foundation for agencies working with Congress to set strategic goals and begin to utilize performance based information. Building on GPRA, we must take the next step toward reforming the way the government conducts business.

One of the key aspects of any reform effort is to change the prevailing mind set. If our emphasis is on creating a more results-oriented government, then we must change our mind set from outputs to outcomes. It takes time to achieve this type of cultural shift. The reforms of the early 1990s—the CFO Act, GPRA and others—are just beginning to work as intended.

Prior efforts to make the federal government more effective—the Hoover Commission, Zero-Based Budgeting, the Planning-Programming-Budgeting System, Reinventing Government—have come and gone with little lasting effect. Federal managers have learned that if they wait, each new administration is likely to attempt yet another broad-based reform. From a management standpoint, it is difficult in that type of environment to make long-range plans; and it's next to impossible to achieve the kind of cultural shift needed to reform the management of the federal government.

Major reform takes time. By enacting GPRA, Congress put government reform in statute. Because of this statutory framework, federal managers now look at the requirements for performance plans and strategic plans required by GPRA and know they are here to stay regardless of changes in Congress and the Executive Branch. When the first round of strategic plans fell short of expectations, the reform effort was not scrapped—it was improved. Now, ten years after GPRA was enacted, we have strategic plans that are more in line with what was envisioned. We have seen slow, sustainable improvement.

GPRA requires that agencies focus attention on program evaluation as one of six aspects of their strategic plans. Unfortunately, according to a draft report from the General Accounting Office, program evaluation is the one area where departments consistently come up short. Not only have agencies failed to comply with this requirement, the valuable information that stands to be gained from these evaluations is not culled, coordinated, or presented in a useful way.

We have seen great progress in meeting other objectives set out in GPRA. In 1997, only 76 percent of federal managers had developed performance measures. By 2003, that number had risen to 89 percent. It is now time to strengthen GPRA to address the shortfall we see in program evaluation.

By creating and using the Program Assessment Rating Tool, or PART, this Administration has gone a step beyond the strategic plans required by GPRA and implemented a system for evaluating the performance and results of federal programs. The next logical step is to codify the requirement for a coordinated evidence-based review of programs. In looking at this legislation that I am introducing today, we must ask ourselves, do we believe that better understanding how government operates program by program is a good idea. If the answer to that question is yes, and I believe it is, then we should work to ensure that program assessments be required for this and every future administration.

This legislation does not seek to codify the use of the PART specifically. Rather, this bill amends GPRA by establishing a requirement for program reviews. Specifically, the Office of Management and Budget is required under the Act to review each program activity at least once every five years. By requiring OMB to be responsible for overseeing program assessment data, we will take a great step forward in realizing the reform envisioned by GPRA and make the federal government more efficient and results oriented.

Information gleaned from these program reviews needs to be useful across the board to all stakeholders. Members of Congress, taxpayers, federal managers and the Executive Branch need to know if programs are being managed effectively and if they are achieving the desired result. Further, this legislation, once enacted, will allow us to compare data among different agencies, to see how different programs with similar goals are achieving results. Members of Congress can use the information to make informed budget decisions and conduct more effective oversight. It will help the taxpayers see what they are getting for their money. Most important, federal managers will use the information to improve the way they manage programs. The results will be a more effective and efficient government for the good of all Americans.

COMMEMORATING NORTH DAKOTA'S PRISONER OF WAR AND MISSING IN ACTION SOLDIERS

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. POMEROY. Mr. Speaker, at an event last year commemorating North Dakota's Prisoner of War and Missing in Action soldiers, I had the privilege of listening to Joanna Sherman read from her essay, "Freedom's Obligation." Joanna's work was chosen as the North Dakota State winner in the Veterans of Foreign Wars Voice of Democracy Scholarship Contest. This essay is a testament to the great value of instilling patriotism and the appreciation of our Nation's freedom into our Nation's youth.

I would like to include in the RECORD her essay, which eloquently describes the meaning of freedom and the cost of preserving it. I commend Joanna for her achievement.

FREEDOM'S OBLIGATION

(BY JOANNA SHERMAN)

The ancient Athenian leader Pericles, a proponent of democracy, once said, "Freedom is the sure possession of those alone who have the courage to defend it." Freedom is America's greatest gift, and it is the duty of the American people to honor and cherish it. Our great gift of freedom relies heavily on three obligations: remembering the past, understanding the present, and committing to the future.

How can we ensure tomorrow's freedom? We must remember that today's freedom was paid for by the sacrifices of yesterday. From the past, there are countless personal stories that remember freedom's fight. My grandparents' story is only one of them. They were married July 2, 1942. One week later my grandfather was inducted into the army at Fort Snelling. During World War II, he served in Patton's Third Army in the European Theatre and fought in "The Battle of the Bulge." My grandmother has told us many stories of these difficult times. During the first months after their marriage, she was able to follow him across the country while he completed his training and was on maneuvers. Each day he would call her from the base and would tell her, "Lucille, one day my calls will stop, and you will know that means I have been shipped out." One day the calls did stop. She went back to her hometown and waited. Three long years later, he returned home. They were so lucky. Her younger brother, many of his friends, and so many others, did not come back. Our freedoms were "paid in full" by those brave men and women who have put freedom far above themselves. However, the luxury of our freedom must not make us complacent. We too may find ourselves again face to face with hardships such as those experienced by past generations. We must remember their courage. In remembering their stories of honor, dignity and sacrifice, I can only pray that we preserve our freedom today with the same measure of success.

Samuel Johnson once wrote, "The future is purchased by the present." I believe that freedom is no different. We must have an understanding of the evil present today. On September 11th, our freedom and our way of life came under attack. The brave men and women of the past who sacrificed their lives to extinguish evil in the world, will have not died in vain if we continue to extinguish the evil that is present today. Like yesterday's Nazis, today's terrorists want to drive freedom into extinction. They must not, and will not win if we defend our precious freedom. We must do it for ourselves, and for the future generations of Americans. Now is the time to purchase the freedom of the future.

We have a supreme obligation to commit ourselves to do our duty for our country. We must pay the price for tomorrow's freedom. Tomorrow's children must be assured by our generation that it is our duty to protect their freedom. Some of us will become soldiers like my grandfather, and some will serve in other ways, but all of us must be willing to sacrifice, and remain committed to play a part and pay the price today for freedom tomorrow.

All of us can help pay for tomorrow's freedom by dedicating ourselves to what our ancestors have fought so hard for, and carrying out obligations of remembrance, understanding, and commitment. Remember by learning your history and by listening to those with stories to tell. Understand by being aware and mindful of current history, and commit to this country by being willing to sacrifice to preserve our freedom. Call it patriotism. Call it love of country. Call it loyalty. But whatever you call it, keep it in your heart, and freedom will always follow.

My grandparents have been married for 60 years. They are my heroes!

RECOGNIZING OF THE GE AIRCRAFT ENGINES PLANT IN EVENDALE

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to the people who work at the GE Aircraft Engines plant in Evendale, Ohio. This facility was recently recognized and awarded Voluntary Protection Program Star status by the Occupational Safety and Health Administration (OSHA) for its outstanding achievements in workplace safety.

Headquartered in Evendale, Ohio, GE Aircraft Engines is the world's leading producer of large and small jet engines for commercial and military aircraft. Additional work and services at the plant include aircraft-derived engines for marine applications and aviation services.

The OHSA Voluntary Protection Program (VPP) promotes effective worksite-based safety and health. In the VPP, management, labor, and OSHA establish cooperative relationships at workplaces to implement a comprehensive safety and health management system. Approval into the VPP is OSHA's official recognition for the outstanding efforts of employers and employees who have implemented exemplary safety and health management systems. In short, it represents a commitment to go beyond compliance to achieve workplace safety.

Less than 0.1 percent of companies are VPP certified. GE has 82 OSHA VPP sites—more than any other company in the nation. As a result of these efforts, 56,000 GE employees, including those in Evendale, enjoy exceptional workplace safety standards. The GE Aircraft Engines plant in Evendale is the largest VPP site in Ohio, the largest GE site to achieve VPP Star status and the largest federal VPP Star manufacturing facility in the nation.

Mr. Speaker, I hope my colleagues will join me in recognizing the GE Aircraft Engines plant in Evendale for being awarded the prestigious VPP Star status. All of us in Greater Cincinnati congratulate the plant's management and employees on their dedication to outstanding workplace safety standards.

HONORING THE IRONWORKERS LOCAL 84 ON 100 YEARS OF SERVICE

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. GREEN of Texas. Mr. Speaker, I rise today to honor Houston's Ironworkers Local 84 and to celebrate their one-hundredth year representing the interests of Houston's ironworkers. Our country's ironworkers have long been admired for the architectural wonders they created while working under tremendously dangerous conditions.

For the past one hundred years, the Ironworkers of Local 84 have put their blood and sweat into the bridges and skyscrapers that have become Houston's celebrated landmarks. Their service to the Houston community, however, did not cease with the end of the work day. During times of war, the ironworkers answered the call for help and offered their skills in the homefront effort to win the war.

Houston's ironworkers also have a long history of standing by each other. Local 84 has historically purchased cemetery plots to make sure that any deceased ironworker receives an honorable burial. Local 84 was Texas's first Ironworkers union to establish a pension fund and medical insurance for its members. Local 84 recognized early the importance of job training skills in remaining competitive in the field and Houston's Local 84 started an apprenticeship school and a program to upgrade the skills of its journeymen.

Local 84's commitment to its members, to the Houston community, and to the nation as a whole cannot be exaggerated. Therefore, on this day, I salute the hard-working men and women of the International Association of Bridge, Structural and Ornamental Iron Workers, Local 84 and thank them for one hundred years of service. Our great city would not be standing as tall without them, and I wish them great success for the next hundred years.

TRIBUTE TO TASKER L. EDMISTON

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BERMAN. Mr. Speaker I rise today to pay tribute to Tasker L. Edmiston who recently passed away, at the age of ninety-four. Mr. Edmiston was a remarkable man whose accomplishments were legion and whose passion was indefatigable. He was an avid outdoorsman and a very important figure in California's conservation movement.

Mr. Edmiston was born on January 22, 1910, in Los Angeles, California. His love for the environment and the outdoors began as a young boy. He was a Sea Scout, an Explorer Scout and later he ran track and set several records in speed-climbing.

During World War II, Mr. Edmiston demonstrated his creativity and entrepreneurial spirit by inventing a new series of food canning machinery. His invention increased the volume and quality of food that was distributed to the Armed Forces in the Pacific.

In the 1960's and 1970's, Mr. Edmiston turned his attention to the conservation movement. He was one of the cofounders and the first treasurer of the Southern California Chapter of the Nature Conservancy. He proved to be instrumental in the establishment of the Edmund C. Jaeger Nature Sanctuary and the Desert Lily Sanctuary. He also served on the Board of Directors of the Desert Protective Council and the Federation of Western Outdoor Clubs.

Mr. Edmiston is survived by his son, Joseph T. Edmiston, his daughter-in-law, Pepper Edmiston, and seven grandchildren.

I ask my colleagues to join me in paying tribute to Tasker L. Edmiston and offering our heartfelt condolences to his family members.

TRIBUTE TO EDWARD H. "NED" SCHWARZ

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. MEEHAN. Mr. Speaker, Edward H. "Ned" Schwarz, 74, of Lawrence, Boy Scout leader, veteran, businessman, father, and friend to his home town of Lawrence, Massachusetts, died February 1, 2004. A graduate of Melrose High School, he attended MIT for 2 years then enlisted in the U.S. Air Force and served stateside during the Korean conflict. He completed his degree in electrical engineering from Merrimack College after his time in the Air Force and went on to work at the former Western Electric in North Andover as an electrical design engineer. After taking an early retirement he opened the Totem Pole Camping Store in North Andover. He was a man of faith and was a 45-year member of the former United Presbyterian Church of Lawrence where he was an ordained Elder. These are the eloquent words of Charles D. Boddy, Jr. who read this eulogy at the funeral:

> Daniel Webster once compared New Hampshire's Old Man of the Mountains to a tradesman's sign hanging above the front door of a store indicating the nature of the tradesman's trade. He stated that God had hung out the Old Man of the Mountains as if to say, "here we build men." It is, therefore, oddly fitting that we should lose Uncle Ned, another icon of the mountains, within a year of the fall of the Old Man. Uncle Ned was himself, a builder of men.
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> Monday nights, 7–9 p.m., first three Mondays of the month, September to June. For more than 40 years, if you were a boy growing up on Prospect Hill in Lawrence, these nights were reserved. Fathers in the neighborhood packed up their young sons and brought them to Uncle Ned who spent these hours nurturing the boys' resourcefulness and self-reliance through the scouting program. I am fortunate to have been one of those boys, and my words speak for all of us.
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> I well remember sitting with him, as a boy, as he taught me my knots. His thick fingers routinely tracing the course of rope as they had done so many times with so many other scouts before me. The process of making the knot was so ingrained in him from years of practice, rehearsal, and repetition. Later, as a young scout leader I watched again as he taught another boy the lesson, now his fingers slightly gnarled by the faint touch of arthritis that, alone, betrayed his age. As I watched him teach, year after year, I myself learned that his lesson was not one of knots, but one of life. By patiently guiding each scout, he let him know that he mattered, he was important. By teaching the simple lessons, he instructed us that the greatest lesson was personal contact: that a communion of souls could bridge the greatest of differences. Hence, you will see among his scouts and admirers members of every creed and race, followers of every cause, the elite and powerful, as well as the simple and humble. Uncle Ned related to us all. He effortlessly collected friends along his journey.
>
> He was a mentor to all the boys who passed through his scout troop, growing with them, changing his methods as the times changed, but always giving generously of his time and himself. He was a man who saw solutions not problems, and saw friends, never enemies. In the highly political climate of his home City, he followed the path to improve us through unity and friendship, through our commonality, and avoided the thorny path of criticism and divisiveness.
>
> Without a doubt, Uncle Ned has returned to the camp in the highest summit from which he started his 74 year hike. He rests at a camp made safe by the Great Scoutmaster in the Heavens. Boss Buthmann, Troop 2's first scoutmaster, along with all of Troop 2's finest, who have passed before, are at his side. He has marked his final trail with the scout orienteer's sign of a dot within a circle indicating "Gone home." There he sits, and there he waits, tending a roaring fire. Uncle Ned, the faithful Scoutmaster will guide and guard his troop until the last of us is safe at home by his side.

Ned Schwarz was very proud of Charlie Boddy, the young man who delivered the eulogy at his memorial service, as he was of all his scouts. Charlie went on to public service following Ned's example of public service and civic duty becoming City Solicitor for Lawrence, Massachusetts.

Besides spending countless hours with his beloved scouts, Ned worked tirelessly to revitalize his neighborhood and his hometown. Ned led graffiti removal efforts, park clean-ups and helped to organize the annual National Night Out celebration for his Prospect Hill neighborhood. He belonged to numerous civic organizations including the Lawrence Historical Commission, the Lawrence Citizens Police Academy Alumni Association, and the Prospect Hill Back Bay Neighborhood Association, in which he served in various leadership positions over the years along with his dear friend, Jim Ross. The two of them took great pride in constructing the Neighborhood Association's parade floats which won numerous awards.

Edward H. "Ned" Schwarz will be remembered by his loving wife Gloria, his wife of 50 years; sons Edward R. and his wife Julie of Salem, N.H., and Erich H. and his wife Amy of Lawrence; daughters Lynn and her husband Edward McNamara of Merrimack, N.H., and Beverly and her husband John Cody of Haverhill; grandchildren John, Christopher and Catherine McNamara, Emily Schwarz, Tom and Dan Cody and Andrew and Nysa Schwarz; sisters Dorothy Gretchen Perkins and Hope Cox of Maine; and several nieces and nephews; a grateful City and thousands of young men whose lives he touched.

REGARDING THE RETIREMENT OF DUDLEY L. TADEMY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. SKELTON. Mr Speaker, one of the privileges of serving as a member of Congress is that you work with some amazing people. The halls of our buildings are filled with bright and energetic Americans, and every now and then among them a true hero.

By my definition, a hero is someone who would never use that word. Dudley Tademy, who is leaving the Armed Services Committee staff this week, fits that definition. But he fits anyone's definition of an honorable patriot.

Before Dudley came to Capitol Hill, before he took on the job of overseeing the military's readiness for the Armed Services Committee, before he was the assistant to the Secretary of Defense for Atomic Energy, before all of those achievements that would be enough credit for any man, he was thirty years a soldier. As Captain Tademy, he served in Vietnam, and what service that was.

Mr. Speaker, even those members not familiar with the details of that grueling war may have heard of Landing Zone X-Ray, and the Ia Drang Valley. They are familiar names, thanks to the book "We Were Soldiers Once . . . and Young." That story, of how the 1st Cavalry Division (Airmobile) endured one of the most brutal engagements of that war, is also part of the story of Dudley Tademy. He was there. And as the fire support coordinator for the 3rd Brigade, he devised and directed the artillery plan that was central to holding the enemy at bay and creating an escape path for hundreds of overrun American soldiers. Across our country are men, their children, and grandchildren who would not be with us but for Dudley Tademy.

As he said of that time, "It's our job to get the job done and get those kids home safe." He brought that same dedication and mission to his work with the Armed Services Committee—always putting the soldier first.

For the last ten years, he has carried a Herculean load on the committee staff. He oversees military readiness, now a $140 billion portfolio; all Department of Energy nuclear weapons related activities, another $16 billion annually; all Morale, Welfare, and Recreation programs—that's another $18 billion—and matters concerning two of my favorite subjects, organization of the Department of Defense and professional military education. That's more oversight responsibility in one man than some entire full committees on the Hill! And there's nobody you or I would trust more to carry those astounding tasks.

Nothing I or anyone can say here can do justice to Dudley Tademy's service, in uniform or after. Yet to speak with him, you would never guess at it. He is, in a word we don't use enough in Congress, humble. His gentle character and cheerful whistle belie a man of great discipline—still keeping up a daily physical training regimen, you'd never guess that he was older than most members. But he remains young in spirit, mentoring junior staff, and active in his church, where he counsels troubled youth.

Now he can begin to devote proper time to Audrey, who does so much to keep Dudley humble. And instead of serving sixty committee members, Dudley's priority will be six grandchildren, and I believe they already have him more fully scheduled than we ever did.

Best of all, we know that any time the Committee gets in a jam, we can call upon the inspiration of an American who has honored this Congress with his service. I salute Dudley Tademy, and know that all members will join me in gratitude for his company and devotion.

RECOGNIZING THE SERVICE OF DAVID SCHAFFER

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. OBERSTAR. Mr. Speaker, I would like to take this opportunity to congratulate one of our long-time staff members on the House Transportation and Infrastructure Committee on his retirement. David Schaffer is retiring as the Majority Staff Director and Senior Counsel of the House Aviation Subcommittee at the end of this month.

David joined the House Committee on Public Works and Transportation in 1984 as Assistant Minority Counsel for the Subcommittee on Aviation, became the Minority Counsel of the Aviation Subcommittee in 1992 and then Majority Counsel in January 1995.

Over the course of his 26 years in the federal government, including 6 years with the Civil Aeronautics Board, his efforts have directly contributed to many of this Committee's significant legislative efforts to enhance the overall safety, efficiency, competitiveness and security of our Nation's aviation system.

During my tenure as Chairman of the Aviation Subcommittee from 1989 through 1994, David was a fixture at our hearings, sitting at the elbow of my Republican colleagues John Paul Hammerschmidt and William Clinger. As we crafted some of the most important aviation law of our time, including the Aviation Security Improvement Act of 1990 and the Aviation Noise and Capacity Act of 1990, David was always at the negotiating table, working with my staff and me toward the common goal of effective legislation.

As the Majority Counsel for the Aviation Subcommittee, David was instrumental in crafting the Aviation Investment and Reform Act for the 21st Century (AIR 21), Federal Aviation Authorization Act of 1996, the Aviation Medical Assistance Act, Pilot Records Improvement Act, Aviation Disaster Family Assistance Act, and the Aviation and Transportation Security Act.

His bipartisan, non-confrontational approach to crafting legislation, his painstaking attention to detail, and his mastery of the subject matter has been most impressive and has been greatly appreciated by my staff, and by me.

I know that his work has required great personal sacrifice and I commend him for his unwavering commitment to excellence. I wish him nothing but the best as he moves on to the next phase of his exemplary career.

EXPORT-IMPORT BANK

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, during my service as a Member of Congress, I have from time to time worked with the Export-Import Bank on matters particularly important to significant employers within my district. In an ideal world, there would be no subsidies of any sort for exports. But in the real world which we inhabit, Americans seeking business elsewhere often confront heavy subsidies from other countries, and without an instrumentality like the Export-Import Bank, these American enterprises would be at an unfair disadvantage. The Export-Import Bank's existence enables many American companies to compete on even terms, with good results both for the companies that provide goods and services and those that benefit from them. For example, several years ago I was proud to work with the Export-Import Bank to make it possible for the Raytheon Corporation to receive a major contract in Brazil, which allowed Raytheon to use its technical skills for environmental purposes. Without Export-Import Bank aid, the Raytheon effort would have been unsuccessful, not through any fault of their own, but because of heavy subsidies from the national governments of competitors.

Most recently, I was glad to join several of my Massachusetts and New Hampshire colleagues in urging the Export-Import Bank to show support in a meaningful way for the Malden Mills Company, whose owner, Aaron Feuerstein, has justly drawn widespread praise for his combination of economic wisdom and social responsibility. I was pleased that the Export-Import Bank did respond in ways that were very important in this situation, and I am pleased that we have this entity in place to provide this kind of essential assistance to American companies who would otherwise be facing unfairness.

IN MEMORY OF RICHARD P. RAMEY

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. REGULA. Mr. Speaker, with great sorrow I rise today to recognize Richard P. Ramey, an Ohio citizen from my district, who gave his life fighting for our country. On Sunday, February 8th, 2004, in Iraq, Staff Sergeant Ramey was killed by a roadside bomb.

From training as a boy scout to his position on the Perry High School football team and then as a member of the Army, Staff Sergeant Ramey grew to be a leader. He graduated from high school in 1995 and began his career serving in the Army that same year. He was carrying on a family tradition in military service.

This outstanding young man showed courage and a commitment to protect those who could not protect themselves. Those who knew him recognized how proud he was to serve in the military. Staff Sergeant Ramey is a true hero and a reminder of the dedication evidenced by all the men and women all over the world fighting the war on terror. We must reflect on this great life and all the good that is being done in Iraq.

Staff Sergeant Ramey and his family will be forever in our hearts and prayers. May we keep them in mind as they struggle through this difficult period of mourning.

INTRODUCING LEGISLATION TO EXEMPT NEW MEXICO FROM THE COMPARATIVE COST ADJUSTMENT PROGRAM

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce legislation to exempt my home state of New Mexico from the Comparative Cost Adjustment (CCA), or "premium support" provisions included in the recently passed Medicare Prescription Drug Bill. I am pleased to introduce this bill as companion legislation to a bill that Senator JEFF BINGAMAN is introducing in the other chamber today.

Mr. Speaker, when the House passed H.R. 1 at the end of November, I strongly opposed this legislation and voted accordingly. Today, I stand here still as strongly opposed to the newly implemented law as I did when we passed the bill the first two times it came to the floor last year. One of my strongest objections to the legislation was the inclusion of the CCA program, which requires the Medicare fee-for-service program to compete against the new Medicare Advantage program. This CCA program will last for 6 years and will be applied in a limited number of Metropolitan Statistical Areas (MSAs).

This provision is one of the worst in what was an extremely disappointing piece of legislation. Not only does this provision undercut the Medicare program, it outright threatens it by taking it down the road toward privatization. Rather than defined benefits beginning in 2010, seniors would receive a set premium payment—like a voucher—from the government, based on a combination of the process private plans charged and the cost of Medicare fee-for-service in their area. Seniors would enroll in either a private plan or fee-for-service, but those who picked a plan that was more expensive than the defined premium contribution would need to pay the difference out of their own pocket. This is not the way the Medicare program has been run in the past and its not the way it should run in the future.

In order to ensure that New Mexico's seniors keep their defined benefit plans when the time comes for the CCA to go into effect, I am introducing this legislation today. This legislation will exempt regions of New Mexico from being one of the MSA's used as part of the CCA program. Many studies have shown that a likely outcome of these privatization provisions in the new law is that seniors will have to pay more than they do now to stay in fee-for-service.

Mr. Speaker, these demonstration plans will dramatically alter the Medicare landscape for our seniors. For the first time in the history of Medicare, seniors would end up paying different premiums for the exact same fee-for-service benefit. I don't want New Mexico's seniors, or our nation's seniors facing the end of the safety and security they have come to know under the Medicare program.

Mr. Speaker, I know Mr. BINGAMAN and I are not the only members in our respective chamber's who feel this way. Several other Senators and Members have either introduced or are preparing to introduce similar legislation. I hope the leadership of each chamber recognizes the danger of the CCA program and takes action to protect New Mexico and our nation's seniors.

TRIBUTE TO ARKANSAS TROOPS AT FT. POLK, LA

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. BERRY. Mr. Speaker, I rise to express my deep appreciation for the contributions of Arkansas National Guardsmen currently training at Ft. Polk, Louisiana preparing for deployment to Iraq and their families who await their safe return.

Recently, I had the opportunity to visit these fine men and women and witness their training. Designed to mimic what the troops will face in the field, their exercises are impressive in scope and in our troops' ability to accomplish the monumental tasks regularly laid before them.

More impressive than the accomplishments, however, were dedicated Arkansans; far from home and preparing to go farther. They did not complain about living in tents, carrying heavy gear or the long days of hard training. And when this country called them to service, they did not hesitate.

As they prepare for their mission, it is imperative we consider more than their coming task, we must remember who they are. They are fathers, mothers, sons and daughters who will soon be in harm's way. In Arkansas—and elsewhere—they have families who love them and communities that will miss them.

We cannot thank these brave men and women enough for their sacrifice. We can only salute their commitment and do what we can to support them when they return. On behalf of Congress, I extend our deepest gratitude to our men and women in uniform.

HONORING SUPERINTENDENT BILL McNEAL

HON. BRAD MILLER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. MILLER of North Carolina. Mr. Speaker, the public schools are where we deliver on the promise of equality of opportunity. Today I rise to honor a man who has been delivering on that promise throughout his 29 years of service to Wake County public schools.

Bill McNeal has served Wake County kids in every capacity—as a social studies teacher, a principal, and a county administrator. After 3 years at the helm of our school system, folks back home knew we were lucky to have him as our school superintendent.

Now our secret is out. This week the American Association of School Administrators named Bill McNeal the National Superintendent of the Year.

Superintendent Bill McNeal has proven that even the loftiest ambitions can be met with hard work, boundless determination, and strong leadership. A key author of Wake County's ambitious Goal 2003 program, he has delivered results.

In 1998, 75.4 percent of Wake's third graders were testing at or above grade level in math. In 2003, 93.5 percent achieved the mark. Wake's fourth and fifth graders fared even better, with 95 percent achieving at or above grade level scores. Last year, Wake's high school students averaged a 1067 SAT score, the highest average ever in the school district.

Even more remarkable has been Bill McNeal's campaign to narrow the achievement gap for Wake's diverse and ever expanding student population. The achievement gap in math for students on free or reduced lunch shrank from 35 percent in 1998 to 16 percent in 2003 and in reading shrank from 35 percent in 1998 to 21 percent in 2003—all while student performance has increased across the board.

Not one to sit back and enjoy these successes, Bill McNeal recently implemented the Goal 2008 program to continue to push ahead. He has outlined a blueprint to increase student achievement across the district's elementary, middle, and high schools over the next 5 years. His goal is to have 95 percent of all students in grades 3 through 12 at or above grade level by 2008.

Mr. Speaker, we are honored by Bill McNeal's service to our kids and our community, and I look forward to working with him and our dedicated administrators, teachers, and parents to deliver on the promise of equality of opportunity.

HONORING JAMES A. "BUDDY" CONNER

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. WAMP. Mr. Speaker, I rise today to recognize James A. "Buddy" Conner, who has contributed some 45 years of service to the defense of our Nation as a leader, a worker, and a soldier.

Mr. Conner is retiring from a 43-year career with BWX Technologies, where he rose from his first assignment as an associate engineer and technician to become one of the company's four highest-ranking executives.

Mr. Conner was born in Appomattox, Virginia, and after finishing his primary education, devoted two years of service to the United States Marine Corps.

Upon his arrival back home, Mr. Conner took a short trip west to the town of Lynchburg and began working at the recently built Nuclear Facilities Plant while he earned his business degree from Lynchburg College. He would spend the next 40 years at that site, eventually leading the Naval Nuclear Fuel Division, which supplies the United States Navy with all of its nuclear fuel. During his tenure, in 2000, Mr. Conner joined the BWXT team vying for the operations contract for the Y–12 National Security Complex in Oak Ridge, Tennessee. For Buddy, this was a chance to lead a facility that is still as monumentally important in our nation's defense as it was during one of our country's biggest security successes, the Manhattan Project.

BWXT won the contract, and Mr. Conner has spent the last three years helping to ensure the site will continue to be the unique jewel in America's first line of nuclear defense. When America has called on Buddy and Y–12 to provide stewardship and security to a safe and reliable stockpile of nuclear weapon components and materials, they have stood at the ready.

Since taking the helm of the operating contract for the site, Buddy and his management team have lead Y–12 into an exciting new era. From modernization plans that are transforming our country's Fort Knox of highly enriched uranium into an efficient storage and production facility, to the renewal of the worker's spirit and enthusiasm through aggressive recruitment and mentoring programs that are bringing in the future of Y–12—Buddy and company have set Y–12 on a fantastic course.

Mr. Conner rose through the ranks of one of our premier defense contractors because of his intelligence, dedication, and outstanding work ethic. In short: he is the real deal.

Mr. Conner's 45 years of devotion to our Nation's security are not to be forgotten. That is why today I am proud to recognize Mr. Conner's efforts for his years of service to the defense of our country.

OBSERVING THE PASSING OF AMERICA'S "OLDEST MAN"

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. HOYER. Mr. Speaker, today Maryland mourns the loss of William Coates, thought to be the oldest man in America and certainly someone who made a lifetime of contributions to our state.

Mr. Coates was born in Maryland on June 2, 1889 and lived to see many of our nation's most important moments, including the Wright Brothers' first flight, the Great Depression, two World Wars, the Civil Rights movement and the Space age.

Over the span of his life in our great state, Mr. Coates worked with the Maryland State Highway Department in the 1930s building roads for the state, and as a tobacco farmer on a variety of farms throughout Prince George's County including Claggett Farm in Upper Marlboro.

Mr. Coates leaves behind him a caring family of nine children, 21 grandchildren and 37 great-grandchildren, many of whom still live in Prince George's County. His life, like the times he lived through, will long be fondly remembered by his family and friends and those of us who marveled at his longevity.

William Coates' extended and healthy life is also a tribute to a dedicated investment in medical research. Mr. Coates' life shows us that by investing in research, we can all improve our lives and our health.

William Coates has dedicated a life of service to our state and community, and my thoughts and prayers are with his family and friends.

SOCIAL SECURITY SOLVENCY

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. LANGEVIN. Mr. Speaker, today I rise to express my disappointment with Federal Reserve Chairman Greenspan's remarks to the House Budget Committee regarding Social Security.

In his testimony, Chairman Greenspan suggests that possible remedies for the record deficits and $7 trillion debt include increasing the Social Security retirement age and cutting benefits for future recipients.

I want my constituents to know that I will not support any proposal to decrease or eliminate Social Security, nor will I support an increase in the retirement age. Social Security is an entitlement—a right—for the millions of Americans who pay into the program with each and every paycheck. The government has made a commitment to seniors and current workers alike that Social Security will be available upon retirement. We cannot go back on our word.

In Rhode Island, Social Security provides a vital lifeline for a significant percentage of the population. Rhode Island ranks fifth in the nation for the percentage of residents over 75 and sixth in the nation for those over 65. In my district alone, 110,000 people rely on Social Security for their livelihood, and its importance will continue to grow as the baby boom generation begins to retire. Rhode Islanders spend their lives contributing to the vitality of our communities and our country—and paying into Social Security. They are entitled to the benefits they have earned and should not have to worry about whether Social Security will continue to be there when they need it.

Chairman Greenspan is right about one point: this country needs a "greater discipline" on budgetary matters. I believe that discipline must come from the White House. Congress can no longer afford runaway tax cuts and corporate welfare while neglecting long-term fiscal solvency and current priorities like health care and education.

What Chairman Greenspan neglected to state was that the President's reckless disregard for fiscal responsibility led to a $521 billion deficit in FY 2004. When President Bush took office in 2001, he inherited a projected $5.6 trillion surplus over ten years. Just three short years later, we have a projected $1.9 trillion deficit, a shocking turnaround. While the President was dealt a difficult hand with a recession and the attacks of September 11, many of the fiscal woes are a result of repeated tax cuts that benefit the wealthiest Americans. Our promise to seniors has been bypassed in order to line the pockets of the President's wealthy friends.

Every man, woman, and child in Rhode Island and around the country would owe more than $24,000 if we were to erase the national debt today. Due to increasing deficits, this amount is only going to increase until we take serious steps to cut wasteful government spending and collect the revenue to meet America's priorities and promises. Baby boomers will challenge the Social Security system, but through responsible fiscal policy, the government will be able to keep this program afloat.

Ensuring the solvency is not the task of one person or one party. Saving Social Security will require difficult decisions, but we cannot play politics with Americans' futures. More than anything, we need an Administration that respects fiscal responsibility and recognizes that in a time of war and recession, we should not be giving trillion-dollar tax cuts to the most privileged Americans. I urge my colleagues to reject Chairman Greenspan's calls to cut benefits to our nation's seniors and instead work to restore fiscal responsibility to our government.

HONORING HAHNVILLE HIGH SCHOOL

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. TAUZIN. Mr. Speaker, I would like to take a moment to offer my congratulations to the Hahnville High School Tigers football team of Boutte, Louisiana for winning the Louisiana 5A Football Championship game on December 13, 2003 in the New Orleans Superdome.

Led by their head coach, Lou Valdin, the Hahnville Tigers capped off a fairytale season when they defeated the Evangel Eagles 41–35. This year's win marks the school's sixth state championship title, the most recent in 1994, and seals off their perfect 15–0 season. It also gives Lou Valdin his first state title as a head coach.

On their march to this year's championship, the Tigers defeated Fountainebleu, Barbe, Higgins, and Carencro in the playoffs before meeting Evangel in finals. The championship game was a great effort by both teams, but in the end the Hahnville Tigers came away the victors.

I am proud to report that during the championship game the Tigers compiled over 450 total yards on offense on an Evangel defense that had only allowed just over 230 yards per game this season. I would especially like to note the efforts of three key offensive players: Darius Reynaud, Bryant Lee and Craig Turner. Reynaud and Lee both tied 5A Prep Classic records and Reynaud was named the Player of the Game by the media. Reynaud rushed for 184 yards on 31 carries and two touchdowns. He also led the Tigers in receiving yards with 86 on three receptions and a touchdown. Those three touchdowns tied a 5A Prep Classic record for most touchdowns and most points scored. This championship game was monumental in so many ways for both teams. The two teams broke or tied 27 5A Prep Classic records, including most points scored by two teams.

The whole effort was aided by Principal Barbara Fuselier, and all of the students, staff and parents of Hahnville High School who have shown their support for the players and coaches. It was truly a community effort that accomplished this great victory. I would like to commend all of the players and coaches who have shown true dedication to their sport, and I am extremely proud of their accomplishment. It is with great pride that we congratulate and wish them luck in all their future endeavors.

INTRODUCTION OF THE CONGRESSIONAL GOLD MEDAL PROGRAM ENHANCEMENT ACT OF 2004

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. CASTLE. Mr. Speaker, I rise today to introduce the "Congressional Gold Medal Program Enhancement Act of 2004." Passage of this legislation will ensure that the medals Congress confers will continue to honor truly exceptional achievement.

As you know, Mr. Speaker, Congress created the Congressional Gold Medal honor in 1776 to recognize military leaders, and then honored George Washington for his heroic service in the Revolutionary War. Since then, the medal program has evolved to become the highest civilian honor Congress confers, and medals have gone to those who have attained exceptional achievement, including General Douglas MacArthur; General Colin Powell; Mother Teresa; Pope John Paul II; British Prime Ministers Winston Churchill and Tony Blair; Jonas Salk; Robert H. Goddard and Rosa Parks.

However, a disturbing trend has started to emerge in which Congress approves numerous medals each year, and in some cases approves medals for groups rather than individuals. Mr. Speaker, I do not believe that either of these trends is in the spirit of the gold medal concept. This legislation seeks to clarify guidelines under which the medals may be awarded, and strengthen the honor of the process.

Under the new guidelines, Congressional Gold Medals could only be awarded to an individual, not to a group. While there are many groups of people deserving recognition, I believe the medal should be awarded for outstanding, individual achievement.

Also under this legislation, no more than two medals could be awarded in any single year. A similar limitation has worked extraordinarily well for the commemorative coin programs struck by the United States Mint: under reform legislation I authored and Congress passed in 1995, only two coin programs may be conducted in any year. This reform improved the commemorative coin honor and similar standards could improve the process for awarding the Congressional Gold Medal.

It concerns me, Mr. Speaker, that limiting the number of coin programs a year but having no limitation on Congressional Gold Medals—we award five or six in some years—could someday devalue the medals. Mr. Speaker, this is a simple piece of legislation with great meaning. It will ensure the future integrity and true honor of the award. It is my goal that each recipient—President, civil rights leader, military hero, inventor, noted healer—who receives a Congressional Gold Medal will remain part of a unique honor, bestowed by the U.S. Congress.

Mr. Speaker, few can argue with the idea that these medals are an important indicator of American appreciation and gratitude. To maintain this standard, I will work to move the "Congressional Gold Medal Program Enhancement Act" quickly, in order to take effect at the beginning of the next Congress. I urge my colleagues to cosponsor this legislation and look forward to working with the Financial Services Committee to bring this bill to the House Floor.

PATRICK PHELAN 2003 GATORADE NATIONAL HIGH SCHOOL BOYS SOCCER PLAYER OF THE YEAR

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to commend Patrick Phelan, of Wilbraham & Monson Academy, on his selection as the 2003 Gatorade National High School Player of the Year in Boys Soccer. Out of the more than 300,000 young men across the country who play soccer, he was selected for this prestigious award based on athletics, academic achievement, and overall character. This selection, which has been given out for nineteen years in ten different sports, places him in the elite company of highly regarded athletes such as NFL co-MVP Peyton Manning, U.S. Olympic Gold Medallist Marion Jones, and basketball stars Lisa Leslie and LeBron James.

Gatorade is not the first to sing the praises of Patrick Phelan, though. His coach, Gary Cook, refers to him as, "the best player I have coached in my twenty eight years in high school." Beyond being an amazing player, Patrick is also an important leader on the team. According to Cook, "everyday he trains with a purpose and he makes everyone around him better. He was a great captain and teammate."

As a defender, Patrick scored six goals and was attributed with five assists this past season. Along with his on-field performance, the leadership he provided in his role as team captain helped elevate the team to a 12–1–2 regular season and a berth in the Class B New England Prep School Semi-Finals.

Patrick does more than play soccer, though. Academically, he stands out with a grade point average of 3.74. At Wilbraham, he is a member of the Spanish Club. Additionally, he manages to give back to the community through his work with young children as the computer aid at Here We Grow Preschool. He has also figured out a way to include his soccer skills with his community service efforts as a volunteer at Top Soccer, which hosts clinics for disabled children.

Mr. Speaker, it is an honor to pay tribute to this young man attending Wilbraham & Monson Academy. Patrick Phelan's accomplishments transcend any single niche; he excels in athletics, scholarship, and community service. He has done many things to be proud of, and it is a great pleasure to see him recognized for his dedication and hard work. Patrick, congratulations on being selected as Gatorade's National High School Boys Soccer Player of the Year, and good luck in your future endeavors.

FREEDOM FOR OMAR RODRÍGUEZ SALUDES

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Omar Rodríguez Saludes, a prisoner of conscience in totalitarian Cuba.

Mr. Rodríguez has been active in the Cuban pro-democracy movement since 1995. In his capacity as an activist for freedom, he has worked primarily as an independent journalist and photographer. Mr. Rodríguez is the director of the New Press, an independent news agency in Havana.

Mr. Rodríguez has dedicated his life to reporting and photographing the truth in totalitarian Cuba. Because Castro's totalitarian regime denies and abhors the truth, Mr. Rodríguez has been continually arrested and harassed by the dictator's ruthless machinery of repression. According to Amnesty International, Mr. Rodríguez was detained repeatedly between December 1998 and January 2002 for attempting to disseminate the truth about the only totalitarian dictatorship in the Western Hemisphere.

On March 20, 2003, as part of the brutal crackdown on Cuban pro-democracy activists, Mr. Rodríguez was arrested by the totalitarian government. Amnesty International reports that Mr. Rodríguez was convicted based on accusations such as "he photographed places that, because of the state they were in, gave a distorted image of Cuban reality."

After this sham trial, Mr. Rodríguez was sentenced to 27 years in the totalitarian gulag. I repeat, Mr. Rodríguez was sentenced to 27 years in Castro's gulag, because he captured the truth about a decayed, bankrupt, and ruthless regime on his roles of film.

Mr. Speaker, we must fight for freedom whenever and wherever human beings are shackled by totalitarian dictators. My colleagues, we must demand the immediate release of Omar Rodríguez Saludes and every prisoner of conscience in totalitarian Cuba.

"PUEBLO" RESOLUTION

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. AKIN. Mr. Speaker, on 28 January 1968, the U.S.S. *Pueblo*, under the command of Cmdr. Lloyd "Pete" Bucher was attacked by four North Korean torpedo boats while in international waters. The attack resulted in the death of one Navy sailor and the capture of Cmdr. Bucher and his crew.

Held in concrete cells, the *Pueblo* crew was starved and tortured for 11 months. Fed mostly turnips, many of the malnourished crewmembers began to lose their sight. They were repeatedly beaten and burned on steam radiators.

By all accounts Cmdr. Bucher bore the brunt of the North Korean's wrath. Crewman James Kell explained it this way: "We were all beaten, we all were tortured. But [Bucher] had it double, triple, quadruple what we got."

Stu Russell, another crewman, echoes Kell's praise of Cmdr. Bucher: "The man was a giant. No matter who did what, he was always punished. I simply don't know where he got the strength and courage to go through what he did."

In January 2004, Cmdr. Lloyd "Pete" Bucher passed away and was subsequently buried with honors at Fort Rosecrans National Cemetery in Point Loma, San Diego, California. He died an American hero.

Today, joined by 15 bi-partisan colleagues, I introduce this Resolution to honor Cmdr. Lloyd "Pete" Bucher and the crew of the U.S.S. *Pueblo* who served our country, and suffered while doing so. They sacrificed that each of us may enjoy the liberty for which so many others have given the ultimate sacrifice.

PERSONAL EXPLANATION

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. OSE. Mr. Speaker, on Tuesday, February 24, 2004, I missed rollcall vote Nos. 25, 26, and 27, for family reasons. Had I been here, I would have voted "aye" on rollcall No. 25; "aye" on rollcall No. 26; and "aye" on rollcall No. 27.

LIMIT ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. HOUGHTON. Mr. Speaker, today I am introducing legislation that would tighten the tax rules for technology donations. The proposal would prevent the abusive transactions, but would allow the fair market value of legitimate gifts of technology to be deducted when the technology is transferred to universities, teaching hospitals, or nonprofit research institutions. My good friend and former House colleague, PAT ROBERTS, has introduced a companion bill in the Senate.

Taxpayers are permitted to deduct the fair market value of patents and related technology that are donated to tax exempt charities. The benefit from the tax savings generated by patent and technology donations encourages the private owners of technology to transfer the patent to credentialed institutions that can develop it, creating new markets, improving people's lives, creating jobs, and strengthening the educational capabilities and innovative skills of our universities, teaching hospitals and research institutions.

In recent years the Internal Revenue Service and the Treasury Department have identified serious problems that have allowed unscrupulous taxpayers to abuse the law. In some cases, technology of questionable value is donated to tax exempt entities that are either incapable or unwilling to develop it. Any "value" deducted in these cases is clearly exaggerated. In some cases, donor appraisals of otherwise valuable technology to a credentialed donee may have stated values that are inflated.

The Treasury Department has proposed a solution to these problems that would effectively eliminate any current deduction for donors of technology. While I strongly support measures to clean up the current law and tighten the rules for deductible gifts of technology, I believe Treasury's proposal goes too far.

My proposal would limit the incentive to very specific circumstances. Deductions would be limited to technology gifts in cases when all rights, title and interest in technology are transferred to either a university, teaching hospital, or non-profit research institute that is able to apply its credentialed expertise to the development of the technology. Under the proposal, the donor and donee of any cash included with a qualified gift must agree to limit its use to the development of the technology gift.

The bill adds a number of measures to avoid abuse in this area. Qualified appraisals and qualified appraisers are required and defined. One or more appraisals (second appraisal if value is over $5 million) would be required without regard to any value limitation. The Secretary of the Treasury shall prescribe regulations or guidance regarding the qualified appraisals and qualified appraisers. In addition, other anti-abuse measures to prevent the bundling of patents or similar property and/or manipulation of the tax basis in order to increase the amount of the contribution are included.

I encourage my colleagues to support this important measure.

SLIMMING DOWN THE GOVERNMENT

HON. TOM COLE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. COLE. Mr. Speaker, I rise today to address the issue of government spending. Prescription medicines for seniors, helping families own their own homes, supporting education and defending America—the list of the government's responsibilities to the American people is numerous. But, while it is the government's responsibility to provide assistance to the needy and fund programs for our children and seniors, it is intolerable to provide these services at the cost of leaving a crippling burden of debt on our children and grandchildren.

When Congress passed the budget last year, it required us to identify ways to eliminate waste, fraud and abuse. A task force was put together that was asked to report its findings. Since then, Congress and the General Accounting Office have identified over $85 billion in waste and fraud in government programs.

There are quite a few outrageous examples of wasteful Federal spending. The Energy and Commerce Committee reported that by eliminating double-payments for welfare and Medicaid the Federal Government could save $3.7 billion over 10 years. The Education and Workforce Committee found that the government could save $340 million each year by allowing the Internal Revenue Service to verify the income eligibility of Pell Grant applicants. The Judiciary Committee reported that the Department of Justice spends about $2 million a year more than necessary on employee training.

There are also numerous examples of duplicative programs. The Federal Government has over 50 different programs in eight Federal agencies to assist the homeless. Sixteen of those programs are specifically reserved for the homeless. Most of these programs have different eligibility standards and application procedures, making it difficult for the homeless population to receive help. The Federal Government operates 342 programs working in economic development. Six agencies and 26 programs serve to build roads and streets. Seven agencies and 31 programs fund water and sewer-related activities.

Mr. Speaker, while these findings are a great step in reducing government spending there is still more work to be done. The percentage of waste in the Federal Government would be intolerable in the private sector. I believe that with further investigation and inquiry, we can find even more examples of waste, fraud and abuse. Congress should be accountable for every dollar of the taxpayer's money. By reducing waste and duplication we can create a slimmer, more effective government. With a government as large and as far-reaching as that of the United States, small mistakes and oversights can amount to millions of dollars of waste. Correcting those mistakes and saving these dollars should be a priority for every member of Congress. Working Americans deserve the best possible government at the lowest possible cost.

Waste is a symptom of an ineffective government. Combating waste does not imply hostility toward government, but a desire to strengthen government programs so that they can serve constituents effectively. I believe it is possible to continue funding our priorities while also remaining fiscally responsible. By seeking to balance the budget we can bring accountability to government programs and departments.

TRIBUTE TO MASTER SERGEANT RODGER F. DEWEY

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. RUPPERSBERGER. Mr. Speaker, I rise today to pay tribute to Master Sergeant Rodger F. Dewey.

Master Sergeant Dewey, a career Marine, will be retiring after 24 years of honorable and faithful service to this country.

Master Sergeant Dewey has served with distinction. He enlisted in the Marine Corps in 1980 while still in High School. He has had numerous duty assignments. Some of these assignments included the Naval Academy, Marine Barracks Washington, DC, the 1989 Presidential Inauguration Committee and the Navy and Marine Corps Liaison Office for the House of Representatives.

Master Sergeant Dewey provided incredible support to the Members of Congress. While in the Liaison Office, he addressed congressional inquiries fielding constituent questions. Master Sergeant Dewey was instrumental in educating Members and staff about the policies and goals for the Department of Navy and the Marine Corps.

Master Dewey has volunteered in many organizations and programs both with the Marine Corps and throughout Baltimore County. Over the past 6 years he has been instrumental in providing gifts and food for families in Eastern Baltimore County and Annapolis. As the Toys for Tots Coordinator he has collected and distributed over 90,000 toys to those children in need. Also, with the help of his wife Betty, a Baltimore County Police Officer, they have distributed over 600 holiday food baskets to families in the Dundalk and Essex areas. His satisfaction is in seeing the families and the children sharing a happy holiday.

In 2003 Master Sergeant Dewey was selected as the Naval Cryptologic Veterans Association's Marine of the Year for 2002. This award is presented to the Marine that best supports the Naval Cryptologic missions. As Administrative Chief for a Battalion consisting of eight separate and remote companies co-located with the Navy Security Group Activities and National Intelligence Agency sites around the world, Master Sergeant Dewey's superior sustained performance was noteworthy. Through his dynamic leadership and unswerving dedication to duty, he ensured that Marine Cryptologic Support Battalion was successful in every endeavor, and he personally ensured every company's overall administrative requirements were fully met; regardless of where the company was; the United Kingdom, Hawaii, and throughout the United States.

The Marine Corps has been a career and home to Master Sergeant Dewey for 24 years. He has touched the lives of all who he has come in contact with. His leadership and guidance will be missed. The Marine's of his past and present will miss him.

Mr. Speaker, I ask my colleagues to join me in thanking Master Sergeant Dewey for his service to the United States Marine Corps and to our Nation.

RECOGNIZING JUSTIN BEARDEN FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Justin Bearden, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 65, and in earning the most prestigious award of Eagle Scout.

Justin has been very active with his troop, participating in many scout activities. Over the 9 years Justin has been involved with scouting, he has earned 28 merit badges and has held numerous leadership positions, serving as patrol leader, assistant patrol leader, and troop guide. Justin has also been inducted into the Order of the Arrow as an Ordeal member.

Justin's Eagle Scout project was the restoration of the exterior of the Patterson Assembly of God Parsonage.

Mr. Speaker, I proudly ask you to join me in commending Justin Bearden for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

RECOGNIZING MR. RAUL VARGAS

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Ms. SOLIS. Mr. Speaker, I stand today to recognize the numerous contributions of Mr. Raul Vargas of the University of Southern California (USC). For more than three decades, Mr. Vargas has pioneered higher education accessibility for minority students in southern California and throughout America.

A graduate of prestigious universities, including the University of Southern California, former Army veteran and life-long educator, Mr. Vargas is one of the nine founding members of the Mexican American Alumni Association (MAAA) at USC. Under his leadership, the MAAA and its supporters have provided unprecedented financial assistance to Latino students entering USC since 1974. Totaling over $10 million, the MAAA has awarded nearly 6,000 scholarships to outstanding Latino undergraduate and graduate students. For this reason, the MAAA is currently the largest and most prestigious Hispanic alumni association in the nation.

Since its inception in 1974, the MAAA has raised a major portion of its scholarship money from its Annual Scholarship Dinner in February and its Scholarship Golf Classic Tournament in June. The Scholarship Dinner, the elder of the two events, draws hundreds of USC alumni, donors, and supporters and raises hundreds of thousands of dollars each year. Within the last 10 years, the success of the two annual events has helped the USC MAAA's Endowment Fund to now proudly exceed $2 million.

Mr. Vargas has been recognized by prominent institutions and organizations. He was named Hispanic of the Year by the National Hispanic Scholarship Fund; won the Spirit of Education Award by the American Diabetes Association; and earned the Lifetime Achievement Award by the Mexican American Legal Defense and Educational Fund.

Mr. Raul Vargas currently ranks among the top leaders in higher education. Above all, he exemplifies the excellence in American leadership today.

TRIBUTE TO KIP LOMBARD

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay special tribute to one of Oregon's finest citizens and most dedicated public servants, the late Benjamin "Kip" Lombard, Jr. It is with great sadness that I report that Kip passed away last year at the age of sixty-two, though he lives on in the memories of the many people he touched during his life and the grateful citizens on whose behalf he worked so tirelessly.

Mr. Speaker, Kip Lombard was a true son of the State of Oregon, and his love for his native state was evident in the many labors he performed for the betterment of his fellow Oregonians. Kip was blessed with both a keen intellect and the motivation to use his intellectual gifts in the service of others. He graduated with honors as a member of the first class of the University of Oregon Honors College, an institution reserved for only the most academically gifted. Knowing firsthand the value of a good education, Kip was a steadfast advocate for promoting academic excellence in Oregon. He served on the Jackson County Education Service District, Southern Oregon University's Regional Advisory Board, and as a volunteer on the Board of Directors of the Oregon Shakespeare Festival Association.

Mr. Speaker, while Kip's contributions to his community and state were diverse, he made perhaps his greatest mark in his role as State Representative. Kip served faithfully in the Oregon State Legislature from 1977 to 1985, where he quickly gained a reputation for his effectiveness, conviction, personal integrity and abiding respect for others. When the big jobs had to be done, Kip was always there, working relentlessly and forsaking the limelight. He was fiercely loyal to his southern Oregon constituents, yet committed to making Oregon the greatest state in the Union. He was, in short, a true gentleman and statesman in the finest tradition of Oregon's greatest public leaders.

Kip was widely respected for his thorough knowledge of Western water issues, both during his service in the legislature and in his law practice. As an attorney in private practice Kip brought the same high standards to his profession that he brought to the State House, and his clients were well served by him.

Mr. Speaker, although Kip's life was distinguished by many impressive accomplishments and the recognition that attended his achievements, I know that as a humble man his greatest source of pride was attaining the rank of Eagle Scout. Many of Kip's finest qualities were learned and nurtured in the Scouts, and he maintained a close relationship to Scouting throughout his life.

Kip Lombard's passing subtracts from the number of truly good men in this world, but it will be impossible for us ever to forget that Kip left this world a better place than he found it. Kip will always remain an inspiration to me, and his life's work will always represent the ideal of using one's God-given abilities on behalf of others.

Mr. Speaker, Kip was a man of many distinguished titles, but he valued none of them more highly than the titles of husband and father. I know the solemn pride that his wife, Bernadette, his children, Christopher and Ian, and his grandson, Samuel Benjamin, must certainly feel. While he has left their side in this world, I hope they find consolation in the knowledge that his was a life extremely well lived. For my part, I am grateful to have called Kip Lombard my friend and to have been associated with a man whose tireless work will benefit the State of Oregon for generations.

TAIWAN'S UPCOMING REFERENDUM

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. HINCHEY. Mr. Speaker, the referendum offered by Taiwan's President, the Honorable Chen Shui-bian, for the March 20, 2004 election ballot will not alter the status quo of cross-strait relations.

This referendum does not seek a declaration of independence. Rather, it is intended to express the Taiwanese people's immediate and legitimate concerns regarding the peace and security of the region. Taiwan is a thriving democracy that promotes freedom and the rule of law. The upcoming referendum will allow its people to freely express their views, which is a fundamental human right guaranteed by international law.

HONORING AFRICAN AMERICAN HISTORY MONTH

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Ms. SOLIS. Mr. Speaker, I rise to recognize the rich history of African Americans as we celebrate African American History Month.

Throughout our Nation's history, African Americans have made vast contributions to all aspects of American society—music, literature, sports, education, science, business, and politics. This month and throughout the year we honor these contributions and the wonderful African American men and women whose stellar achievements have left a positive imprint on our society.

We remember in a very special way this month the thousands of African Americans serving in the United States Armed Forces. From the Revolutionary War to the war in Iraq, African Americans have served our Nation in high numbers and with great distinction and honor. We honor this proud history and all African Americans currently defending our Nation and its freedoms.

I encourage those living in my district in Los Angeles County, California, and around the country to take time this month to learn more about vast cultural and historical contributions made by African Americans to our great Nation.

TRIBUTE TO LENN HANNON

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. WALDEN of Oregon. Mr. Speaker, it is with great pride that I rise today to pay special tribute to a fine American, a true gentleman and a good friend of mine, Lenn Hannon, on the occasion of his retirement from the Oregon State Senate. It is a pleasure to honor Lenn and his lovely wife, Dixie, who have stood together in public life for more than 30 years and together have made invaluable contributions to the State of Oregon and its people.

Mr. Speaker, Lenn Hannon traces his interest in public service to 1960 when, as a high school junior and member of the school band, Lenn had an opportunity to shake hands with a young Senator campaigning for President named John F. Kennedy. Inspired by Kennedy's call to public service, Lenn would go on to live his life by Kennedy's famous admonition: "Ask not what your country can do for you. Ask what you can do for your country."

Lenn began his career in public service in 1974, when he won a seat in the State Senate by a mere 37 votes. During his first years in the Senate, Hannon developed a reputation as a smart, open-minded and fair lawmaker whose concern for the people he represented was far greater than his concern for himself. In 1980, Lenn switched parties to become one of only seven Republicans in the State Senate. Over the years he gradually built up seniority to become the Senate's senior Republican and Chairman of the powerful Ways and Means Committee. During this time, he devoted himself to a wide range of issues, from strengthening education and arts programs to combating substance abuse and managing federal land issues. One of his greatest accomplishments in the State Legislature was his success in helping to develop Southern Oregon University into a premiere educational institution for southern Oregon. The reverence his name inspires among SOU faculty, staff and alumni is a testament to his enduring contributions to the university.

Mr. Speaker, now that Lenn's service in the State Senate has come to an end, Lenn will serve on the State Board of Parole and Post-Prison Supervision, a role that will allow him to continue serving the citizens of Oregon. He and Dixie will move to Salem for the new job, but their hearts will always remain in the community where they are so well loved.

Mr. Speaker, I ask that my colleagues join me in congratulating these extraordinary Americans, Lenn and Dixie Hannon. I would like to thank them both personally for all they have done for the people of southern Oregon, the Second District, and the State of Oregon I wish Lenn and Dixie and their entire family all the best in future endeavors.

BOTSWANA, ONE OF THE GREATEST SUCCESS STORIES IN AFRICA

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. JEFFERSON. Mr. Speaker, I would like to call to the attention of my colleagues an excellent and informative television program that featured the country of Botswana as one of the greatest success stories in Africa. It was the Today Show on NBC on Monday, Feb. 9, during the series "Where in the World is Matt Lauer?"

Many Americans know Botswana from having seen or visited its wonderful game parks on safari, but this program told Botswana's complete story. We learned how the country protects its precious animals, how the country is courageously facing its problem with HIV and AIDS and how its diamonds are mined and secured.

Botswana's diamond industry, a global leader and innovator, was featured. Mr. Louis Nchindo, general manager of the Debswana Diamond Company, told Mr. Lauer how the country has insured that its clean diamonds are kept out of the world of illegitimate "conflict diamonds" by carefully managing the process from mining to export. He described the elaborate security measures including the requirements for licensed dealers throughout the process. I was proud to work with Mr. Nchindo in setting up a process for labeling diamonds to keep them out of the illicit trade Debswana and Mr. Nchindo are to be commended for their efforts in this regard.

Mr. Lauer mentioned how Botswana is a stable democracy and "all-around wonderful place," with first class accommodations in the game parks and which rightly boasts a rich and welcoming culture.

I was pleased to see Botswana honored by NBC and commend the country, a good friend of the United States, to my colleagues.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY TO AWARD CONGRESSIONAL GOLD MEDAL TO DR. DOROTHY HEIGHT

SPEECH OF

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 10, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, today's resolution regarding the award of the Congressional Gold Medal to Dr.

Dorothy Height reminds us in this age of cynicism that one person can truly make a difference in our society. I was pleased to cosponsor the legislation to award Dr. Height with the Congressional Gold Medal, and I am pleased to support this measure today. I have great admiration for Dr. Height, a living legend and pioneer of civil rights, women's rights, and racial justice.

Beginning as a civil rights advocate in the 1930s, Dr. Height gained prominence through her tireless efforts to promote interracial schooling, to register and educate voters, and to increase the visibility and status of women in our society.

One of her many contributions was establishing Wednesdays in Mississippi, a unique project that brought together northern and southern women to get to know one another and work side-by-side for racial justice in the segregated south. That project lives on in that, today, the Children's Defense Fund has adopted the Wednesdays in Mississippi model for its innovative Wednesdays in Washington and at Home program, which enables advocates for children—especially poor, minority, and disabled children—to make their voices heard here in the nation's capital and across the country.

As president of the National Council of Negro Women since 1957, she has helped establish model programs on issues ranging from teenage parenting to the eradication of hunger. She also established the Dr. Mary McLeod Bethune Museum and Archives for Black Women, the first institution devoted to the history of black women.

Her leadership in struggle for equality, social justice, and human rights for all peoples is an example for us all.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mr. ORTIZ. Mr. Speaker, due to inclement weather and travel delays from my district, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 25, "yes"; rollcall No. 26, "yes"; rollcall No. 27, "yes."

BLACK HISTORY MONTH SPECIAL ORDER

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Mrs. JONES of Ohio. Mr. Speaker, today I want to celebrate Black History Month and the upcoming 50th anniversary of Brown v. Board of Education.

In 1954 the U.S. Supreme Court stated that separate is inherently unequal. The Court concluded, "that in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." The Court found that the evils of racial segregation affected students' motivation and retarded educational and mental development.

Education is a right, not a privilege. The Court wrote: ". . . it is doubtful that any child may reasonably be expected to succeed in life if he (or she) is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

In the 11th Congressional District of Ohio, Barbara Byrd-Bennett, CEO of the Cleveland Municipal School District continues this legacy Brown v. Board of Education, championing the rights of our young people and working to ensure that they are afforded the best education possible. Six years ago, in 1998, the Cleveland Municipal School District ranked last among Ohio school systems, and was placed in academic emergency status. Under the direction of Ms. Byrd-Bennett the Cleveland Municipal School District now stands as one of Ohio's "most improved school districts."

Under Ms. Byrd-Bennett's leadership academic successes are clear.

Reading scores have increased by more than 30 percent.

Children have breakfast and lunch at school at no cost, and over 93 percent are immunized.

Graduation rates have increased by 10 percent and 74 percent of last year's graduates went on to college.

Suspensions are down nearly 45 percent, expulsions are down 9 percent and assaults on students are down 13 percent.

Reading results were up 19 percent and 28 percent, respectively, in one academic year, in the 4th and 6th grades.

Only 22 percent of 4th grade students passed the State reading test in 1998 compared to 59 percent passed, in 2003, an increase of 37 percent from 5 years ago. Reading performance at the 6th grade has improved by 32 percent.

I believe that education is the key to success. I am working on behalf of all the constituents of the 11th Congressional District in Ohio to make sure that public education remains the number one issue in America. I want for those who have a desire to go to college to be prepared and equipped with the tools necessary for success.

While highlighting successes and recognizing achievements, we must also focus on current realities to further aid us in shaping national education priorities. According to the National Education Association:

Poor and minority children risk doing poorly in school. Contributing factors include: rigorous curriculum, teacher preparation/experience/attendance, class size, technology-assisted instruction, school safety, parent participation, student mobility, birth weight, lead poisoning, and nutrition.

In 1994, 31 percent of black, 24 percent of Hispanic, and 35 percent of American Indian high school graduates took remedial courses, compared to 15 percent of whites and Asians.

Few minorities have access to or are enrolled in Advanced Placement courses.

Student achievement gap still wide.

Only 5 percent of African American 4th grade students and 4 percent of 8th grade students met national proficiency standards in 1996.

In addition, under the Bush budget $9.4 billion less for education than was promised in the No Child Left Behind Act; this means that 2.4 million children will not get the help with reading and math they were promised. Under the Bush budget 56,000 teachers won't get training and 1.3 million children won't get the after school programs they were promised.

According to the National Education Association, the budget eliminates funds for 38 programs, including dropout prevention and gifted and talented education, and once again fails to increase Pell Grants for our nation's poorest college students. Yet, incredibly, the President wants $50 million for a national experiment with school vouchers, which take away much needed resources from public schools, and trillions more in tax cuts continue to flow to the wealthy.

We have come a long way; however, we still have a long way to go.

Today I rise to celebrate the anniversary of Brown v. Board of Education. I am proud to be an American. I salute African Americans like Barbara Byrd-Bennett who believed in the fight for justice, believed in their dreams for equality and continue to pave the way for a better tomorrow.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 26, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 1

10:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Defense.

SD–192

11 a.m.

Governmental Affairs

Financial Management, the Budget, and International Security Subcommittee

To hold hearings to examine the management, investment, and oversight policies of the federal government's Thrift

Savings Plan (TSP) to ensure the integrity of federal employees' retirement savings.

SD-342

MARCH 2

9 a.m.

Foreign Relations

To hold oversight hearings to examine certain foreign assistance programs.

SD-419

9:30 a.m.

Armed Services

To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.

SH-216

10 a.m.

Banking, Housing, and Urban Affairs

To resume hearings to examine current investigations and regulatory actions regarding the mutual fund industry, focusing on fund operations and governance.

SD-538

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Commerce.

SD-192

Energy and Natural Resources

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.

SD-366

Appropriations

Homeland Security Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for science and technology programs, information analysis, and infrastructure protection.

SD-124

Health, Education, Labor, and Pensions

Substance Abuse and Mental Health Services Subcommittee

To hold hearings to examine suicide prevention and youth.

SD-430

2:15 p.m.

Veterans' Affairs

To hold hearings to examine the final report of the Department of Veterans' Affairs' Capital Asset Realignment for Enhanced Services (CARES) Commission.

SR-418

2:30 p.m.

Armed Services

Personnel Subcommittee

To hold hearings to examine active component, Reserve component and civilian personnel programs, in review of the defense authorization request for fiscal year 2005.

SR-232A

3 p.m.

Foreign Relations

To hold hearings to examine North Korea's nuclear situation.

SH-216

MARCH 3

9:30 a.m.

Environment and Public Works

To hold oversight hearings to examine grants management within the Environmental Protection Agency.

SD-406

Finance

To hold hearings to examine health insurance challenges.

SD-215

Foreign Relations

To hold hearings to examine building operational readiness in Foreign Affairs agencies.

SH-216

10 a.m.

Judiciary

Constitution, Civil Rights and Property Rights Subcommittee

To hold hearings to examine national implications of the Massachusetts Goodridge decision and the judicial invalidation of traditional marriage laws.

SD-226

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Army.

SD-192

Appropriations

Energy and Water Development Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Energy's Office of Science, Office of Nuclear Energy, Science and Technology, and Office of Energy Efficiency and Renewable Energy.

SD-124

Indian Affairs

To hold oversight hearings to examine the status of the completion of the National Museum of the American Indian.

SR-485

2 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings to examine future Navy and Marine Corps capabilities and requirements in review of the defense authorization request for fiscal year 2005 and the future years defense program.

SR-232A

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 1420, to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land.

SD-366

MARCH 4

9:30 a.m.

Armed Services

To hold open and closed hearings to examine the Defense Authorization Request for Fiscal Year 2005, focusing on military strategy and operational requirements (closed in SH-219).

SH-216

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine higher education.

SD-430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.

345 CHOB

11 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the General Accounting Office, the Government Printing Office, and the Congressional Budget Office.

SD-116

2 p.m.

Agriculture, Nutrition, and Forestry

Marketing, Inspection, and Product Promotion Subcommittee

To hold oversight hearings to examine the development of a national animal identification plan.

SH-216

United States Senate Caucus on International Narcotics Control

To hold hearings to examine the current status of federal efforts to coordinate and combat money laundering and terrorist financing.

SD-215

2:30 p.m.

Energy and Natural Resources

Energy Subcommittee

To hold hearings to examine new nuclear power generation in the United States.

SD-366

MARCH 9

9:30 a.m.

Armed Services

To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed session in SH-219.

SD-106

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine H.R. 1446, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, S. 1306, to introduce the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania.

SD-366

MARCH 10

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD-430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH-216

11:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

2 p.m.
Armed Services
SeaPower Subcommittee
To hold hearings to examine the posture of the U.S. Transportation Command in review of the defense authorization request for fiscal year 2005 and the future years defense program.
SR-232A

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, S. 1575 and H.R. 1092, both to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 1778, to authorize a land conveyance between the United State and the City of Craig, Alaska, S. 1819 and H.R. 272, both to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, and H.R. 3249, to extend the term of the Forest Counties Payments Committee.
SD-366

MARCH 11

10 a.m.
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine child and family issues.
SD-430

Energy and Natural Resources
To hold hearings to examine S. 2086, to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines, and S. 2049, to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.
SD-366

2 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine Army Transformation in review of the defense authorization request for fiscal year 2005 and the future years defense program.
SR-232A

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.
SD-106

10 a.m.
Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine mental health services.
SD-430

MARCH 25

9:30 a.m.
Armed Services
To hold hearings to examine the role of the U.S. Northern Command and U.S. Special Operations Command in defending the homeland and in the global war on terrorism, in review of the defense authorization request for fiscal year 2005; to be followed by a closed session in SH-219.
SH-216

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine MSDS and OSHA hazardous commission.
SD-430

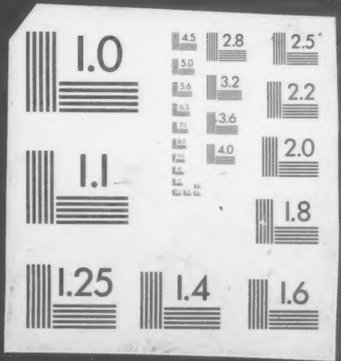
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

MARCH 31

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD-430

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB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